

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

FORM S-4

**REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933**

HELIX ENERGY SOLUTIONS GROUP, INC.
(Exact name of registrant as specified in its charter)

Minnesota
(State or Other Jurisdiction
of Incorporation)

1389
(Primary Standard Industrial
Classification Code Number)

95-3409686
(I.R.S. Employer
Identification Number)

**3505 West Sam Houston Parkway North
Suite 400
Houston, Texas 77043
(281) 618-0400**

(Address, including Zip Code, and Telephone Number, including Area Code, of Registrant's Principal Executive Offices)

Kenneth E. Neikirk
Executive Vice President, General Counsel and Corporate Secretary
Helix Energy Solutions Group, Inc.
3505 West Sam Houston Parkway North
Suite 400
Houston, Texas
(281) 618-0400

(Name, Address, including Zip Code, and Telephone Number, including Area Code, of Agent for Service)

With copies to:

Travis Wofford
Douglas V. Getten
Baker Botts L.L.P.
910 Louisiana Street
Houston, Texas 77002
(713) 229-1234

Samuel A. Giberga
Executive Vice President, General Counsel and
Corporate Secretary
Hornbeck Offshore Services, Inc.
103 Northpark Boulevard, Suite 300
Covington, Louisiana 70433
(985) 727-2000

Matthew R. Pacey, P.C.
Jonathan Benloulou, P.C.
Kim Hicks, P.C.
Walton Dumas
Ieuan A. List
Kirkland & Ellis LLP
609 Main Street, Suite 4700
Houston, Texas 77002
(713) 836-3600

Approximate date of commencement of proposed sale of the securities to the public: As soon as practicable after this registration statement is declared effective and upon completion of the mergers described in the enclosed document.

If the securities being registered on this Form are being offered in connection with the formation of a holding company and there is compliance with General Instruction G, please check the following box. ☐

If this form is a post-effective amendment filed pursuant to Rule 462(d) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. ☐

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

Large accelerated filer ☒

Accelerated filer ☐

Non-accelerated filer ☐ (Do not check if a smaller reporting company)

Smaller reporting company ☐

Emerging growth company ☐

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 7(a)(2)(B) of the Securities Act. ☐

If applicable, place an X in the box to designate the appropriate rule provision relied upon in conducting this transaction:

Exchange Act Rule 13e-4(i) (Cross-Border Issuer Tender Offer) ☐

Exchange Act Rule 14d-1(d) (Cross-Border Third-Party Tender Offer) ☐

The registrant hereby amends this registration statement on such date or dates as may be necessary to delay its effective date until the registrant shall file a further amendment which specifically states that this registration statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act of 1933 or until the registration statement shall become effective on such date as the Commission, acting pursuant to said Section 8(a), may determine.

The information in this proxy statement/prospectus is not complete and may be changed. We may not distribute the common stock being registered pursuant to this proxy statement/prospectus until the registration statement filed with the Securities and Exchange Commission is effective. This proxy statement/prospectus does not constitute an offer to sell or a solicitation of an offer to buy any securities in any jurisdiction where an offer or solicitation is not permitted.

PRELIMINARY—SUBJECT TO COMPLETION, DATED JUNE 4, 2026



**PROXY STATEMENT/PROSPECTUS
MERGERS PROPOSED—YOUR VOTE IS VERY IMPORTANT**

On behalf of the board of directors of Helix Energy Solutions Group, Inc. ("Helix"), we are pleased to enclose the accompanying proxy statement/prospectus relating to the business combination of Helix and Hornbeck Offshore Services, Inc. ("Hornbeck"). We are requesting that you take certain actions as a Helix shareholder.

On April 22, 2026, Helix entered into an Agreement and Plan of Merger (as amended from time to time, the "merger agreement") with Hornbeck and certain subsidiaries of Helix that provides for the combination of Helix and Hornbeck. Pursuant to the merger agreement, (i) Odyssey Sub, Inc., a Delaware corporation and direct wholly owned subsidiary of Helix, will merge with and into Hornbeck, with Hornbeck continuing as the surviving entity (the "first merger" and the surviving entity, the "surviving corporation"), and (ii) immediately following the first merger, the surviving corporation will merge with and into Hercules Sub LLC, a Delaware limited liability company and direct wholly owned subsidiary of Helix, with Hercules Sub LLC surviving the merger as a direct wholly owned subsidiary of the combined company (as defined below) (the "second merger" and, together with the first merger, the "mergers").

Under the terms of the merger agreement, immediately prior to the first merger, Helix will convert from a Minnesota corporation to a Delaware corporation (the "Conversion" and, Helix following the Conversion to a Delaware corporation, "Helix Delaware") in accordance with Section 265 of the General Corporation Law of the State of Delaware, as amended (the "DGCL"), and Section 302A.682 of the Minnesota Business Corporation Act, as amended (the "MBCA"), pursuant to a plan of conversion (the "plan of conversion") contemplated by the merger agreement. Pursuant to the Conversion, (x) each issued and outstanding share of Helix common stock, without par value ("Helix common stock"), will be converted into one share of common stock, par value \$0.00001 per share, of Helix Delaware ("Converted Helix Common Stock"), (y) each issued and outstanding share of Helix preferred stock, par value \$0.01 per share ("Helix preferred stock"), will be converted into one share of preferred stock, par value \$0.00001 per share, of Helix Delaware ("Converted Helix Preferred Stock") and (z) the name of Helix Delaware will be changed to "Hornbeck Offshore Services, Inc." Upon the terms and subject to the conditions set forth in the merger agreement, at the time the first merger becomes effective (the "effective time"), each share of Hornbeck common stock, par value \$0.00001 per share ("Hornbeck common stock"), issued and outstanding immediately prior to the effective time (other than Excluded Shares and Dissenting Shares (each as defined in the merger agreement)) will automatically be converted into the right to receive 10.27167 (the "exchange ratio") validly issued, fully paid and nonassessable shares of Converted Helix Common Stock. Upon consummation of the mergers and the other transactions contemplated by the merger agreement, Hornbeck will be a wholly owned subsidiary of Helix Delaware (Helix Delaware following the mergers, the "combined company"). Following consummation of the mergers and the other transactions contemplated by the merger agreement, the Converted Helix Common Stock, which will be the common stock of the combined company, will remain listed on the New York Stock Exchange (the "NYSE") and will continue to trade under the new ticker symbol, "HOS." In addition, in connection with the mergers, at the effective time, (i) each Hornbeck warrant issued pursuant to the Creditor Warrant Agreement, dated as of September 4, 2020, as amended (each, a "Creditor Warrant"), that is outstanding and unexercised as of immediately prior to the effective time will be converted into the right to receive, in accordance with the merger agreement, a number of shares of Converted Helix Common Stock (or, in accordance with the applicable Jones Act (as defined below) restrictions in the certificate of incorporation of the combined company, new Jones Act Warrants (as defined below) to acquire such Converted Helix Common Stock), (ii) each Hornbeck performance restricted stock unit award and restricted stock unit award that is outstanding as of immediately prior to the effective time will be canceled and the holder thereof will become entitled to receive, in accordance with the merger agreement, a number of shares of Converted Helix Common Stock, (iii) each Helix restricted stock award that is outstanding immediately prior to the effective time will be in respect of Converted Helix Common Stock and be fully vested, (iv) each Helix performance share unit award and Helix restricted stock unit award that is outstanding as of immediately prior to the effective time will be canceled and the holder thereof will become entitled to receive, in accordance with the merger agreement, a number of shares of Converted Helix Common Stock (or a cash payment, as the Helix Board may instead determine prior to the effective time, in its discretion but after consultation with the Hornbeck Board, to settle such awards in cash), (v) each Hornbeck stock option that is outstanding as of immediately prior to the effective time will be fully vested, assumed by the combined company and converted into, in accordance with the merger agreement, a number of options in respect of Converted Helix Common Stock and (vi) each Hornbeck warrant issued pursuant to the Jones Act Warrant Agreement, dated as of September 4, 2020, as amended, restated or supplemented (each, a "Jones Act Warrant") that is outstanding as of immediately prior to the effective time will be assumed by the combined company, and subject to the applicable Jones Act restrictions in the certificate of incorporation of the combined company, will be exercisable into a number of shares of Converted Helix Common Stock.

Immediately following the closing of the mergers, it is anticipated that securityholders of Helix and Hornbeck immediately prior to the mergers will own approximately 65% and 35%, respectively, of the issued and outstanding shares of Converted Helix Common Stock (which will be the common stock of the combined company following completion of the mergers); such estimate assumes (i) that the Creditor Warrants will settle in Converted Helix Common Stock upon consummation of the mergers and is calculated using the treasury stock method based on the 10-day average closing price of Helix common stock as of April 21, 2026 of \$9.46, though the actual number of shares of Converted Helix Common Stock will be determined based upon the average closing price per share of Helix common stock over the ten trading days immediately preceding the second business day prior to the closing of the mergers and will be subject to the applicable Jones Act restrictions in the certificate of incorporation of the combined company, as discussed elsewhere in this proxy statement/prospectus and (ii) exercise of the outstanding Hornbeck options calculated using the treasury stock method based on a closing price of Helix common stock as of April 21, 2026 of \$9.38. On a fully diluted basis, after accounting for Hornbeck options and Jones Act Warrants that will be assumed by the combined company in connection with the mergers, it is anticipated that securityholders of Helix and Hornbeck immediately prior to the mergers will own, on an as-converted basis, approximately 45% and 55%, respectively, of the combined company.

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Helix will hold a special meeting of its shareholders in connection with the mergers (as may be adjourned or postponed from time to time, the “special meeting”).

At the special meeting, Helix shareholders will be asked to consider and vote on proposals to approve:

1. the issuance of shares of Converted Helix Common Stock pursuant to the merger agreement for purposes of complying with Section 312.03(c) of the NYSE’s Listed Company Manual and, in the event such issuance constitutes a change of control, Section 312.03(d) of the NYSE’s Listed Company Manual;
2. an increase in the authorized Converted Helix Common Stock and Converted Helix Preferred Stock, as set forth in Article V of the certificate of incorporation of the combined company;
3. the second merger;
4. the plan of conversion, pursuant to which, immediately prior to the first merger, Helix will convert from a Minnesota corporation to a Delaware corporation in accordance with Section 265 of the DGCL and Section 302A.682 of the MBCA;
5. the provisions regarding compliance with the United States citizenship and cabotage laws commonly referred to as the “Jones Act”, which are principally contained in 46 U.S.C. § 50501(a), (b) and (d) and 46 U.S.C. Chapters 121 and 551, as set forth in Article XV of the certificate of incorporation of the combined company;
6. the director and officer citizenship requirement provisions, as set forth in Section 6.7 of the certificate of incorporation of the combined company (the proposals set forth in clauses (1) through (6) of this paragraph, collectively, the “required merger proposals”);
7. the submission to jurisdiction provisions, as set forth in Article XIV of the certificate of incorporation of the combined company;
8. the provisions limiting liability of officers, set forth in Article VII of the certificate of incorporation of the combined company;
9. the removal of the supermajority approval requirements, as set forth in Article XI of the certificate of incorporation of the combined company;
10. the corporate opportunities provisions, as set forth in Article IX of the certificate of incorporation of the combined company;
11. on a non-binding advisory basis, the compensation that may be paid or become payable to Helix’s named executive officers that is based on or otherwise relates to the mergers; and
12. the adjournment of the special meeting to solicit additional proxies if there are not sufficient votes at the time of the special meeting to approve the required merger proposals (the proposals set forth in clauses (7) through (12) of this paragraph, collectively, the “optional vote matters”).

The Helix Board recommends that Helix shareholders vote “FOR” each of the proposals scheduled to be presented and considered at the special meeting. Completion of the mergers is conditioned on the approval of each of the required merger proposals.

Helix common stock is currently traded on the NYSE under the symbol “HLX.” Following the completion of the mergers, it is expected that Converted Helix Common Stock will continue to trade on the NYSE under the combined company’s new name, “Hornbeck Offshore Services, Inc.,” and under the new ticker symbol, “HOS.” The market price of Helix’s common stock and Converted Helix Common Stock prior to and after completion of the mergers, respectively, will fluctuate, and you should obtain a current stock price quotation for Helix common stock. Hornbeck common stock is not currently traded on a national securities exchange.

Your vote is very important. We cannot complete the mergers unless the Helix shareholders vote to approve the required merger proposals.

This document is a prospectus relating to the Converted Helix Common Stock to be issued to Hornbeck stockholders and certain other securityholders pursuant to the mergers and a proxy statement for Helix to solicit proxies for the special meeting. It contains answers to frequently asked questions and a summary of the important terms of the mergers, the merger agreement and related transactions, followed by a more detailed discussion.

Please carefully read this entire document, including “[Risk Factors](#)” beginning on page [35](#), for a discussion of the risks relating to Helix, Hornbeck, the mergers and the combined company.

Sincerely,

William L. Transier
Chairman of the Board
Helix Energy Solutions Group, Inc.

Neither the Securities and Exchange Commission nor any state securities regulatory authority has approved or disapproved of the mergers or the securities to be issued under this proxy statement/prospectus or has passed upon the adequacy or accuracy of the disclosure in this proxy statement/prospectus. Any representation to the contrary is a criminal offense.

The date of the accompanying proxy statement/prospectus is _____, 2026, and it is first being mailed or otherwise delivered to Helix shareholders on or about _____, 2026.



Helix Energy Solutions Group, Inc.
3505 West Sam Houston Parkway North, Suite 400
Houston, Texas 77043
(281) 618-0400

NOTICE OF SPECIAL MEETING OF SHAREHOLDERS
TO BE HELD ON _____, 2026

To the Shareholders of Helix Energy Solutions Group, Inc.:

We are pleased to invite you to attend the special meeting of shareholders of Helix Energy Solutions Group, Inc., a Minnesota corporation ("Helix"), which will be held at Helix's corporate office at 3505 West Sam Houston Parkway North, Suite 400, Houston, Texas 77043, on _____, 2026, at _____, Central Daylight Time (Houston time), for the following purposes:

1. to approve the issuance of shares of common stock, par value \$0.00001 per share, of Helix following the Conversion (as defined below) ("Helix Delaware") ("Converted Helix Common Stock") pursuant to that certain Agreement and Plan of Merger, dated as of April 22, 2026 (as amended from time to time, the "merger agreement"), by and among Helix, Hornbeck Offshore Services, Inc., a Delaware corporation ("Hornbeck"), and the other parties thereto, for purposes of complying with Section 312.03(c) of the New York Stock Exchange's ("NYSE") Listed Company Manual and, in the event such issuance constitutes a change of control, Section 312.03(d) of the NYSE's Listed Company Manual (the "share issuance proposal");
 2. to approve an increase in the authorized Converted Helix Common Stock and preferred stock, par value \$0.00001 per share, of Helix Delaware, as set forth in Article V of the certificate of incorporation of the combined company (the "authorized share increase proposal");
 3. to approve, following the merger of Odyssey Sub, Inc., a direct wholly owned subsidiary of Helix, with and into Hornbeck, with Hornbeck continuing as the surviving entity (the "first merger" and the surviving entity, the "surviving corporation"), the merger of the surviving corporation with and into Hercules Sub LLC, a direct wholly owned subsidiary of Helix, with Hercules Sub LLC surviving the merger as a direct wholly owned subsidiary of Helix Delaware (the "second merger" and, together with the first merger, the "mergers") (the "second merger proposal");
 4. to approve the plan of conversion, pursuant to which, immediately prior to the first merger, Helix will convert from a Minnesota corporation to a Delaware corporation (the "Conversion") in accordance with Section 265 of General Corporation Law of the State of Delaware, as amended, and Section 302A.682 of the Minnesota Business Corporation Act, as amended (the "plan of conversion proposal");
 5. to approve the provisions regarding compliance with the United States citizenship and cabotage laws commonly referred to as the "Jones Act", which are principally contained in 46 U.S.C. §§ 50501 (a), (b) and (d) and 46 U.S.C. Chapters 121 and 551, as set forth in Article XV of the certificate of incorporation of the combined company (the "Jones Act provisions proposal");
 6. to approve the director and officer citizenship requirement provisions, as set forth in Section 6.7 of the certificate of incorporation of the combined company (the "D&O citizenship matters proposal" and, collectively with the share issuance proposal, the authorized share increase proposal, the second merger proposal, the plan of conversion proposal and the Jones Act provisions proposal, the "required merger proposals");
 7. to approve the submission to jurisdiction provisions, as set forth in Article XIV of the certificate of incorporation of the combined company (the "exclusive forum proposal");
 8. to approve the provisions limiting liability of officers, set forth in Article VII of the certificate of incorporation of the combined company (the "officer exculpation proposal");
 9. to approve the removal of the supermajority approval requirements, as set forth in Article XI of the certificate of incorporation of the combined company (the "removal of supermajority approval requirement proposal");
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10. to approve the corporate opportunities provisions, as set forth in Article IX of the certificate of incorporation of the combined company (the “corporate opportunities proposal”);
11. to approve, on a non-binding advisory basis, the compensation that may be paid or become payable to Helix’s named executive officers that is based on or otherwise relates to the mergers (the “non-binding compensation proposal”); and
12. to approve the adjournment of the special meeting to solicit additional proxies if there are not sufficient votes at the time of the special meeting to approve the required merger proposals (the “adjournment proposal” and, collectively with the exclusive forum proposal, the officer exculpation proposal, the removal of supermajority approval requirement proposal, the corporate opportunities proposal and the non-binding compensation proposal, the “optional vote matters”).

Helix will transact no business at the special meeting except for the matters scheduled to be presented and voted on set forth above and such other business as may properly be brought before the special meeting by or at the direction of the Helix board of directors (the “Helix Board”). References to the special meeting in the proxy statement/prospectus of which this notice is a part are to such special meeting as adjourned or postponed. Please refer to the proxy statement/prospectus for further information with respect to the business scheduled to be transacted at the special meeting.

The Helix Board has fixed the close of business on _____, 2026 as the record date for the special meeting. Only Helix shareholders of record at the close of business on the record date are entitled to receive notice of, and to vote at, the special meeting. A list of Helix shareholders eligible to vote at the special meeting will be available at the special meeting for examination by any shareholder present at such meeting.

Completion of the mergers is conditioned on approval of each of the required merger proposals. The mergers will be consummated only if each of the required merger proposals is approved at the special meeting. Approval of each of the required merger proposals requires the affirmative vote of the holders of shares of Helix common stock representing a majority of the outstanding shares of Helix common stock entitled to vote on such proposals.

The approval of the optional vote matters is not a condition to the completion of the mergers. Approval of each of the exclusive forum proposal, the officer exculpation proposal and the corporate opportunities proposal requires the affirmative vote of the holders of shares of Helix common stock representing a majority of the outstanding shares of Helix common stock entitled to vote on such proposal. Approval of the removal of supermajority approval requirement proposal requires the affirmative vote of the holders of shares of Helix common stock representing 80% of the outstanding shares of Helix common stock entitled to vote on such proposal. Approval of the non-binding compensation proposal requires the affirmative vote of the holders of shares of Helix common stock representing a majority of the outstanding shares of Helix common stock present at the special meeting, either in person or represented by proxy, and entitled to vote on such proposal. Approval of the adjournment proposal requires the affirmative vote of the holders of shares of Helix common stock representing a majority of the outstanding shares of Helix common stock present at the special meeting, either in person or represented by proxy, and entitled to vote on the adjournment proposal, regardless of whether there is a quorum.

In connection with its consideration of the merger agreement and the transactions contemplated by the merger agreement, the Helix Board (a) determined that the merger agreement, the plan of conversion and the transactions contemplated by the merger agreement, including the Conversion, were fair to, advisable and in the best interests of, Helix and its shareholders, (b) approved and declared advisable the merger agreement, the plan of conversion and the transactions contemplated by the merger agreement, including the Conversion, on the terms and subject to the conditions set forth in the merger agreement, (c) directed that the required merger proposals, as well as the optional vote matters, be submitted to Helix shareholders for approval and (d) resolved to recommend that the Helix shareholders vote in favor of the required merger proposals, as well as the optional vote matters. **The Helix Board recommends that Helix shareholders vote “FOR” each of the required merger proposals and the optional vote matters, specifically “FOR” the share issuance proposal, “FOR” the authorized share increase proposal, “FOR” the second merger proposal, “FOR” the plan of conversion proposal, “FOR” the Jones Act provisions proposal, “FOR” the D&O citizenship matters proposal, “FOR” the exclusive forum proposal, “FOR” the officer exculpation proposal, “FOR” the removal of supermajority approval requirement proposal, “FOR” the corporate opportunities proposal, “FOR” the non-binding compensation proposal and “FOR” the adjournment proposal.**

Your vote is very important regardless of the number of shares that you own. The mergers will be consummated only if each of the required merger proposals is approved at the special meeting. Whether or not you expect to attend the special meeting in person, to ensure your representation at the special meeting, we urge you to submit a proxy to vote your shares as promptly as possible by (i) accessing the internet site listed on the Helix proxy card, (ii) calling the toll-free number listed on the Helix proxy card or (iii) submitting your Helix proxy card by mail by using the provided self-addressed, stamped envelope. Submitting a proxy will not prevent you from voting in person, but it will help to secure a quorum and avoid added solicitation costs. Any eligible holder of Helix common stock who is present at the special meeting may vote in person, thereby canceling any previous proxy. In any event, a proxy may be revoked at any time before the special meeting in the manner described in the accompanying proxy statement/prospectus. If your shares are held in the name of a bank, broker or other nominee, please follow the instructions on the voting instruction card furnished to you by such bank, broker or other nominee.

The enclosed proxy statement/prospectus provides a detailed description of the merger agreement, the mergers, the other transactions contemplated by the merger agreement, including the Conversion, and the other matters to be considered at the special meeting. We urge you to carefully read the proxy statement/prospectus, including any documents incorporated by reference, and the annexes in their entirety. If you have any questions concerning the mergers, the Conversion or the proxy statement/prospectus or if you would like additional copies or need help voting your shares of Helix common stock, please contact Helix's proxy solicitor:

Okapi Partners LLC
1212 Avenue of the Americas, 17th Floor
New York, New York 10036
info@okapipartners.com
Shareholders may call toll-free: (888) 785-6709
Banks and brokers, please call: (212) 297-0720

BY ORDER OF THE BOARD OF DIRECTORS,

William L. Transier
Chairman of the Board
Helix Energy Solutions Group, Inc.
, 2026

ADDITIONAL INFORMATION

Helix files annual, quarterly and current reports, proxy statements and other business and financial information with the Securities and Exchange Commission (the “SEC”) electronically, and the SEC maintains a website located at www.sec.gov containing this information. You can also obtain these documents, free of charge, from Helix at www.helixesg.com. The information contained on, or that may be accessed through, the Helix website is not incorporated by reference into, and is not a part of, this proxy statement/prospectus.

Helix has filed a registration statement on Form S-4 with respect to the shares of Helix common stock to be issued in the mergers, of which this proxy statement/prospectus forms a part. As permitted by SEC rules, this proxy statement/prospectus does not contain all of the information included in the registration statement or in the exhibits to the registration statement. You may read the registration statement, including any amendments and exhibits, at the SEC’s website mentioned above. Statements contained in this proxy statement/prospectus as to the contents of any contract or other documents referred to in this proxy statement/prospectus are not necessarily complete. In each case, you should refer to the copy of the applicable agreement or other document filed as an exhibit to the registration statement.

This proxy statement/prospectus incorporates important business and financial information about Helix from documents that are not attached to this proxy statement/prospectus. This information is available to you without charge upon your request. You can obtain the documents incorporated by reference into this proxy statement/prospectus, including copies of financial statements and management’s discussion and analysis, free of charge by requesting them in writing or by telephone from the appropriate company or its proxy solicitor at the following addresses and telephone numbers:

Helix Energy Solutions Group, Inc.

Attn: General Counsel
3505 West Sam Houston Pkwy North, Suite 400
Houston, Texas 77043
(281) 618-0400

Okapi Partners LLC

1212 Avenue of the Americas, 17th Floor
New York, New York 10036
info@okapipartners.com
Shareholders may call toll-free: (888) 785-6709
Banks and brokers, please call: (212) 297-0720

If you would like to request any documents, please do so by _____, 2026, which is five business days prior to the date of the special meeting, in order to receive them before the applicable meeting.

For a more detailed description of the information incorporated by reference into this proxy statement/prospectus and how you may obtain it, please see the section of this proxy statement/prospectus titled “Where You Can Find More Information.”

ABOUT THIS PROXY STATEMENT/PROSPECTUS

This proxy statement/prospectus, which forms part of the registration statement on Form S-4 filed with the SEC by Helix, constitutes a prospectus of Helix under the Securities Act of 1933, as amended (the “Securities Act”), with respect to the shares of Converted Helix Common Stock to be issued to Hornbeck stockholders and certain other securityholders as consideration in the mergers pursuant to the merger agreement. This proxy statement/prospectus also constitutes a proxy statement for Helix under the Securities Exchange Act of 1934, as amended (the “Exchange Act”). This proxy statement/prospectus also constitutes a notice of meeting with respect to the special meeting.

You should rely only on the information contained in, or incorporated by reference into, this proxy statement/prospectus. Helix has not authorized anyone to provide you with information that is different from that contained in, or incorporated by reference into, this proxy statement/prospectus. This proxy statement/prospectus is dated _____, 2026, and you should assume that the information contained in this proxy statement/prospectus is accurate only as of such date.

Further, you should also assume that the information incorporated by reference into this proxy statement/prospectus is accurate only as of the date of the incorporated document. Neither the mailing of this proxy statement/prospectus to Helix shareholders nor the issuance by Helix of shares of Converted Helix Common Stock pursuant to the merger agreement will create any implication to the contrary.

This proxy statement/prospectus does not constitute an offer to sell, or a solicitation of an offer to buy, any securities, or the solicitation of a proxy, in any jurisdiction to or from any person to whom it is unlawful to make any such offer or solicitation in such jurisdiction. Helix has supplied all information contained or incorporated by reference into this proxy statement/prospectus relating to Helix, and Hornbeck has supplied all such information relating to Hornbeck. Helix and Hornbeck have both contributed to the information related to the mergers contained in this proxy statement/prospectus.

GLOSSARY

The following terms have the following meanings in this proxy statement/prospectus:

- “Ares Investor” means ASOF Investment Management LLC, ASSF IV Operating Manager IV, L.P., or another person or member of the Ares Investor Group as designated to the combined company in writing by such person;
- “Ares Investor Director” means any person designated to serve as a director on the combined company board by the Ares Investor;
- “Ares Investor Group” shall have the meaning set forth in the Securityholders Agreement;
- “closing date” means the date on which the effective time occurs;
- “combined company” means Helix, to be renamed “Hornbeck Offshore Services, Inc.,” immediately following the completion of the mergers and the other transactions contemplated by the merger agreement, including the Conversion of Helix from a Minnesota corporation to a Delaware corporation in accordance with the DGCL and MBCA;
- “combined company board” means the board of directors of the combined company immediately following completion of the mergers and the other transactions contemplated by the merger agreement;
- “Conversion” means the conversion of Helix from a Minnesota corporation to a Delaware corporation in accordance with Section 265 of the DGCL and Section 302A.682 of the MBCA pursuant to the plan of conversion;
- “Converted Helix Common Stock” means the common stock, par value \$0.00001 per share, of Helix Delaware following the Conversion;
- “CSOV” means a Commissioning Service Operation Vessel, typically serving during the commissioning and installation phases of an offshore wind farm, under contracts that are usually less than one year in duration;
- “C/SOV” means a multi-purpose service vessel that can be utilized in the offshore wind market as either a CSOV or an SOV;
- “Creditor Warrant Agreement” means that certain Creditor Warrant Agreement dated as of September 4, 2020, among Hornbeck, and Computershare, Inc. and Computershare Trust Company, N.A., collectively as warrant agent, as it may be amended, restated, amended and restated, supplemented or otherwise modified from time to time;
- “Creditor Warrants” means the warrants issued pursuant to the Creditor Warrant Agreement and exercisable for Hornbeck common stock at an exercise price of \$27.83 per share, subject to certain adjustments as set forth in the Creditor Warrant Agreement;
- “DGCL” means the General Corporation Law of the State of Delaware, as amended;
- “Dissenting Shares” means shares of Hornbeck common stock outstanding immediately prior to the effective time and held by a stockholder of the Hornbeck common stock, or owned by a beneficial owner of Hornbeck common stock, as applicable, who has not voted in favor of the first merger or consented thereto in writing or by electronic transmission and has properly demanded appraisal for such shares in accordance with, and who complies in all respects with, Section 262 of the DGCL;
- “DLLCA” means the Delaware Limited Liability Company Act, as amended;
- “DOJ” means the United States Department of Justice;
- “effective time” means the time at which the first merger becomes effective;
- “exchange ratio” means 10.27167 shares of Converted Helix Common Stock to be issued in exchange for each outstanding share of Hornbeck common stock;
- “Excluded Shares” means any shares of Hornbeck common stock owned by Helix, Hornbeck or their respective subsidiaries immediately prior to the effective time, excluding any such shares of Hornbeck common stock owned by a Hornbeck Benefit Plan (as defined in the merger agreement) or held on behalf of third parties;

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- “First Lien Credit Agreement” means that certain Credit Agreement, dated as of August 13, 2024, as amended by that certain First Amendment to Credit Agreement, dated as of December 27, 2024, by and among Hornbeck, DNB Bank ASA, New York Branch, as administrative agent, Wilmington Trust, National Association, as collateral agent and collateral trustee, and the lenders party thereto, as it may be amended, restated, amended and restated, supplemented or otherwise modified from time to time;
- “first merger” means the merger of Odyssey Sub, Inc. with and into Hornbeck pursuant to the merger agreement, with Hornbeck surviving the first merger as the surviving corporation;
- “FTC” means the United States Federal Trade Commission;
- “GAAP” means accounting principles generally accepted in the United States;
- “Helix” means, as applicable, Helix Energy Solutions Group, Inc., a Minnesota corporation, and following the Conversion, Helix Energy Solutions Group, Inc., a Delaware corporation;
- “Helix Board” means the board of directors of Helix;
- “Helix bylaws” means the Second Amended and Restated Bylaws of Helix, as amended;
- “Helix charter” means the 2005 Amended and Restated Articles of Incorporation, as amended, of Helix;
- “Helix common stock” means the common stock, without par value, of Helix;
- “Helix Delaware” refers to Helix as a Delaware corporation after the Conversion;
- “Helix preferred stock” means the preferred stock, par value \$0.01 per share, of Helix;
- “Helix shareholders” means the holders of Helix common stock;
- “Hercules Sub LLC” means Hercules Sub LLC, a Delaware limited liability company and direct wholly owned subsidiary of Helix formed for, among other things, the purpose of effecting the second merger;
- “HFR” means HFR, LLC, a Texas limited liability company owned by Todd M. Hornbeck and his brother Troy A. Hornbeck;
- “Hornbeck” means Hornbeck Offshore Services, Inc., a Delaware corporation;
- “Hornbeck Board” means the board of directors of Hornbeck;
- “Hornbeck common stock” means the common stock, par value \$0.00001 per share, of Hornbeck;
- “Hornbeck stockholders” means the holders of Hornbeck common stock;
- “Investor” means the Ares Investor or the Whitebox Investor;
- “Investor Director” means any of an Ares Investor Director or a Whitebox Investor Director;
- “Investor Group” means any of the Ares Investor Group or the Whitebox Investor Group;
- “Jones Act” means collectively, the U.S. citizenship and cabotage laws principally contained in 46 U.S.C § 50501(a), (b) and (d) and 46 U.S.C. Chapters 121 and 551 and any successor statutes thereto, together with the rules and regulations promulgated thereunder by the U.S. Coast Guard and the U.S. Maritime Administration and their practices enforcing, administering and interpreting such laws, statutes, rules and regulations, in each case as amended or supplemented from time to time, relating to the ownership and operation of U.S.-flag vessels for the carriage or transport of merchandise or passengers in the coastwise trade of the United States of America within the meaning of 46 U.S.C. Chapter 551 and any successor thereto as amended or supplemented from time to time;
- “Jones Act Warrant Agreement” means, as the context requires, (i) prior to the mergers, that certain Jones Act Warrant Agreement dated as of September 4, 2020, among Hornbeck, and Computershare, Inc. and Computershare Trust Company, N.A., collectively as warrant agent, as it may be amended, restated, amended and restated, supplemented or otherwise modified from time to time, and (ii) following the mergers, the Amended and Restated Jones Act Warrant Agreement to be dated as of the closing date (the “A&R Jones Act

Warrant Agreement”), among the combined company, as successor issuer, Hornbeck, as original issuer, and Computershare, Inc. and Computershare Trust Company, N.A., collectively as warrant agent, as it may be amended, restated, amended and restated, supplemented or otherwise modified from time to time;

- “Jones Act Warrants” means, as the context requires, (i) prior to the mergers, the warrants issued pursuant to the Jones Act Warrant Agreement and exercisable for Hornbeck common stock at an exercise price of \$0.00001 per share (the par value of Hornbeck common stock) and (ii) following the mergers, the warrants issued pursuant to the A&R Jones Act Warrant Agreement to purchase Converted Helix Common Stock at an exercise price of \$0.00001 per share (the par value of Converted Helix Common Stock);
- “MBCA” means the Minnesota Business Corporation Act, as amended;
- “merger agreement” means the Agreement and Plan of Merger, dated as of April 22, 2026, by and among Helix, Odyssey Sub, Inc., Hercules Sub LLC and Hornbeck, as may be amended from time to time;
- “mergers” or “integrated mergers” means, collectively, the first merger and the second merger;
- “MPSV” means a multi-purpose support vessel, and we consider all of our MPSVs to be high-spec or ultra high-spec;
- “NYSE” means the New York Stock Exchange;
- “Odyssey Sub, Inc.” means Odyssey Sub, Inc., a Delaware corporation and direct wholly owned subsidiary of Helix formed for, among other things, the purpose of effecting the first merger;
- “optional vote matters” means, collectively, the exclusive forum proposal, the officer exculpation proposal, the removal of supermajority approval requirement proposal, the corporate opportunities proposal, the non-binding compensation proposal and the adjournment proposal;
- “OSV” means an offshore support vessel, also known as a “PSV,” or platform supply vessel, depending on regional preference;
- “plan of conversion” means the plan of conversion contemplated by the merger agreement;
- “record date” means , 2026, the record date for the special meeting;
- “Registration Rights Agreement” means that certain Registration Rights Agreement, dated as of April 22, 2026, by and among Helix and the other parties party thereto, a copy of which is attached as *Annex G* to this proxy statement/prospectus;
- “required merger proposals” means, collectively, the share issuance proposal, the authorized share increase proposal, the second merger proposal, the plan of conversion proposal, the Jones Act provisions proposal and the D&O citizenship matters proposal;
- “Second Lien Credit Agreement” means that certain Second Lien Term Loan Credit Agreement, dated December 27, 2024, by and among Hornbeck, as borrower, Stonebriar Commercial Finance LLC, as administrative agent, Wilmington Trust, National Association, as collateral trustee, and the lenders party thereto, as it may be amended, restated, amended and restated, supplemented or otherwise modified from time to time;
- “second merger” means the merger of the surviving corporation with and into Hercules Sub LLC pursuant to the merger agreement, with Hercules Sub LLC surviving the second merger as a direct wholly owned subsidiary of Helix;
- “Securityholders Agreement” means that certain Securityholders Agreement, dated as of April 22, 2026, by and among Helix and each of the securityholders party thereto, a copy of which is attached as *Annex F* to this proxy statement/prospectus;
- “share issuance” means the issuance of shares of Converted Helix Common Stock to Hornbeck stockholders and certain other securityholders pursuant to the mergers;
- “SOV” means a Service Operation Vessel, typically performing operations and maintenance services during the life of an offshore wind farm, under contracts that can be for multi-year terms;

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- “special meeting” means the special meeting of Helix shareholders to be held on _____, 2026 in connection with the mergers and the other transactions contemplated by the merger agreement, including the Conversion, as may be adjourned or postponed from time to time;
- “surviving corporation” means Hornbeck as the surviving corporation of the first merger;
- “Whitebox Investor” means the member of the Whitebox Investor Group owning the greatest number of common stock equivalents, including Converted Helix Common Stock, warrants, options, securities or other rights exercisable or exchangeable into Converted Helix Common Stock of any member of the Whitebox Investor Group, or another member of the Whitebox Investor Group as designated to the combined company in writing by such person;
- “Whitebox Investor Director” means any person designated to serve as a director on the combined company board by the Whitebox Investor; and
- “Whitebox Investor Group” shall have the meaning set forth in the Securityholders Agreement.

BASIS OF PRESENTATION

Except as otherwise specified herein, references throughout this proxy statement/prospectus to (a) the number of shares of Converted Helix Common Stock expected to be issued pursuant to the first merger and (b) the respective ownership of issued and outstanding Converted Helix Common Stock immediately following the mergers as between securityholders of Hornbeck immediately prior to the mergers and securityholders of Helix Delaware immediately prior to the mergers, are based on the number of outstanding securities and equity awards of each of Helix and Hornbeck as of June 3, 2026 and the following assumptions:

- all of the outstanding Creditor Warrants will settle in Converted Helix Common Stock in accordance with the Creditor Warrant Agreement upon consummation of the mergers, calculated using the treasury stock method based on the 10-day average closing price of Helix common stock as of April 21, 2026 of \$9.46 (though the actual number of shares of Converted Helix Common Stock will be determined based upon the average closing price per share of Helix common stock over the ten trading days immediately preceding the second business day prior to the closing of the mergers);
- Helix performance share unit awards and restricted stock unit awards will settle in Converted Helix Common Stock upon consummation of the mergers;
- All of the Hornbeck stock option awards issued in April of 2026 will, once assumed by the combined company, be exercised on a cashless basis with no tax withholding, calculated using the treasury stock method based on a closing price of Helix common stock as of April 21, 2026 of \$9.38;
- no tax withholding on equity awards settled in the mergers; and
- ownership of Converted Helix Common Stock by non-U.S. citizens will be less than the applicable limit in the certificate of incorporation of the combined company.

Except as otherwise specified herein, references throughout this proxy statement/prospectus to (a) the number of shares of Converted Helix Common Stock the combined company will issue, or will become obligated to issue upon exercise of certain securities of Hornbeck to be assumed by the combined company in connection with the mergers, and (b) the respective ownership of the combined company, on a fully diluted basis, accounting for the Hornbeck options and Jones Act Warrants that will be assumed by the combined company in connection with the mergers, as between securityholders of Helix Delaware immediately prior to the mergers and securityholders of Hornbeck immediately prior to the mergers, are based on the number of outstanding securities and equity awards of Helix and Hornbeck as of June 3, 2026, the above assumptions and the following additional assumptions:

- all of the Jones Act Warrants assumed by the combined company will be exercised for an equal number of shares of Converted Helix Common Stock;
- all of the Hornbeck options assumed by the combined company will be exercised on a cashless basis with no tax withholding, calculated using the treasury stock method based on a closing price of Helix common stock as of April 21, 2026 of \$9.38; and
- ownership of Converted Helix Common Stock by non-U.S. citizens will be less than the applicable limit in the certificate of incorporation of the combined company.

See the section titled “*The Merger Agreement—Treatment of Equity Awards and Warrants*” for information on how outstanding Helix equity awards and outstanding Hornbeck equity awards and warrants will be treated in the mergers, and the section titled “*The Jones Act Provisions Proposal*” for information regarding limitations in the certificate of incorporation of the combined company on ownership of Converted Helix Common Stock by non-U.S. citizens.

All currency amounts referenced in this proxy statement/prospectus are stated in U.S. dollars.

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QUESTIONS AND ANSWERS ABOUT THE MEETING

The following are some questions that you, as a shareholder of Helix, may have regarding the mergers and the other matters being considered at the special meeting of Helix shareholders, and brief answers to those questions. You are urged to carefully read this proxy statement/prospectus and the other documents referred to in this proxy statement/prospectus in their entirety. Additional important information is contained in the annexes to this proxy statement/prospectus and the documents incorporated by reference herein. Please see the section of this proxy statement/prospectus titled “Where You Can Find More Information” for the location of information incorporated by reference in this proxy statement/prospectus. You also may obtain copies of the information incorporated by reference in this proxy statement/prospectus for free by following the instructions set forth in the section titled “Additional Information.”

Q: Why am I receiving this proxy statement/prospectus?

A: You are receiving this proxy statement/prospectus because Helix and Hornbeck have entered into the merger agreement, pursuant to which, upon the terms and subject to the conditions set forth in the merger agreement, (i) Odyssey Sub, Inc. (“Parent Sub”) will merge with and into Hornbeck, with Hornbeck continuing as the surviving entity (the “surviving corporation” and, the merger contemplated by this clause (i), the “first merger”), and (ii) immediately following the first merger, the surviving corporation will merge with and into Hercules Sub LLC (“LLC Sub”), with LLC Sub continuing as the surviving entity (the merger contemplated by this clause (ii), the “second merger” and, together with the first merger, the “mergers”).

Under the terms of the merger agreement, immediately prior to the first merger, Helix will convert from a Minnesota corporation to a Delaware corporation (the “Conversion” and, Helix as a Delaware corporation following the Conversion, “Helix Delaware”) in accordance with Section 265 of the DGCL and Section 302A.682 of the MBCA, pursuant to a plan of conversion (the “plan of conversion”) contemplated by the merger agreement. Pursuant to the Conversion, (x) each issued and outstanding share of Helix common stock, without par value (“Helix common stock”), will be converted into one share of common stock, par value \$0.00001 per share, of Helix Delaware (“Converted Helix Common Stock”), (y) each issued and outstanding share of Helix preferred stock, par value \$0.01 per share (“Helix preferred stock”), will be converted into one share of preferred stock, par value \$0.00001 per share, of Helix Delaware (“Converted Helix Preferred Stock”) and (z) the name of Helix Delaware will be changed to “Hornbeck Offshore Services, Inc.” Upon the terms and subject to the conditions set forth in the merger agreement, at the time the first merger becomes effective (the “effective time”), each share of Hornbeck common stock, par value \$0.00001 per share (the “Hornbeck common stock”), issued and outstanding immediately prior to the effective time (other than excluded shares and dissenting shares) will automatically be converted into the right to receive 10.27167 (the “exchange ratio”) validly issued, fully paid and nonassessable shares of Converted Helix Common Stock. Upon consummation of the mergers and the other transactions contemplated by the merger agreement, Hornbeck will be a wholly owned subsidiary of Helix Delaware (the “combined company”). Following consummation of the mergers and the other transactions contemplated by the merger agreement, the combined company’s common stock will remain listed on the New York Stock Exchange (the “NYSE”) and trade under the new ticker symbol, “HOS.” Your vote is required in connection with the mergers. The merger agreement, which governs the terms of the mergers and the other transactions contemplated by the merger agreement, is attached to this proxy statement/prospectus as *Annex A*.

In addition, in connection with the mergers, at the effective time, (i) each warrant to purchase Hornbeck common stock issued pursuant to the Creditor Warrant Agreement (each, a “Creditor Warrant”) that is outstanding and unexercised as of immediately prior to the effective time will be converted into the right to receive, in accordance with the merger agreement, a number of shares of Converted Helix Common Stock (or, in accordance with the applicable Jones Act restrictions in the certificate of incorporation of the combined company, new warrants to purchase Converted Helix Common Stock to be issued pursuant to the A&R Jones Act Warrant Agreement (each, a “Jones Act Warrant”), (ii) each Hornbeck performance restricted stock unit award and restricted stock unit award that is outstanding as of immediately prior to the effective time will be canceled and the holder thereof will become entitled to receive, in accordance with the merger agreement, a number of shares of Converted Helix Common Stock, (iii) each Helix restricted stock award that is outstanding immediately prior to the effective time will be in respect of Converted Helix Common Stock and be fully vested, (iv) each Helix performance share unit award and Helix restricted stock unit award that is outstanding as of immediately prior to the effective time will be canceled and the holder thereof will become entitled to receive, in accordance with the merger agreement, a number of shares of Converted Helix Common Stock (or a cash payment, as the Helix Board may instead determine prior to

the effective time, in its discretion but after consultation with the Hornbeck Board, to settle such awards in cash), (v) each Hornbeck stock option that is outstanding as of immediately prior to the effective time will be fully vested, assumed by the combined company and converted into, in accordance with the merger agreement, a number of options in respect of Converted Helix Common Stock and (vi) each Jones Act Warrant that is outstanding as of immediately prior to the effective time will be assumed by the combined company and subject to the applicable Jones Act restrictions in the certificate of incorporation of the combined company, exercisable into a number of shares of Converted Helix Common Stock in each case, as described in the section titled “*The Merger Agreement—Treatment of Equity Awards and Warrants.*”

In order to complete the mergers, Helix shareholders must approve (i) the issuance of shares of Converted Helix Common Stock pursuant to the merger agreement for purposes of complying with Section 312.03(c) of the NYSE’s Listed Company Manual and, in the event such issuance constitutes a change of control, Section 312.03(d) of the NYSE’s Listed Company Manual (the “share issuance proposal”), (ii) an increase in the authorized Converted Helix Common Stock and Converted Helix Preferred Stock, as set forth in Article V of the certificate of incorporation of the combined company (the “authorized share increase proposal”), (iii) the second merger (the “second merger proposal”), (iv) the plan of conversion, pursuant to which, immediately prior to the first merger, Helix will convert from a Minnesota corporation to a Delaware corporation in accordance with Section 265 of the DGCL and Section 302A.682 of the MBCA (the “plan of conversion proposal”), (v) the provisions regarding compliance with the Jones Act, as set forth in Article XV of the certificate of incorporation of the combined company (the “Jones Act provisions proposal”) and (vi) the director and officer citizenship requirement provisions, as set forth in Section 6.7 of the certificate of incorporation of the combined company (the “D&O citizenship matters proposal” and, collectively with the share issuance proposal, the authorized share increase proposal, the second merger proposal, the plan of conversion proposal and the Jones Act provisions proposal, the “required merger proposals”). In addition, Helix shareholders will be asked to consider, vote on and approve (i) the submission to jurisdiction provisions, as set forth in Article XIV of the certificate of incorporation of the combined company (the “exclusive forum proposal”), (ii) the provisions limiting liability of officers, set forth in Article VII of the certificate of incorporation of the combined company (the “officer exculpation proposal”), (iii) the removal of the supermajority approval requirements, as set forth in Article XI of the certificate of incorporation of the combined company (the “removal of supermajority approval requirement proposal”), (iv) the corporate opportunities provisions, as set forth in Article IX of the certificate of incorporation of the combined company (the “corporate opportunities proposal”), (v) on a non-binding advisory basis, the compensation that may be paid or become payable to Helix’s named executive officers that is based on or otherwise relates to the mergers (the “non-binding compensation proposal”) and (vi) the adjournment of the special meeting to solicit additional proxies if there are not sufficient votes at the time of the special meeting to approve the required merger proposals (the “adjournment proposal” and, collectively with the exclusive forum proposal, the officer exculpation proposal, the removal of supermajority approval requirement proposal, the corporate opportunities proposal and the non-binding compensation proposal, the “optional vote matters”).

This proxy statement/prospectus contains important information about the mergers and the other matters being considered at the special meeting and serves as the proxy statement through which Helix will solicit proxies to obtain the necessary shareholder approval for the mergers. It also serves as the prospectus by which Helix will issue shares of Converted Helix Common Stock to Hornbeck stockholders and certain other securityholders as consideration in the mergers. You should read this proxy statement/prospectus carefully in its entirety.

Q: When and where is the special meeting?

A: The special meeting of Helix shareholders will be held at Helix’s corporate office at 3505 West Sam Houston Parkway North, Suite 400, Houston, Texas 77043, on _____, 2026, at _____, Central Daylight Time (Houston time).

Q: What will Hornbeck stockholders receive for their shares of Hornbeck common stock in the mergers?

A: At the effective time, by virtue of the first merger and without any action on the part of the parties or any holder thereof, subject to certain exceptions, each share of Hornbeck common stock issued and outstanding immediately prior to the effective time (excluding excluded shares and dissenting shares) will be converted into the right to receive 10.27167 shares of Converted Helix Common Stock. At the effective time, all excluded shares will be

cancelled and will cease to exist, and no consideration will be paid or delivered in exchange therefor. At the effective time, dissenting shares will be cancelled, extinguished and cease to exist and will represent the right to receive payment of the fair value of such dissenting shares in accordance with and to the extent provided by Section 262 of the DGCL.

Helix will not issue any shares representing fractional shares of Converted Helix Common Stock in the mergers. All fractional shares of Converted Helix Common Stock that a Hornbeck stockholder would be entitled to receive pursuant to the merger agreement will be aggregated and such holder will be entitled to receive a cash payment, without interest, in lieu of any such fractional shares, equal to the product (rounded to the nearest whole cent) of (i) the amount of such fractional share interest in a share of Converted Helix Common Stock to which such holder would be entitled pursuant to the merger agreement and (ii) an amount equal to the average daily volume weighted average price per share of Converted Helix Common Stock on the NYSE calculated for the ten consecutive trading days ending on the second full trading day immediately prior to the closing date. For additional information regarding the consideration to be received in the mergers (the “merger consideration”), please see the section titled “*The Merger Agreement—Merger Consideration.*”

In addition, the merger agreement provides for the treatment of the Hornbeck equity awards and warrants and Helix equity awards as set forth below under “*What will holders of Hornbeck equity awards and warrants and Helix equity awards receive in the mergers?*” and as described in the section titled “*The Merger Agreement—Treatment of Equity Awards and Warrants.*”

Q: What will holders of Hornbeck equity awards and warrants and Helix equity awards receive in the mergers?

A: The merger agreement provides for the treatment set forth below with respect to the Hornbeck equity awards and warrants and Helix equity awards:

Hornbeck Performance Restricted Stock Unit Awards: Each Hornbeck performance restricted stock unit award that is outstanding immediately prior to the effective time (whether vested or unvested as of such time) will, at the effective time, be canceled and the holder thereof will become entitled to receive a number of shares of Converted Helix Common Stock (rounded up or down to the nearest whole share) equal to the product of (a) the number of shares of Hornbeck common stock subject to such award (with such number deemed to be the number of shares that would be earned based on the greater of target and actual performance through immediately prior to the effective time) and (b) the exchange ratio.

Hornbeck Restricted Stock Unit Awards: Each Hornbeck restricted stock unit award that is outstanding immediately prior to the effective time (whether vested or unvested as of such time) will, at the effective time, be canceled and the holder thereof will become entitled to receive a number of shares of Converted Helix Common Stock (rounded down to the nearest whole share) equal to the product of (a) the number of shares of Hornbeck common stock subject to such award and (b) the exchange ratio. For non-employee directors of Hornbeck, all or a portion of such amount may be settled in cash in accordance with the applicable award agreement.

Hornbeck Stock Options: Each Hornbeck stock option award that is outstanding immediately prior to the effective time (whether vested or unvested as of such time) will, at the effective time, be fully vested and assumed by the combined company and converted into an option to purchase a number of shares of Converted Helix Common Stock (rounded down to the nearest whole share) equal to the product of (a) the number of shares of Hornbeck common stock subject to such award immediately prior to the effective time (to the extent applicable, with such number deemed to be the number of shares that would be earned based on the greater of target and actual performance through immediately prior to the effective time) and (b) the exchange ratio, at an exercise price per share of Converted Helix Common Stock (rounded up to the nearest whole cent) equal to (1) the exercise price per share of Hornbeck common stock of such award, *divided by* (2) the exchange ratio.

Hornbeck Creditor Warrants: Each Creditor Warrant that is outstanding immediately prior to the effective time will, except as otherwise set forth in Amendment No. 2 to the Creditor Warrant Agreement, be converted into the right to receive a number of shares of Converted Helix Common Stock (or, in accordance with applicable Jones Act restrictions in the certificate of incorporation of the combined company, new Jones Act Warrants to acquire such Converted Helix Common Stock) equal to the quotient of (x) the product of (a) the number of shares of Hornbeck common stock subject to such Creditor Warrant immediately prior to the effective time multiplied by the exchange ratio and (b) (i) the average closing price per share of Helix common stock over the ten trading days immediately preceding the second business day prior to the closing of the mergers *minus* (ii) the exercise price per share of

Hornbeck common stock issuable upon exercise of such Creditor Warrant immediately prior to the effective time *divided by* the exchange ratio and (y) the average closing price per share of Helix common stock over the ten trading days immediately preceding the second business day prior to the closing of the mergers; *provided* that, if such formula would result in a number of shares of Converted Helix Common Stock equal to or less than zero, then no Creditor Warrant will be converted as of immediately prior to the effective time without the prior written consent of the holder thereof.

Hornbeck Jones Act Warrants: Each Jones Act Warrant that is outstanding immediately prior to the effective time will be assumed by the combined company and, subject to the applicable Jones Act restrictions in the certificate of incorporation of the combined company, will be exercisable into a number of shares of Converted Helix Common Stock equal to the product of (a) the number of shares of Hornbeck common stock subject to such assumed Jones Act Warrant immediately prior to the effective time and (b) the exchange ratio, at an exercise price per share of Converted Helix Common Stock equal to the exercise price per share of Hornbeck common stock issuable upon exercise of such Jones Act Warrant immediately prior to the effective time.

Helix Equity Awards: Each Helix restricted stock award granted to a non-employee director of Helix that is outstanding immediately prior to the effective time will, at the effective time, be in respect of Converted Helix Common Stock and be fully vested. Each Helix performance share unit award and Helix restricted stock unit award that is outstanding immediately prior to the effective time (whether vested or unvested as of such time) will, at the effective time, be canceled and the holder thereof will become entitled to receive a number of shares of Converted Helix Common Stock (rounded up or down to the nearest whole share for each performance share unit award, and rounded down to the nearest whole share for each restricted stock unit award) equal to the number of shares of Helix common stock subject to such award (for each performance share unit award, with the number of such shares deemed to be the number of shares that would be earned based on the greater of target and actual performance through immediately prior to the effective time). In the case of the Helix performance share unit awards and restricted stock unit awards, the Helix Board may instead determine prior to the effective time, in its discretion but after consultation with the Hornbeck Board, to settle such awards in cash in an amount equal to the number of units subject to each such award multiplied by the closing price of a share of Helix common stock on the NYSE on the trading day immediately prior to the closing date.

For additional information regarding the treatment of the Helix equity awards and Hornbeck equity awards and warrants, please see the section titled “*The Merger Agreement—Treatment of Equity Awards and Warrants.*”

Q: What are the Hornbeck Jones Act Warrants that will be assumed by the combined company in the mergers?

A: Hornbeck’s Jones Act Warrants are “penny warrants” exercisable for shares of Hornbeck common stock at an exercise price of \$0.0001 per share, which is the par value of Hornbeck common stock.

The Hornbeck certificate of incorporation contains, and the combined company’s certificate of incorporation will contain, provisions that are intended to assist the company in complying with the Jones Act, including limitations on ownership of common stock by non-U.S. citizens. One such provision permits Hornbeck, and will permit the combined company, to issue Jones Act Warrants to a non-U.S. citizen if the aggregate ownership of common stock by non-U.S. citizens exceeds the applicable permitted limit in the certificate of incorporation. Although the Jones Act Warrants do not have voting rights due to the applicable Jones Act restrictions, they represent economic interests in the combined company and, accordingly, are treated as outstanding shares of common stock for accounting purposes when calculating basic earnings per common share.

As of June 3, 2026, Hornbeck had 5,270,969 shares of common stock outstanding and 10,089,644 Jones Act Warrants outstanding, exercisable for an equal number of shares of common stock. Accordingly, the majority of the economic interests in Hornbeck are held in the form of Jones Act Warrants. In connection with the mergers, the combined company will assume all of the outstanding Hornbeck Jones Act Warrants pursuant to the A&R Jones Act Warrant Agreement, which will be exercisable for shares of common stock of the combined company at an exercise price of \$0.0001 per share, which will be the par value of the common stock of the combined company. After giving effect to the exchange ratio, based on the number of outstanding Hornbeck Jones Act Warrants as of June 3, 2026, it is anticipated that the combined company will have 103,637,494 Jones Act Warrants outstanding (assuming no Jones Act Warrants are issued in respect of Creditor Warrants upon consummation of the mergers as a result of applicable Jones Act restrictions in the certificate of incorporation of the combined company), exercisable for an equal number of shares of common stock of the combined company.

Q: Who will own the combined company following the completion of the mergers?

A: Immediately following the closing of the mergers, it is anticipated that securityholders of Helix and Hornbeck immediately prior to the mergers will own approximately 65% and 35%, respectively, of the issued and outstanding shares of Converted Helix Common Stock (which will be the common stock of the combined company following completion of the mergers). On a fully diluted basis, accounting for Hornbeck options and Jones Act Warrants that will be assumed by the combined company in connection with the mergers, it is anticipated that securityholders of Helix and Hornbeck immediately prior to the mergers will own, on an as-converted basis, approximately 45% and 55%, respectively, of the combined company. The exact equity stake of Helix shareholders and Hornbeck securityholders in the combined company following the consummation of the mergers will depend on the number of shares of Converted Helix Common Stock and Hornbeck common stock issued and outstanding, in each case on a fully diluted basis, immediately prior to the effective time.

Q: How will the Conversion affect the rights of Helix shareholders?

A: The rights of Helix shareholders are currently governed by Minnesota law and the provisions of the Helix charter and the Helix bylaws. As a result of the Conversion and the completion of the mergers, Helix shareholders will become stockholders of the combined company with rights governed by Delaware law and the provisions of the certificate of incorporation of the combined company and the bylaws of the combined company, which differ in certain respects from the current rights of Helix shareholders. Forms of the certificate of incorporation of the combined company and the bylaws of the combined company are attached to this proxy statement/prospectus as *Annex D* and *Annex E*, respectively. For additional information on the current rights of Helix shareholders under the Helix charter and Helix bylaws and the rights of the combined company's stockholders under the certificate of incorporation of the combined company and the certificate of incorporation of the combined company after completion of the mergers, see the section titled "*Comparison of Stockholders' Rights*."

Q: If the mergers are not completed, will the Conversion still be effected?

A: No. Even if the plan of conversion proposal is approved by Helix shareholders at the special meeting, the Conversion will be effected only if the other required merger proposals are also approved at the special meeting, all other conditions to consummation of the mergers have been satisfied or waived and the mergers are to be completed immediately after the Conversion. For additional information about the Conversion, please see the section titled "*The Plan of Conversion Proposal*."

Q: What will be the composition of the board of directors and management of the combined company following the completion of the mergers?

A: The combined company board will have seven members, including (a) three directors designated by Helix (all of whom will be independent) (the "Helix designees") and (b) four directors designated by Hornbeck (at least one of whom will be independent) (the "Hornbeck designees"), one of whom will be Todd M. Hornbeck, who will also serve as the President and Chief Executive Officer of the combined company as of the effective time. William L. Transier, a Helix designee and the current chairman of the Helix Board, will serve as chairman of the combined company board as of the effective time through the combined company's 2028 annual meeting of stockholders.

In addition, following the consummation of the mergers, (i) Helix designees will be appointed as chairpersons of the Audit Committee of the combined company board and the Corporate Governance & Nominating Committee of the combined company board, respectively, and (ii) _____, a Hornbeck designee and a current member of the Hornbeck Board, will be appointed as chairman of the Compensation Committee of the combined company board.

At the effective time, the following individuals will be appointed as executive officers of the combined company: Todd M. Hornbeck as President and Chief Executive Officer; Robert P. Adams as Executive Vice President and Chief Financial Officer; Samuel A. Giberga as Executive Vice President, General Counsel and Secretary; Scotty Sparks as Executive Vice President and Chief Operating Officer, Subsea Services and Well Intervention; and Ben Todd as Executive Vice President and Chief Operating Officer, Marine Transportation and Specialty. The other executive officers of the combined company will be chosen by Mr. Hornbeck. For additional information, please see the sections titled "*The Merger Agreement—Governance*" and "*The Mergers—Board of Directors and Management of the Combined Company*."

Q: What proposals scheduled to be presented and voted on at the special meeting must be approved by Helix shareholders to complete the mergers?

A: The required merger proposals, including the share issuance proposal, the authorized share increase proposal, the second merger proposal, the plan of conversion proposal, the Jones Act provisions proposal and the D&O citizenship matters proposal, are conditions precedent to the mergers. The mergers cannot be completed without, among other things, the approval of the required merger proposals by Helix shareholders. Accordingly, each of the required merger proposals must be approved at the special meeting in order to complete the mergers. For additional information regarding risks relating to completion of the mergers and the timing thereof, as well as Helix's and Hornbeck's expectations with respect thereto, please see the sections titled "*Cautionary Statement Regarding Forward-Looking Statements*" and "*Risk Factors*."

Q: What other proposals are scheduled to be presented and voted on by Helix shareholders at the special meeting and must those proposals be approved?

A: The optional vote matters, including the exclusive forum proposal, the officer exculpation proposal, the removal of supermajority approval requirement proposal, the corporate opportunities proposal, the non-binding compensation proposal and the adjournment proposal, are not conditions precedent to the mergers. Accordingly, the failure of Helix shareholders to approve any one or more of the optional vote matters will not prevent the completion of the mergers.

Q: Will any other matters be presented for a vote at the special meeting?

A: Under Minnesota law, the business that may be conducted at a special meeting of shareholders is limited to the matters set forth in the Notice of Special Meeting of Shareholders. Helix is not aware of any other matters that will be presented for a vote at the special meeting. However, if any other matters properly come before the special meeting, the shares present at the special meeting, either in person or represented by proxy, will have the discretion to vote upon such matters and may cast such votes in their discretion.

Q: What shareholder votes are required for Helix shareholders to approve the proposals scheduled to be presented and voted on at the special meeting?

A: Your vote "**FOR**" each proposal scheduled to be presented at the special meeting is very important, and you are encouraged to submit a proxy as soon as possible. The mergers cannot be completed without, among other things, the approval of each of the following required merger proposals by the affirmative vote of the requisite number of Helix shareholders.

The votes required to approve the required merger proposals scheduled to be presented at the special meeting are as follows:

- Approval of the share issuance proposal requires the affirmative vote "**FOR**" such proposal by the holders of shares of Helix common stock representing a majority of the outstanding shares of Helix common stock entitled to vote on such proposal. Assuming a quorum is present, shares that are entitled to vote on the share issuance proposal but not present in person or by proxy, abstentions and broker non-votes (if any) will have the same effect as a vote "AGAINST" the approval of such proposal.
- Approval of the authorized share increase proposal requires the affirmative vote "**FOR**" such proposal by the holders of shares of Helix common stock representing a majority of the outstanding shares of Helix common stock entitled to vote on such proposal. Assuming a quorum is present, shares that are entitled to vote on the authorized share increase proposal but not present in person or by proxy, abstentions and broker non-votes (if any) will have the same effect as a vote "AGAINST" the approval of such proposal.
- Approval of the second merger proposal requires the affirmative vote "**FOR**" such proposal by the holders of shares of Helix common stock representing a majority of the outstanding shares of Helix common stock entitled to vote on such proposal. Assuming a quorum is present, shares that are entitled to vote on the second merger proposal but not present in person or by proxy, abstentions and broker non-votes (if any) will have the same effect as a vote "AGAINST" the approval of such proposal.
- Approval of the plan of conversion proposal requires the affirmative vote "**FOR**" such proposal by the holders of shares of Helix common stock representing a majority of the outstanding shares of Helix common

stock entitled to vote on such proposal. Assuming a quorum is present, shares that are entitled to vote on the plan of conversion proposal but not present in person or by proxy, abstentions and broker non-votes (if any) will have the same effect as a vote “AGAINST” the approval of such proposal.

- Approval of the Jones Act provisions proposal requires the affirmative vote “**FOR**” such proposal by the holders of shares of Helix common stock representing a majority of the outstanding shares of Helix common stock entitled to vote on such proposal. Assuming a quorum is present, shares that are entitled to vote on the Jones Act provisions proposal but not present in person or by proxy, abstentions and broker non-votes (if any) will have the same effect as a vote “AGAINST” the approval of such proposal.
- Approval of the D&O citizenship matters proposal requires the affirmative vote “**FOR**” such proposal by the holders of shares of Helix common stock representing a majority of the outstanding shares of Helix common stock entitled to vote on such proposal. Assuming a quorum is present, shares that are entitled to vote on the D&O citizenship matters proposal but not present in person or by proxy, abstentions and broker non-votes (if any) will have the same effect as a vote “AGAINST” the approval of such proposal.

The votes required to approve the optional vote matters scheduled to be presented at the special meeting, the approval of which is not a condition to completing the mergers, are as follows:

- Approval of the exclusive forum proposal requires the affirmative vote “**FOR**” such proposal by the holders of shares of Helix common stock representing a majority of the outstanding shares of Helix common stock entitled to vote on such proposal. Assuming a quorum is present, shares that are entitled to vote on the exclusive forum proposal but not present in person or by proxy, abstentions and broker non-votes (if any) will have the same effect as a vote “AGAINST” the approval of such proposal.
- Approval of the officer exculpation proposal requires the affirmative vote “**FOR**” such proposal by the holders of shares of Helix common stock representing a majority of the outstanding shares of Helix common stock entitled to vote on such proposal. Assuming a quorum is present, shares that are entitled to vote on the officer exculpation proposal but not present in person or by proxy, abstentions and broker non-votes (if any) will have the same effect as a vote “AGAINST” the approval of such proposal.
- Approval of the removal of supermajority approval requirement proposal requires the affirmative vote “**FOR**” such proposal by the holders of shares of Helix common stock representing 80% of the outstanding shares of Helix common stock entitled to vote on such proposal. Assuming a quorum is present, shares that are entitled to vote on the removal of supermajority approval requirement proposal but not present in person or by proxy, abstentions and broker non-votes (if any) will have the same effect as a vote “AGAINST” the approval of such proposal.
- Approval of the corporate opportunities proposal requires the affirmative vote “**FOR**” such proposal by the holders of shares of Helix common stock representing a majority of the outstanding shares of Helix common stock entitled to vote on such proposal. Assuming a quorum is present, shares that are entitled to vote on the corporate opportunities proposal but not present in person or by proxy, abstentions and broker non-votes (if any) will have the same effect as a vote “AGAINST” the approval of such proposal.
- Approval of the non-binding compensation proposal requires the affirmative vote “**FOR**” such proposal by the holders of shares of Helix common stock representing a majority of the outstanding shares of Helix common stock present at the special meeting, either in person or represented by proxy, and entitled to vote on such proposal. Assuming a quorum is present, shares that are not present in person or by proxy and broker non-votes (if any) will have no effect on the vote for the adjournment proposal; however, abstentions will have the same effect as a vote “AGAINST” the approval of such proposal.
- Approval of the adjournment proposal requires the affirmative vote “**FOR**” such proposal by the holders of shares of Helix common stock representing a majority of the outstanding shares of Helix common stock present at the special meeting, either in person or represented by proxy, and entitled to vote on the adjournment proposal, regardless of whether there is a quorum. Shares that are not present in person or by proxy and broker non-votes (if any) will have no effect on the vote for the adjournment proposal; however, abstentions will have the same effect as a vote “AGAINST” the approval of such proposal.

Q: How does the Helix Board recommend that I vote?

A: The Helix Board recommends that Helix shareholders vote “**FOR**” the share issuance proposal, “**FOR**” the authorized share increase proposal, “**FOR**” the second merger proposal, “**FOR**” the plan of conversion proposal, “**FOR**” the Jones Act provisions proposal, “**FOR**” the D&O citizenship matters proposal, “**FOR**” the exclusive forum proposal, “**FOR**” the officer exculpation proposal, “**FOR**” the removal of supermajority approval requirement proposal, “**FOR**” the corporate opportunities proposal, “**FOR**” the non-binding compensation proposal and “**FOR**” the adjournment proposal. For additional information regarding how the Helix Board recommends that Helix shareholders vote and the factors the Helix Board considered in determining to make such recommendations, see the section titled “*The Mergers—Recommendation of the Helix Board and Reasons for the Mergers.*”

Amy H. Nelson abstained from voting on the transaction due in large part to concerns regarding Helix’s intention to change its name in connection with closing of the transaction to “Hornbeck Offshore Services, Inc.” pursuant to the terms of the merger agreement, and the associated licensing arrangement pursuant to which an entity partially owned by Todd M. Hornbeck will provide, in exchange for an upfront fee and subject to certain conditions and termination events, a seven-year license to the combined company to use various Hornbeck trade names and trademarks. See “*The Mergers—Recommendation of Helix’s Board and Reasons for the Mergers—Views of Abstaining Director.*”

Q: Will the shares of Converted Helix Common Stock received in the mergers and the other shares of Converted Helix Common Stock outstanding at the time of completion of the mergers be traded on an exchange? What will be the name of the combined company following the mergers?

A: Yes. It is a condition to the consummation of the mergers that the shares of Converted Helix Common Stock issuable to Hornbeck stockholders in the mergers be approved for listing on the NYSE, subject to official notice of issuance. Helix common stock currently trades on the NYSE under the stock symbol “HLX.” Following the completion of the mergers, it is expected that Converted Helix Common Stock will trade on the NYSE under the combined company’s new name, “Hornbeck Offshore Services, Inc.,” and under the new ticker symbol, “HOS.”

Although the combined company will be renamed “Hornbeck Offshore Services, Inc.” and generally operate under the Hornbeck brand, it is expected that Helix’s Well Intervention Services business will continue to operate under the familiar Helix brand.

Q: Have the Hornbeck stockholders approved the mergers and the other transactions contemplated by the merger agreement?

A: Yes. Shortly following execution of the merger agreement, Hornbeck stockholders holding a majority of the shares of Hornbeck common stock outstanding and entitled to vote on the matter delivered a written consent, executed in accordance with Section 228 of the DGCL, adopting the merger agreement and approving the transactions contemplated by the merger agreement, including the mergers, to which Hornbeck stockholders were entitled to vote. Accordingly, however, Hornbeck stockholders have no further rights to vote on the merger agreement or the transactions contemplated thereby, including the mergers.

Q: Will the shares of Converted Helix Common Stock that I hold following consummation of the mergers receive a dividend?

A: Following completion of the mergers, the Converted Helix Common Stock will be the common stock of the combined company. As a holder of Converted Helix Common Stock after the mergers are completed, you will receive the same dividends, if any such dividends are declared by the combined company board, on shares of Converted Helix Common Stock that all other holders of Converted Helix Common Stock will receive for any dividend with a record date that occurs after the effective time. Helix has not historically declared dividends on Helix common stock, and any future dividends on Converted Helix Common Stock will be at the sole discretion of the combined company board.

Q: How will Helix shareholders be affected by the mergers?

A: Upon completion of the mergers, each Helix shareholder will hold shares of Converted Helix Common Stock in the same number of shares of Helix common stock that such shareholder held immediately prior to the Conversion and completion of the mergers. As a result of the mergers, Helix shareholders will own shares in a larger company with

more assets. However, because Helix will be issuing additional shares of Converted Helix Common Stock to Hornbeck stockholders and certain securityholders in exchange for their eligible shares of Hornbeck common stock and certain other convertible securities in the mergers, each share of Converted Helix Common Stock issued and outstanding immediately prior to the effective time will represent a smaller percentage of the aggregate number of shares of the combined company's common stock issued and outstanding after the mergers are completed.

Q: What are the material U.S. federal income tax consequences of the integrated mergers to Hornbeck stockholders?

A: Based on certain representations, covenants and assumptions (described in the section titled “The Merger Agreement”), all of which must continue to be true and accurate in all material respects as of the effective time of the mergers, the integrated mergers are intended to qualify as a “reorganization” within the meaning of Section 368(a) of the Internal Revenue Code of 1986, as amended (the “Code”), and Helix and Hornbeck intend to report the integrated mergers consistent with such qualification. The obligation of Hornbeck to complete the integrated mergers is conditioned upon the receipt of an opinion from Kirkland & Ellis LLP (“Kirkland”), counsel to Hornbeck, in form and substance reasonably satisfactory to Hornbeck, to the effect that the integrated mergers, taken together, will qualify as a “reorganization” within the meaning of Section 368(a) of the Code based upon facts, representations, and assumptions set forth or referred to in such opinion. This opinion is not binding on the IRS or the courts and Helix and Hornbeck have not sought, and do not intend to seek, any ruling from the IRS regarding the qualification of the integrated mergers as a “reorganization” within the meaning of Section 368(a) of the Code. As a result, there can be no assurance that the IRS would not assert, or that a court would not sustain, a position contrary to the treatment of the integrated mergers as a “reorganization” within the meaning of Section 368(a) of the Code. Assuming that the integrated mergers, taken together, qualify as a “reorganization” within the meaning of Section 368(a) of the Code, U.S. holders (as defined in “*The Mergers—Material U.S. Federal Income Tax Consequences of the Mergers*”) generally will not recognize gain or loss for U.S. federal income tax purposes upon the exchange of Hornbeck common stock for shares of Converted Helix Common Stock pursuant to the first merger, except with respect to cash proceeds received from the sale of fractional shares of Converted Helix Common Stock. If the integrated mergers do not qualify as a “reorganization,” the integrated mergers generally would be a taxable transaction to U.S. holders, and each U.S. holder generally would recognize gain or loss in an amount equal to the difference, if any, between (i) the sum of the fair market value of the Converted Helix Common Stock it receives in the first merger plus the amount of any cash proceeds received from the sale of fractional shares of Converted Helix Common Stock and (ii) such holder's adjusted tax basis in its shares of Hornbeck common stock exchanged in the first merger.

The U.S. federal income tax consequences described above may not apply to all holders of Hornbeck common stock. Each Hornbeck stockholder should read “*The Mergers—Material U.S. Federal Income Tax Consequences of the Mergers*” for a more complete discussion of the U.S. federal income tax consequences of the integrated mergers to U.S. holders. Tax matters can be complicated and the tax consequences of the integrated mergers to a Hornbeck stockholder will depend on its particular tax situation. Each Hornbeck stockholder is strongly urged to consult with a tax advisor to determine the particular U.S. federal, state or local or non-U.S. income or other tax consequences of the integrated mergers to it.

Q: When do Helix and Hornbeck expect to complete the mergers?

A: Helix and Hornbeck currently expect to complete the mergers in the second half of 2026. However, neither Helix nor Hornbeck can predict the actual date on which the mergers will be completed, nor can the parties ensure that the mergers will be completed, because completion of the mergers is subject to conditions beyond the control of either company. For additional information regarding the conditions to the mergers, including those that are beyond the control of Helix and Hornbeck, please see the sections titled “*The Mergers—Regulatory Approvals*” and “*The Merger Agreement—Conditions to the Completion of the Mergers*.” For additional information regarding risks relating to completion of the mergers and the timing thereof, as well as Helix's and Hornbeck's expectations with respect thereto, please see the sections titled “*Cautionary Statement Regarding Forward-Looking Statements*” and “*Risk Factors*.”

Q: What happens if the mergers are not completed?

- A: If the required merger proposals are not approved by Helix shareholders or the mergers are not otherwise completed for any other reason, Hornbeck stockholders will not receive any consideration for shares of Hornbeck common stock they own. Instead, Hornbeck common stock will remain outstanding, and the separate existence of Hornbeck will continue apart from Helix.

Under specified circumstances, Helix or Hornbeck may be required to reimburse the other party's expenses or pay a termination fee upon or subsequent to termination of the merger agreement, as described in the section titled "*The Merger Agreement—Termination Fees*" and "*—Expense Reimbursement.*" For additional information regarding risks relating to completion of the mergers and the timing thereof, as well as Helix's and Hornbeck's expectations with respect thereto, please see the sections titled "*Cautionary Statement Regarding Forward-Looking Statements*" and "*Risk Factors.*"

Q: Who can vote at, and what is the record date for, the special meeting?

- A: The Helix Board has fixed the close of business on _____, 2026 (the "record date") as the record date for the determination of the Helix shareholders entitled to receive notice of, and to vote at, the special meeting. Helix shareholders who are holders of record of shares of Helix common stock at the close of business on the record date for the special meeting are the only Helix shareholders entitled to receive notice of, and to vote at, the special meeting. A list of the Helix shareholders of record who are entitled to vote at the special meeting will be available at the special meeting for examination by any shareholder present at such meeting. For additional information, see the sections titled "*Special Meeting—Record Date,*" "*Special Meeting— Outstanding Shares and Voting Rights of Helix Shareholders*" and "*Special Meeting—Shareholder List.*"

Q: How many votes may I cast?

- A: Each issued and outstanding share of Helix common stock on the record date entitles the holder of record of such share to one vote on each proposal presented at, and any other matter coming before, the special meeting. Helix shareholders who are holders of record of shares of Helix common stock at the close of business on the record date for the special meeting are the only Helix shareholders entitled to receive notice of, and to vote at, the special meeting. For additional information, see the section titled "*Special Meeting—Outstanding Shares and Voting Rights of Helix Shareholders.*"

Q: What constitutes a quorum at the special meeting?

- A: In order for business to be conducted at the special meeting, a quorum must be present.

Holders of shares of Helix common stock entitled to exercise a majority of the voting power of Helix entitled to vote at the special meeting, present in person or represented by proxy, will constitute a quorum for the transaction of business to be considered at such meeting.

Abstentions and broker non-votes will be included in determining whether a quorum is present at the special meeting. A "broker non-vote" occurs when a nominee (such as a broker) holding shares for a beneficial owner abstains from voting on a particular proposal because the nominee does not have discretionary voting power for that proposal and has not received instructions from the beneficial owner on how to vote those shares. For additional information, including the impact of abstentions and broker non-votes, see "*—What shareholder votes are required for Helix shareholders to approve the proposals scheduled to be presented and voted on at the special meeting?*" above and the section titled "*Special Meeting—Quorum.*"

Q: How will my proxy be voted, and what do I need to do now?

- A: If you were a record holder of Helix common stock at the close of business on the record date for the special meeting, a proxy card is enclosed for your use. After you have carefully read and considered the information contained in or incorporated by reference into this proxy statement/prospectus, please complete, sign, date, and return the applicable proxy card or voting instruction form you received in the self-addressed, stamped envelope provided to you or timely submit your proxy via the internet or by telephone in accordance with the instructions set forth on the applicable proxy card or voting instruction form you received as soon as possible so that your shares will be represented and voted at the special meeting. Your internet or telephone vote in accordance with the

instructions set forth on the proxy card you received authorizes the named proxies to vote your shares in the same manner as if you had marked, signed and returned a proxy card. Proxies submitted through the specified internet website or by phone must be received by 10:59 p.m., Central Daylight Time (Houston time), on , 2026 to ensure that such proxies are voted.

When your proxy card is returned properly executed, or your proxy is timely submitted via the internet or by telephone in accordance with the instructions set forth on the proxy card you received, the shares of Helix common stock represented by it will be voted at the special meeting in accordance with the instructions contained in the proxy card. If you sign, date and return your proxy card without indicating how you would like to vote your shares, your shares will be voted in accordance with the recommendation of the Helix Board.

For additional information on the procedures applicable to voting your shares by proxy, please see the section titled “*Special Meeting—Voting of Proxies by Holders of Record.*”

Q: Should I submit any accompanying materials, such as stock certificates or evidence of shares in book-entry form, with my proxy card?

A: No. Except as stated in the instructions set forth in the applicable proxy card or voting instruction form you received, you do not need to submit any materials with your completed proxy card or voting instruction form. **Please do not send or submit your Helix stock certificates or evidence of shares in book-entry form to Helix, Hornbeck or to any other person with your proxy card.** As soon as reasonably practicable following consummation of the mergers, Hornbeck stockholders will receive information separately about the procedures they should follow to surrender their Hornbeck shares of common stock or other convertible securities in order to receive the merger consideration and should follow such instructions, once received.

Q: Who is soliciting my proxy, and who pays for the solicitation?

A: The Helix Board is soliciting proxies to vote on the proposals scheduled to be presented at the special meeting. Helix and Hornbeck will share equally in the costs incurred by Helix for the printing, filing and mailing of this proxy statement/prospectus to Helix shareholders in connection with the special meeting. However, Helix will pay for the proxy solicitation costs otherwise related to the special meeting. In addition to sending and making available these proxy materials, some of Helix’s directors, officers and other employees may solicit proxies by contacting Helix shareholders by phone, by e-mail or online. None of Helix’s directors, officers or other employees will receive any additional compensation for their solicitation services. Helix has also retained Okapi Partners LLC as its proxy solicitor to assist in the solicitation of proxies, and Okapi Partners LLC will receive a fee for, plus reimbursement for reasonable out-of-pocket expenses incurred in connection with, these proxy solicitation services and any additional services. For additional information, see the section titled “*Special Meeting—Solicitation of Proxies.*”

Q: Can I attend the special meeting and vote in person?

A: Yes. Helix shareholders of record as of the record date for the special meeting may attend and participate in the special meeting in person.

Q: What should I do if I receive more than one set of voting materials for the special meeting?

A: You may receive more than one set of voting materials for the special meeting, including multiple copies of this proxy statement/prospectus and multiple proxy cards or voting instruction forms (or a combination of the foregoing). For example, if you hold your shares of Helix common stock in more than one brokerage account, you will receive a separate voting instruction form for each brokerage account in which you hold shares. If you are a holder of record of shares of Helix common stock and your shares are registered under more than one name, you will receive more than one proxy card. Please submit each separate proxy card or voting instruction form that you receive by following the instructions set forth in each separate proxy card or voting instruction form. If you fail to properly submit each separate proxy card or voting instruction form that you received, or fail to submit your proxy via the internet or by telephone in accordance with the instructions set forth on such proxy card or voting instruction form, any shares to which such voting materials apply will not be voted at the special meeting.

Q: What is the difference between holding shares of Helix common stock as the holder of record and holding shares of Helix common stock as a beneficial owner?

A: If your shares of Helix common stock are registered directly in your name with Helix's transfer agent, EQ Shareowner Services ("EQ"), you are considered to be the shareholder of record with respect to those shares. If you are a shareholder of record, then this proxy statement/prospectus and your proxy card have been sent directly to you by Helix.

If your shares of Helix common stock are held through a bank, broker or other nominee, you are considered to be the beneficial owner with respect to those shares, and those shares are held in "street name" by your bank, broker or other nominee. In that case, this proxy statement/prospectus and a voting instruction form has been forwarded to you by your bank, broker or other nominee. As the beneficial owner of such shares, you have the right to direct your bank, broker or other nominee how to vote your shares by following their instructions for voting set forth on the voting instruction form you received. All shareholders of record and beneficial owners of Helix common stock are invited to attend the special meeting. For additional information on the differences between shares of Helix common stock held of record and beneficially owned, and the differing procedures applicable to voting such shares, see the sections titled "*Special Meeting—Voting of Proxies by Holders of Record*" and "*Special Meeting—Shares Held in Street Name.*"

Q: If my shares of Helix common stock are held in "street name" by my bank, broker or other nominee, will my bank, broker or other nominee automatically vote my shares for me?

A: No. If your shares of Helix common stock are held in the name of a bank, broker or other nominee, you will receive separate instructions from your bank, broker or other nominee describing how to vote your shares. The availability of internet or telephonic voting will depend on your bank, broker or other nominee's voting process. Please check with your bank, broker or other nominee and follow the voting procedures set forth on the voting instruction form provided by your bank, broker or other nominee.

You should instruct your bank, broker or other nominee how to vote your shares of Helix common stock. Under the rules applicable to broker-dealers, your bank, broker or other nominee does not have discretionary authority to vote your shares on any of the proposals scheduled to be voted on at the special meeting. A so-called "broker non-vote" results when banks, brokers and other nominees return a valid proxy but do not vote on a particular proposal because they do not have discretionary authority to vote on the matter and have not received specific voting instructions from the beneficial owner of such shares. Helix does not expect any broker non-votes at the special meeting because the rules applicable to banks, brokers and other nominees only provide brokers with discretionary authority to vote on proposals that are considered "routine" under applicable rules. At this time, Helix knows of no other matters to be submitted at the special meeting, and Helix does not expect the proposals scheduled to be presented at the special meeting or any others that may be properly brought before the special meeting to be considered "routine" under applicable rules. As a result, no bank, broker or other nominee will be permitted to vote your shares of Helix common stock at the special meeting without receiving instructions. Failure to instruct your bank, broker or other nominee on how to vote your shares will have (i) no effect on the outcome of the vote on the non-binding compensation proposal and (ii) the same effect as a vote "AGAINST" each of the required merger proposals, each of the optional vote matters and the adjournment proposal (other than the non-binding compensation proposal).

For additional information on voting procedures, please see the section titled "*Special Meeting—Shares Held in Street Name.*"

Q: What do I do if I am a Helix shareholder and I want to revoke my proxy?

A: Helix shareholders of record may revoke their proxies at any time before their shares of Helix common stock are voted at the special meeting in any of the following ways:

- delivering written notice of revocation of the proxy to Helix's corporate secretary at Helix's principal executive offices at 3505 West Sam Houston Parkway North, Suite 400, Houston, Texas 77043, by no later than _____, Central Daylight Time (Houston time), on _____, 2026;
- delivering another proxy with a later date to Helix's corporate secretary at Helix's principal executive offices at 3505 West Sam Houston Parkway North, Suite 400, Houston, Texas 77043, by no later than _____, Central Daylight Time (Houston time), on _____, 2026 (in which case only the later-dated proxy is counted and the earlier proxy is revoked);

- submitting another proxy again via the internet or by telephone at a later date, by no later than 10:59 p.m., Central Daylight Time (Houston time), on _____, 2026 (in which case only the later-dated proxy is counted and the earlier proxy is revoked); or
- attending the special meeting in person and voting his, her or its shares during the meeting; attendance at the special meeting will not, in and of itself, revoke a valid proxy that was previously delivered unless you give written notice of revocation to the Helix corporate secretary before the proxy is exercised or unless you vote your shares in person during the special meeting.

If your shares are held in “street name” through a bank, broker or other nominee and you deliver voting instructions to the record holder of those shares, you may only revoke the voting of those shares in accordance with your instructions if the record holder revokes the original proxy as directed above and either resubmits a proxy reflecting your voting instructions or delivers to you a legal proxy giving you the right to vote the shares.

For additional information about how to revoke proxies, please see the section titled “*Special Meeting—Proxies and Revocation*.”

Q: Are there any risks that I should consider as a Helix shareholder in deciding how to vote?

- A: Yes. You should read and carefully consider the risks included and described in this proxy statement/prospectus, including but not limited to those set forth in the section titled “*Risk Factors*.” You also should read and carefully consider the risk factors of Helix contained in the documents that are incorporated by reference into this proxy statement/prospectus.

Additionally, you should note that this proxy statement/prospectus and the documents incorporated by reference herein contain forward-looking statements within the meaning of federal securities laws that are not limited to statements of historical facts but reflect Helix’s and/or Hornbeck’s current beliefs, expectations or intentions regarding future events. Although Helix and Hornbeck believe the beliefs, expectations and intentions reflected in such forward-looking statements are reasonable, such beliefs, expectations or intentions may not occur to the extent stated or at all. Such forward-looking statements involve known and unknown risks, uncertainties and other factors that may cause actual results to differ from those expressed or implied by the related forward-looking statements. You should read and carefully consider the risks, uncertainties and other factors to which forward-looking statements in this proxy statement/prospectus and the documents incorporated by reference herein may apply, including those set forth in the sections titled “*Cautionary Statement Regarding Forward-Looking Statements*” and “*Risk Factors*.”

Q: Can the special meeting be adjourned, and will I receive notice about the adjournment and the reconvened meeting if the special meeting is adjourned?

- A: Yes. The special meeting may be adjourned from time to time by the affirmative vote of the holders of shares of Helix common stock representing a majority of the shares of Helix common stock present in person or represented by proxy at the special meeting and entitled to vote at the special meeting, regardless of whether there is a quorum, without further notice other than by an announcement made at the special meeting as to the date, time and place to which an adjournment is taken. If a quorum is not present at the special meeting, or if a quorum is present at the special meeting but there are not sufficient votes to approve the required merger proposals present at the time of the special meeting, then Helix shareholders may be asked to approve the adjournment proposal to adjourn the special meeting in order to permit the further solicitation of proxies. If the special meeting is adjourned, no notice of the reconvened meeting is required to be given if the date, time and place to which an adjournment is taken are announced at the special meeting and the reconvened meeting will be held not more than 120 days after the date on which the special meeting was originally scheduled to take place.

For additional information, see the section titled “*Special Meeting—Adjournment*.”

Q: What happens if I sell or otherwise transfer my shares of Helix common stock before the special meeting?

- A: The record date is prior to the date of the special meeting. Helix shareholders who are holders of record of shares of Helix common stock at the close of business on the record date for the special meeting are the only Helix shareholders entitled to receive notice of, and to vote at, the special meeting. If you sell or otherwise transfer your

shares of Helix common stock before the record date for the special meeting, you will not be a holder of record of such shares of Helix common stock as of the close of business on the record date. Accordingly, you will not be entitled to notice of, or to vote such shares at, the special meeting.

If you sell or otherwise transfer your shares of Helix common stock after the record date but before the special meeting, unless special arrangements (such as provision of a proxy) are made between you and the person to whom you sell or otherwise transfer your shares of Helix common stock, you will retain your right to vote such shares at the special meeting but will otherwise transfer ownership of and the economic interest in your shares of Helix common stock to the person to whom such shares were sold or otherwise transferred. Unless special arrangements (such as provision of a proxy) are made between you and any person to whom you sell or otherwise transfer your shares of Helix common stock after the record date but before the special meeting, the person to whom you sold or otherwise transferred such shares will not be entitled to notice of, or to vote such shares at, the special meeting.

Q: What happens if I sell or otherwise transfer my shares of Hornbeck common stock before the completion of the mergers?

A: Only holders of record of Hornbeck common stock and certain of Hornbeck's convertible securities issued and outstanding as of immediately prior to the effective time will become entitled to receive shares of Converted Helix Common Stock at the effective time. If you sell your shares of Hornbeck common stock prior to the completion of the mergers, you will not be entitled to receive the merger consideration by virtue of the mergers.

Q: Do any of the officers or directors of Helix have interests in the mergers that may differ from or be in addition to my interests as a Helix shareholder?

A: Yes. In considering the recommendation of the Helix Board that Helix shareholders vote to approve the required merger proposals, Helix shareholders should be aware that, aside from their interests as shareholders of Helix, Helix's directors and executive officers have interests in the mergers that may be different from, or in addition to, the interests of Helix shareholders generally. The Helix Board was aware of and considered these interests, among other matters, when evaluating and negotiating the merger agreement and the transactions contemplated thereby, including the Conversion, when determining that the merger agreement and the transactions contemplated by the merger agreement were fair to, advisable and in the best interests of Helix and its shareholders, when approving and declaring advisable the merger agreement, the plan of conversion and the other transactions contemplated by the merger agreement, including the Conversion, when directing that the required merger proposals and the optional vote matters be submitted to Helix shareholders for approval and when recommending that Helix shareholders vote in favor of the required merger proposals and the optional vote matters.

For more information on these interests and quantification of certain of these interests, please see the section titled "*The Mergers—Interests of Helix's Directors and Officers in the Mergers.*" For more information on the factors the Helix Board considered in determining to approve the merger agreement and to recommend that Helix shareholders approve the required merger proposals and the optional vote matters, see the section titled "*The Mergers—Recommendation of Helix Board's and Reasons for the Mergers.*"

Q: If I am a Helix shareholder and I oppose any of the proposals, but all such proposals are approved, what are my rights?

A: Under Minnesota law, Helix shareholders will not be entitled to dissenters' rights or appraisal rights in connection with any of the required merger proposals and the optional vote matters. For a comparison of rights as a holder of Converted Helix Common Stock versus your existing shareholder rights, see the section of this proxy statement/prospectus titled "*Comparison of Stockholders' Rights.*"

Q: Who will count the votes cast at the special meeting?

A: Helix has engaged Broadridge Financial Solutions, which Helix refers to as its inspector of elections, as its independent agent to tabulate shareholder votes cast on the proposals presented at the special meeting. If you are a shareholder of record of Helix common stock as of the record date and you properly vote your shares in accordance with the instructions set forth in the proxy card you received, your executed proxy card is returned directly to Broadridge Financial Solutions for tabulation. If you hold your shares through a bank, broker or other nominee and you properly vote your shares in accordance with the instructions set forth in the voting instruction form you received, your bank, broker or other nominee returns one proxy card to Broadridge Financial Solutions on behalf of all of its clients who have voted their shares in accordance with the instructions such bank, broker or other nominee provided.

Q: Where can I find voting results of the special meeting?

A: Helix intends to announce the preliminary voting results at the special meeting and to disclose the final voting results in a Current Report on Form 8-K that will be filed with the SEC following the special meeting. All reports that Helix files with the SEC are publicly available when filed, and some reports Helix files with the SEC are incorporated by reference in this proxy statement/prospectus. For additional information on the documents incorporated by reference herein, see the section titled “*Where You Can Find More Information.*”

Q: How can I find more information about Helix?

A: You can find more information about Helix from various sources, including those described in the section titled “*Where You Can Find More Information.*”

Q: Who can answer any questions I may have about the special meeting, the mergers or the other transactions, including the Conversion, contemplated by the merger agreement?

A: If you have any questions about the special meeting, the mergers, the Conversion, the required merger proposals, the optional vote matters, the applicable enclosed proxy card or voting instruction form or how to submit your proxy, or if you need additional copies of this proxy statement/prospectus, any of the documents incorporated by reference herein or the applicable enclosed proxy card or voting instruction form, you should contact:

Helix Energy Solutions Group, Inc.
Attn: General Counsel
3505 West Sam Houston Pkwy North, Suite 400
Houston, Texas 77043
(281) 618-0400

Okapi Partners LLC
1212 Avenue of the Americas, 17th Floor
New York, New York 10036
info@okapipartners.com
Shareholders may call toll-free: (888) 785-6709
Banks and brokers, please call: (212) 297-0720

SUMMARY

The following summary highlights selected information described in more detail elsewhere in this proxy statement/prospectus and the documents incorporated by reference into this proxy statement/prospectus and may not contain all the information that may be important to you. To understand the mergers, the other transactions contemplated by the merger agreement, including the Conversion, and the matters scheduled to be presented to and voted on by Helix shareholders at the special meeting more fully, and for a more complete description of the legal terms of the merger agreement and the agreements related thereto, you should carefully read this entire document, including the annexes and the documents incorporated by reference herein, as well as any other documents to which Helix refers you. For the location of documents incorporated by reference into this proxy statement/prospectus, see the section of this proxy statement/prospectus titled “*Where You Can Find More Information.*”

The Parties

Helix Energy Solutions Group, Inc.

Helix is an international offshore energy services company that provides specialty services to the offshore energy industry, with a focus on well intervention, robotics and decommissioning operations. Helix’s services are key in supporting a global energy transition by maximizing production of existing oil and gas reserves, decommissioning end-of-life oil and gas fields and supporting renewable energy developments. Helix was incorporated in 1979 and in 1983 was re-incorporated in the state of Minnesota, and its common stock is listed and traded on the NYSE under the ticker symbol “HLX.” Helix’s principal executive office is located at 3505 West Sam Houston Parkway North, Suite 400, Houston, Texas 77043 and its telephone number is (281) 618-0400.

Additional information about Helix and its subsidiaries is included in the documents incorporated by reference in this proxy statement/prospectus. For the location of documents incorporated by reference into this proxy statement/prospectus, see the section titled “*Where You Can Find More Information.*”

Odyssey Sub, Inc.

Odyssey Sub, Inc., a direct wholly owned subsidiary of Helix, is a Delaware corporation formed on April 22, 2026, for the purpose of effecting the first merger. Upon the terms and conditions set forth in the merger agreement, Odyssey Sub, Inc. will merge with and into Hornbeck, with Hornbeck surviving the merger as the surviving corporation and a direct wholly owned subsidiary of the combined company. Odyssey Sub, Inc. has not conducted any activities other than those incidental to its formation and the matters contemplated by the merger agreement, including the preparation of applicable regulatory filings in connection with the mergers.

Hercules Sub LLC

Hercules Sub LLC, a direct wholly owned subsidiary of Helix, is a Delaware limited liability company formed on April 22, 2026, for the purpose of effecting the second merger. Upon the terms and conditions set forth in the merger agreement, immediately following the consummation of the first merger, the surviving corporation will merge with and into Hercules Sub LLC, with Hercules Sub LLC surviving the second merger as the surviving entity and a direct wholly owned subsidiary of the combined company. Hercules Sub LLC has not conducted any activities other than those incidental to its formation and the matters contemplated by the merger agreement, including the preparation of applicable regulatory filings in connection with the mergers.

Hornbeck Offshore Services, Inc.

Hornbeck is a leading provider of marine transportation services supporting a range of diversified offshore end-markets, including oilfield specialty services and drilling support, military support services, renewable energy development and other non-oilfield service offerings, such as humanitarian aid and disaster relief (“HADR”) and aerospace support services. Since its founding, Hornbeck has focused on providing innovative, technologically advanced marine solutions to meet the evolving needs of its customers across its core geographic regions spanning the United States and Latin America. Hornbeck was incorporated in the state of Delaware in 1997. Hornbeck’s principal executive offices are located at 103 Northpark Boulevard, Suite 300, Covington, Louisiana 70433 and its telephone number is (985) 727-2000.

The Mergers

Upon satisfaction or waiver of the conditions to closing set forth in the merger agreement, immediately prior to the first merger, Helix will convert from a Minnesota corporation to a Delaware corporation in accordance with Section 265 of the DGCL and Section 302A.682 of the MBCA pursuant to a plan of conversion contemplated by the merger agreement.

Pursuant to the Conversion, (x) each issued and outstanding share of Helix common stock, without par value, will be converted into one share of common stock, par value \$0.00001 per share, of Helix Delaware, (y) each issued and outstanding share of Helix preferred stock, par value \$0.01 per share, will be converted into one share of preferred stock, par value \$0.00001 per share, of Helix Delaware and (z) the name of Helix Delaware will be changed to “Hornbeck Offshore Services, Inc.” Upon the terms and subject to the conditions set forth in the merger agreement, immediately following the Conversion, Odyssey Sub, Inc. will merge with and into Hornbeck, with Hornbeck surviving the merger as the surviving corporation and a direct wholly owned subsidiary of the combined company. Upon the terms and subject to the conditions set forth in the merger agreement, at the effective time, each share of Hornbeck common stock, par value \$0.00001 per share, issued and outstanding immediately prior to the effective time (excluding excluded shares and dissenting shares) will automatically be converted into the right to receive 10.27167 validly issued, fully paid and nonassessable shares of Converted Helix Common Stock. Immediately following the effective time, Hornbeck, as the surviving corporation of the first merger, will merge with and into Hercules Sub LLC, with Hercules Sub LLC surviving the merger as the surviving entity and a direct wholly owned subsidiary of the combined company.

At the effective time, by virtue of the first merger and without any action on the part of the parties or any holder thereof, subject to certain exceptions, each share of Hornbeck common stock issued and outstanding immediately prior to the effective time (excluding excluded shares and dissenting shares) will be converted into the right to receive 10.27167 shares of Converted Helix Common Stock. At the effective time, all excluded shares will be cancelled and will cease to exist, and no consideration will be paid or delivered in exchange therefor. At the effective time, dissenting shares will be cancelled, extinguished and cease to exist and will represent the right to receive payment of the fair value of such dissenting shares in accordance with and to the extent provided by Section 262 of the DGCL. In addition, in connection with the mergers, at the effective time, (i) each Creditor Warrant that is outstanding as of immediately prior to the effective time will be converted into the right to receive, in accordance with the merger agreement, a number of shares of Converted Helix Common Stock (or, in accordance with the applicable Jones Act restrictions in the certificate of incorporation of the combined company, new Jones Act Warrants to acquire such Converted Helix Common Stock), (ii) each Hornbeck performance restricted stock unit award and restricted stock unit award that is outstanding as of immediately prior to the effective time will be canceled and the holder thereof will become entitled to receive, in accordance with the merger agreement, a number of shares of Converted Helix Common Stock, (iii) each Helix restricted stock award that is outstanding immediately prior to the effective time will be in respect of Converted Helix Common Stock and be fully vested, (iv) each Helix performance share unit award and Helix restricted stock unit award that is outstanding as of immediately prior to the effective time will be canceled and the holder thereof will become entitled to receive, in accordance with the merger agreement, a number of shares of Converted Helix Common Stock (or a cash payment, as the Helix Board may instead determine prior to the effective time, in its discretion but after consultation with the Hornbeck Board, to settle such awards in cash), (v) each Hornbeck stock option that is outstanding as of immediately prior to the effective time will be fully vested, assumed by the combined company and converted into, in accordance with the merger agreement, a number of options in respect of Converted Helix Common Stock and (vi) each Jones Act Warrant that is outstanding as of immediately prior to the effective time will be assumed by the combined company and, subject to the applicable Jones Act restrictions in the certificate of incorporation of the combined company, will be exercisable into a number of shares of Converted Helix Common Stock, in each case, as described in the section titled “*The Merger Agreement—Treatment of Equity Awards and Warrants.*”

Special Meeting

The special meeting of Helix shareholders will be held at Helix’s corporate office at 3505 West Sam Houston Parkway North, Suite 400, Houston, Texas 77043, on _____, 2026, at _____, Central Daylight Time (Houston time). The special meeting of Helix shareholders is being held to consider and vote on:

1. a proposal to approve the issuance of shares of Converted Helix Common Stock pursuant to the merger agreement for purposes of complying with Section 312.03(c) of the NYSE’s Listed Company Manual and, in the event such issuance constitutes a change of control, Section 312.03(d) of the NYSE’s Listed Company Manual (the “share issuance proposal”);
2. a proposal to approve an increase in the authorized Converted Helix Common Stock and Converted Helix Preferred Stock, as set forth in Article V of the certificate of incorporation of the combined company (the “authorized share increase proposal”);
3. a proposal to approve the second merger (the “second merger proposal”);

4. a proposal to approve the plan of conversion, pursuant to which, immediately prior to the first merger, Helix will convert from a Minnesota corporation to a Delaware corporation in accordance with Section 265 of the DGCL and Section 302A.682 of the MBCA (the “plan of conversion proposal”);
5. a proposal to approve the provisions regarding compliance with the Jones Act, as set forth in Article XV of the certificate of incorporation of the combined company (the “Jones Act provisions proposal”);
6. a proposal to approve the director and officer citizenship requirement provisions, as set forth in Section 6.7 of the certificate of incorporation of the combined company (the “D&O citizenship matters proposal”);
7. a proposal to approve the submission to jurisdiction provisions, as set forth in Article XIV of the certificate of incorporation of the combined company (the “exclusive forum proposal”);
8. a proposal to approve the provisions limiting liability of officers, set forth in Article VII of the certificate of incorporation of the combined company (the “officer exculpation proposal”);
9. a proposal to approve the removal of the supermajority approval requirements, as set forth in Article XI of the certificate of incorporation of the combined company (the “removal of supermajority approval requirement proposal”);
10. a proposal to approve the corporate opportunities provisions, as set forth in Article IX of the certificate of incorporation of the combined company (the “corporate opportunities proposal”);
11. a proposal to approve, on a non-binding advisory basis, the compensation that may be paid or become payable to Helix’s named executive officers that is based on or otherwise relates to the mergers (the “non-binding compensation proposal”); and
12. a proposal to approve the adjournment of the special meeting to solicit additional proxies if there are not sufficient votes at the time of the special meeting to approve the required merger proposals (the “adjournment proposal”).

The proposals 1 through 6 set forth above are collectively referred to in this proxy statement/prospectus as the “required merger proposals.” The proposals 7 through 12 set forth above are collectively referred to in this proxy statement/prospectus as the “optional vote matters.” Completion of the mergers is conditioned on the approval by Helix shareholders of each of the required merger proposals, but not on the optional vote matters.

Only record holders of shares of Helix common stock at the close of business on _____, 2026, the record date for the special meeting (the “record date”), are entitled to notice of, and to vote at, the special meeting. At the close of business on the record date, common stock, and _____ shares of Helix common stock were issued and outstanding, of which approximately _____ were owned and entitled to be voted by Helix directors and executive officers.

Each share of Helix common stock outstanding on the record date is entitled to one vote on each proposal listed above and any other matter coming before the special meeting. Approval of each of (i) the share issuance proposal, (ii) the authorized share increase proposal, (iii) the second merger proposal, (iv) the plan of conversion proposal, (v) the Jones Act provisions proposal, (vi) the D&O citizenship matters proposal, (vii) the exclusive forum proposal, (viii) the officer exculpation proposal and (ix) the corporate opportunities proposal requires the affirmative vote of the holders of shares of Helix common stock representing a majority of the outstanding shares of Helix common stock entitled to vote on such proposal. Approval of the removal of supermajority approval requirement proposal requires the affirmative vote of the holders of shares of Helix common stock representing 80% of the outstanding shares of Helix common stock entitled to vote on such proposal. Approval of the non-binding compensation proposal requires the affirmative vote of the holders of shares of Helix common stock representing a majority of the outstanding shares of Helix common stock present, either in person or represented by proxy, and entitled to vote on such proposal. The adjournment proposal requires the affirmative vote of the holders of shares of Helix common stock representing a majority of the outstanding shares of Helix common stock present at the special meeting, either in person or represented by proxy, and entitled to vote on the adjournment proposal, regardless of whether there is a quorum.

No business may be transacted at the special meeting unless a quorum is present. If a quorum is not present at the special meeting, or if a quorum is present at the special meeting but there are not sufficient votes at the time of the special meeting to approve the required merger proposals, then Helix shareholders may be asked to approve the adjournment proposal to adjourn the special meeting in order to permit the further solicitation of proxies. No notice of the reconvened meeting is required to be given if the date, time and place to which an adjournment is taken are announced at the special

meeting and the reconvened meeting will be held not more than 120 days after the date of the original meeting. At any reconvened special meeting at which a quorum is present, (i) any business may be transacted that may have been transacted at the special meeting had a quorum been present and (ii) all proxies will be voted in the same manner as the manner in which such proxies would have been voted at the original convening of the special meeting, except for any proxies that have been validly revoked or withdrawn prior to the subsequent meeting.

The Helix Board recommends that the Helix shareholders vote “FOR” each of the required merger proposals and the optional vote matters, specifically “FOR” the share issuance proposal, “FOR” the authorized share increase proposal, “FOR” the second merger proposal, “FOR” the plan of conversion proposal, “FOR” the Jones Act provisions proposal, “FOR” the D&O citizenship matters proposal, “FOR” the exclusive forum proposal, “FOR” the officer exculpation proposal, “FOR” the removal of supermajority approval requirement proposal, “FOR” the corporate opportunities proposal, “FOR” the non-binding compensation proposal and “FOR” the adjournment proposal.

For additional information on the recommendation of the Helix Board that Helix shareholders vote “FOR” each of the proposals scheduled to be presented and voted on at the special meeting, please see the section of this proxy statement/prospectus titled “*The Mergers—Recommendation of Helix’s Board and Reasons for the Mergers.*”

Opinion of Helix’s Financial Advisor

Goldman Sachs & Co. LLC (“Goldman Sachs”) delivered its opinion to the Helix Board that, as of April 22, 2026 and based upon and subject to the factors and assumptions set forth therein, the exchange ratio of 10.27167 shares of Converted Helix Common Stock for each share of Hornbeck common stock pursuant to the merger agreement was fair from a financial point of view to Helix.

The full text of the written opinion of Goldman Sachs, dated April 22, 2026, which sets forth assumptions made, procedures followed, matters considered and limitations on the review undertaken in connection with the opinion, is attached as *Annex B*. Goldman Sachs provided advisory services and its opinion for the information and assistance of the Helix Board in connection with its consideration of the transactions contemplated by the merger agreement (the “transaction”). Goldman Sachs’ opinion is not a recommendation as to how any holder of Helix common stock should vote with respect to the required merger proposals, the optional vote matters or any other matter. Pursuant to an engagement letter between Helix and Goldman Sachs, Helix has agreed to pay Goldman Sachs a transaction fee of approximately \$23.3 million, \$4.0 million of which became payable upon the announcement of the transaction, and the remainder of which is contingent upon consummation of the transaction.

For a further discussion of Goldman Sachs’ opinion, see the section of this proxy statement/prospectus titled “*The Mergers—Opinion of Helix’s Financial Advisor.*”

Board of Directors and Management of the Combined Company

The combined company board will have seven members, including (a) three Helix designees and (b) four Hornbeck designees, one of whom will be the President and Chief Executive Officer. William L. Transier will serve as Chairperson of the combined company board.

The combined company board will consist of the same three-class “staggered” board as the Helix board, such that one Helix designee and two Hornbeck designees will serve as Class III directors, with term first expiring in 2029, one Helix designee and one Hornbeck designee will serve as Class II directors, with term first expiring in 2027, and one Helix designee and one Hornbeck designee will serve as Class I directors, with term first expiring in 2028. In addition, at the effective time, (i) a Helix designee will be appointed and serve from the effective time through the combined company’s 2028 annual stockholders meeting (the “Governance Period”) as Chairperson of the Audit Committee of the combined company board, (ii) a Helix designee will be appointed and serve through the Governance Period as Chairperson of the Corporate Governance and Nominating Committee of the combined company board and (iii) _____ will be appointed and serve through the Governance Period as Chairperson of the Compensation Committee of the combined company board.

At the effective time, the following individuals will be appointed as executive officers of the combined company: Todd M. Hornbeck as President and Chief Executive Officer; Robert P. Adams as Executive Vice President and Chief Financial Officer; Samuel A. Giberga as Executive Vice President, General Counsel and Corporate Secretary; Scotty Sparks as Executive Vice President and Chief Operating Officer, Subsea Services and Well Intervention; and Ben Todd as Executive Vice President and Chief Operating Officer, Marine Transportation and Specialty. The other executive

officers of the combined company will be chosen by Mr. Hornbeck in consultation with a representative of each of the Helix Board and Hornbeck Board on a merit basis, without consideration of whether the persons selected serve as officers or employees of Hornbeck or Helix prior to the effective time. For additional information, please see “*The Mergers—Board of Directors and Management of the Combined Company*.”

Appraisal Rights and Dissenters’ Rights

Under Minnesota law, Helix shareholders will not be entitled to dissenters’ rights or appraisal rights in connection with any of the required merger proposals and the optional vote matters. Hornbeck stockholders are entitled to appraisal rights in connection with the mergers under Section 262 of the DGCL. Helix shareholders will not be entitled to any appraisal rights in connection with the required merger proposals, Conversion or the optional vote matters.

For more information regarding appraisal rights and dissenters’ rights, please see the section of this proxy statement/prospectus titled “*The Mergers—Appraisal Rights and Dissenters’ Rights*.”

Material U.S. Federal Income Tax Consequences of the Mergers

Based on certain representations, covenants and assumptions (described in the section titled “*The Merger Agreement*”), all of which must continue to be true and accurate in all material respects as of the effective time of the mergers, the integrated mergers are intended to qualify as a “reorganization” within the meaning of Section 368(a) of the Code, and Helix and Hornbeck intend to report the integrated mergers consistent with such qualification. The obligation of Hornbeck to complete the integrated mergers is conditioned upon the receipt of an opinion from Kirkland, counsel to Hornbeck, in form and substance reasonably satisfactory to Hornbeck, to the effect that the integrated mergers, taken together, will qualify as a “reorganization” within the meaning of Section 368(a) of the Code based upon facts, representations, and assumptions set forth or referred to in such opinion. This opinion is not binding on the IRS or the courts and Helix and Hornbeck have not sought, and do not intend to seek, any ruling from the IRS regarding the qualification of the integrated mergers as a “reorganization” within the meaning of Section 368(a) of the Code. As a result, there can be no assurance that the IRS would not assert, or that a court would not sustain, a position contrary to the treatment of the integrated mergers as a “reorganization” within the meaning of Section 368(a) of the Code. Assuming that the integrated mergers, taken together, qualify as a “reorganization” within the meaning of Section 368(a) of the Code, U.S. holders (as defined in “*The Mergers—Material U.S. Federal Income Tax Consequences of the Mergers*”) generally will not recognize gain or loss for U.S. federal income tax purposes upon the exchange of Hornbeck common stock for shares of Converted Helix Common Stock pursuant to the first merger, except with respect to cash proceeds received from the sale of fractional shares of Converted Helix Common Stock. If the integrated mergers do not qualify as a “reorganization,” the integrated mergers generally would be a taxable transaction to U.S. holders, and each U.S. holder generally would recognize gain or loss in an amount equal to the difference, if any, between (i) the sum of the fair market value of the Converted Helix Common Stock it receives in the first merger plus the amount of any cash proceeds received from the sale of fractional shares of Converted Helix Common Stock and (ii) such holder’s adjusted tax basis in its shares of Hornbeck common stock exchanged in the first merger.

The U.S. federal income tax consequences described above may not apply to all holders of Hornbeck common stock. Each Hornbeck stockholder should read “*The Mergers—Material U.S. Federal Income Tax Consequences of the Mergers*” for a more complete discussion of the U.S. federal income tax consequences of the integrated mergers to U.S. holders. Tax matters can be complicated and the tax consequences of the integrated mergers to a Hornbeck stockholder will depend on its particular tax situation. Each Hornbeck stockholder is strongly urged to consult with a tax advisor to determine the particular U.S. federal, state or local or non-U.S. income or other tax consequences of the integrated mergers to it.

Accounting Treatment of the Mergers

Helix prepares its financial statements in accordance with GAAP. The mergers will be accounted for as a business combination and as a reverse acquisition pursuant to Accounting Standards Codification Topic 805, *Business Combinations* (“ASC 805”), where Hornbeck, the legal acquiree, is determined to be the accounting acquirer of Helix. Under the reverse acquisition method of accounting, the assets and liabilities of Helix as of the closing date will be consolidated by Hornbeck at their respective fair values, and the excess or shortfall of the purchase price consideration over the fair value of Helix’s net assets will be recognized as goodwill or gain on bargain purchase, respectively.

Regulatory Approvals

Antitrust Clearance

To complete the mergers, Helix and Hornbeck must make filings with and obtain authorizations, approvals or consents from a number of regulatory authorities in accordance with applicable antitrust and foreign investment laws. The completion of the mergers is subject to antitrust review in the United States. Under the HSR Act, and the rules and regulations promulgated thereunder, the mergers cannot be completed until the parties to the merger agreement have given notification and furnished information to the United States Federal Trade Commission (the “FTC”) and the United States Department of Justice (the “DOJ”), and until the applicable waiting period has expired or has been terminated. Helix and Hornbeck each filed an HSR Act notification with the FTC and the DOJ on May 20, 2026.

Helix and Hornbeck derive revenues in other jurisdictions where antitrust/foreign investment clearances are or may be required, including Brazil, Poland and the United Kingdom. Filings were submitted with the Brazilian Administrative Council for Economic Defense on May 20, 2026, with the Polish Office of Competition and Consumer Protection on May 20, 2026 and with the United Kingdom’s Investment Security Unit on May 20, 2026, in order to obtain necessary approvals from such authorities.

Helix and Hornbeck cannot assure you that all of the regulatory approvals described above will be obtained, and, if obtained, Helix and Hornbeck cannot assure you as to the date of any approvals (or conditions placed thereon) or the absence of any litigation challenging such approvals. At any time before or after consummation of the mergers, the FTC, the DOJ or any state could take such action under antitrust laws as it deems necessary or desirable in the public interest, including seeking to enjoin the completion of the mergers or seeking the divestiture of substantial assets of Helix or Hornbeck or their respective subsidiaries. Private parties may also seek to take legal action under antitrust laws under certain circumstances.

Helix and Hornbeck are not currently aware of any material governmental approvals or actions that are required for completion of the transaction other than those described above. It is presently contemplated that if any such additional governmental approvals or actions are required, those approvals or actions will be sought. There can be no assurance, however, that any additional approvals or actions will be obtained.

Securities and Exchange Commission

Helix has filed a registration statement on Form S-4 with the SEC under the Securities Act, of which this proxy statement/prospectus forms a part, that must be declared effective by the SEC and pursuant to which the issuance of shares of Converted Helix Common Stock issuable upon the effective time, other than such shares of Converted Helix Common Stock being issued to or underlying assumed Jones Act Warrants and assumed Creditor Warrants of certain consenting holders, will be registered with the SEC.

New York Stock Exchange

In addition, the completion of the mergers is subject to approval for listing on the NYSE of the shares of Converted Helix Common Stock to be issued to Hornbeck stockholders and other securityholders in the mergers, subject to official notice of issuance.

Treatment of Equity Awards and Warrants

The merger agreement provides for the treatment set forth below with respect to the Hornbeck equity awards and warrants and Helix equity awards:

Hornbeck Performance Restricted Stock Unit Awards: Each Hornbeck performance restricted stock unit award that is outstanding immediately prior to the effective time (whether vested or unvested as of such time) will, at the effective time, be canceled and the holder thereof will become entitled to receive a number of shares of Converted Helix Common Stock (rounded up or down to the nearest whole share) equal to the product of (a) the number of shares of Hornbeck common stock subject to such award (with such number deemed to be the number of shares that would be earned based on the greater of target and actual performance through immediately prior to the effective time) and (b) the exchange ratio.

Hornbeck Restricted Stock Unit Awards: Each Hornbeck restricted stock unit award that is outstanding immediately prior to the effective time (whether vested or unvested as of such time) will, at the effective time, be canceled and the holder thereof will become entitled to receive a number of shares of Converted Helix Common Stock

(rounded down to the nearest whole share) equal to the product of (a) the number of shares of Hornbeck common stock subject to such award and (b) the exchange ratio. For non-employee directors of Hornbeck, all or a portion of such amount may be settled in cash in accordance with the applicable award agreement.

Hornbeck Stock Options: Each Hornbeck stock option award that is outstanding immediately prior to the effective time (whether vested or unvested as of such time) will, at the effective time, be fully vested and assumed by the combined company and converted into an option to purchase a number of shares of Converted Helix Common Stock (rounded down to the nearest whole share) equal to the product of (a) the number of shares of Hornbeck common stock subject to such award immediately prior to the effective time (to the extent applicable, with such number deemed to be the number of shares that would be earned based on the greater of target and actual performance through immediately prior to the effective time) and (b) the exchange ratio, at an exercise price per share of Converted Helix Common Stock (rounded up to the nearest whole cent) equal to (1) the exercise price per share of Hornbeck common stock of such award, *divided by* (2) the exchange ratio.

Hornbeck Creditor Warrants: Each Creditor Warrant that is outstanding immediately prior to the effective time will, except as otherwise set forth in Amendment No. 2 to the Creditor Warrant Agreement, be converted into the right to receive a number of shares of Converted Helix Common Stock (or, in accordance with applicable Jones Act restrictions in the certificate of incorporation of the combined company, new Jones Act Warrants to acquire such Converted Helix Common Stock) equal to the quotient of (x) the product of (a) the number of shares of Hornbeck common stock subject to such Creditor Warrant immediately prior to the effective time multiplied by the exchange ratio and (b) (i) the average closing price per share of Helix common stock over the ten trading days immediately preceding the second business day prior to the closing of the mergers *minus* (ii) the exercise price per share of Hornbeck common stock issuable upon exercise of such Creditor Warrant immediately prior to the effective time *divided by* the exchange ratio and (y) the average closing price per share of Helix common stock over the ten trading days immediately preceding the second business day prior to the closing of the mergers; *provided* that, if such formula would result in a number of shares of Converted Helix Common Stock equal to or less than zero, then no Creditor Warrant will be converted as of immediately prior to the effective time without the prior written consent of the holder thereof.

Hornbeck Jones Act Warrants: Each Jones Act Warrant that is outstanding immediately prior to the effective time will be assumed by the combined company and, subject to the applicable Jones Act restrictions in the certificate of incorporation of the combined company, will be exercisable into a number of shares of Converted Helix Common Stock equal to the product of (a) the number of shares of Hornbeck common stock subject to such assumed Jones Act Warrant immediately prior to the effective time and (b) the exchange ratio, at an exercise price per share of Converted Helix Common Stock equal to the exercise price per share of Hornbeck common stock issuable upon exercise of such Jones Act Warrant immediately prior to the effective time.

Helix Equity Awards: Each Helix restricted stock award granted to a non-employee director of Helix that is outstanding immediately prior to the effective time will, at the effective time, be in respect of Converted Helix Common Stock and be fully vested. Each Helix performance share unit award, and Helix restricted stock unit award that is outstanding immediately prior to the effective time (whether vested or unvested as of such time) will, at the effective time, be canceled and the holder thereof will become entitled to receive a number of shares of Converted Helix Common Stock (rounded up or down to the nearest whole share for each performance share unit award, and rounded down to the nearest whole share for each restricted stock unit award) equal to the number of shares of Helix common stock subject to such award (for each performance share unit award, with the number of such shares deemed to be the number of shares that would be earned based on the greater of target and actual performance through immediately prior to the effective time). In the case of the Helix performance share unit awards and restricted stock unit awards, the Helix Board may instead determine prior to the effective time, in its discretion but after consultation with the Hornbeck Board, to settle such awards in cash in an amount equal to the number of units subject to each such award multiplied by the closing price of a share of Helix common stock on the NYSE on the trading day immediately prior to the closing date.

For additional information regarding the treatment of Helix equity awards and Hornbeck equity awards and warrants, please see the section of this proxy statement/prospectus titled “*The Merger Agreement—Treatment of Equity Awards and Warrants.*”

Listing of Converted Helix Common Stock

It is a condition to the consummation of the mergers that the shares of Converted Helix Common Stock issuable to Hornbeck stockholders and other securityholders in connection with the mergers be approved for listing on the NYSE, subject to official notice of issuance. Following the completion of the mergers, it is expected that Converted

Helix Common Stock will trade on the NYSE under the combined company's new name, "Hornbeck Offshore Services, Inc.," and under the new ticker symbol, "HOS."

No Solicitation of Acquisition Proposals

Subject to certain exceptions, each of Helix and Hornbeck has agreed that it will not, and will cause its subsidiaries and its subsidiaries' officers and directors not to, and will use its reasonable best efforts to cause its and its subsidiaries' employees, financial advisors, attorneys, accountants and other advisors, agents or representatives (collectively, "representatives") not to, directly or indirectly:

- initiate, solicit, propose, knowingly encourage or knowingly facilitate (including by way of furnishing nonpublic information) any inquiry regarding, or the making of any inquiry, proposal or offer that constitutes or would reasonably be expected to lead to, an acquisition proposal (as defined herein);
- engage in, continue or otherwise participate in any discussions with or negotiations relating to, or otherwise cooperate with any acquisition proposal or any inquiry, proposal or offer that would reasonably be expected to lead to an acquisition proposal (other than to refer the inquiring person to the terms of the merger agreement that prohibit such discussions or negotiations and to limit its conversation or other communication exclusively to such referral);
- provide any nonpublic information or afford access to its properties, assets, personnel, books or records to any person in connection with any acquisition proposal or any inquiry, proposal or offer that constitutes or could reasonably be expected to lead to an acquisition proposal;
- otherwise knowingly facilitate any effort or attempt to make an acquisition proposal or any inquiry, proposal or offer that constitutes or would reasonably be expected to lead to an acquisition proposal;
- waive or release any person from, forebear in the enforcement of, or amend or terminate any standstill agreement or any standstill provisions of any other contract, provided that if Helix (acting at the direction of the Helix Board) as applicable, determines in good faith after consultation with its outside legal counsel that the failure to waive a particular standstill provision would reasonably be expected to be inconsistent with the relevant directors' fiduciary duties under applicable law, then Helix may waive such standstill provision, solely to the extent necessary to permit a third party to make and pursue an acquisition proposal; or
- resolve, agree or publicly propose to, or permit the relevant party, any of its subsidiaries or any of its or their representatives to agree or publicly propose to take any of the actions referred to above.

For a more detailed discussion of the ability of Helix and Hornbeck to consider other proposals, please see the section of this proxy statement/prospectus titled "*The Merger Agreement—Covenants—No Solicitation of Acquisition Proposals.*"

Conditions to the Completion of the Mergers

Each party's obligation to effect the mergers is subject to the satisfaction at closing or waiver at or prior to closing of each of the following conditions:

- receipt of the Requisite Hornbeck Approval, which Requisite Hornbeck Approval was delivered by written consent in accordance with Section 228 of the DGCL shortly following the execution and delivery of the merger agreement;
- receipt of the Requisite Helix Vote;
- the shares of Converted Helix Common Stock issuable in accordance with the merger agreement being approved for listing on the NYSE, subject to official notice of the issuance;
- expiration or earlier termination of any waiting period (and any extension of such period) under the HSR Act applicable to the mergers, all consents, and all expiration of waiting periods, required under the applicable antitrust laws and foreign investment laws of certain other applicable jurisdictions and no written agreement being in effect with any governmental entity not to consummate the mergers;
- no law or governmental order being in effect that restrains, enjoins, makes illegal or otherwise prohibits the consummation of the mergers; and

- the Helix registration statement on Form S-4, of which this proxy statement/prospectus forms a part, becoming effective, no stop order suspending the effectiveness of such registration statement being issued and remaining in effect, and no proceedings for that purpose having been commenced or threatened in writing by the SEC (unless withdrawn).

Helix's obligation to effect the mergers is subject to the satisfaction at closing or waiver at or prior to closing of each of the following conditions:

- the accuracy of the representations and warranties of Hornbeck as follows:
 - the representations and warranties of Hornbeck regarding organization, good standing and qualification, corporate authority and approval, absence of certain changes, certain representations and warranties relating to the Jones Act, certain aspects of its capital structure, the recommendation of the mergers, brokers and finders, voting requirements and certain representations and warranties relating to takeover statutes and rights plans must have been true and correct in all respects as of the date of the merger agreement and must be true and correct in all respects as of the closing date as if made on and as of the closing date (except to the extent that any such representation and warranty expressly speaks as of a particular date or period of time, in which case such representation and warranty must be so true and correct in all respects as of such particular date or period of time);
 - the representation of Hornbeck regarding certain other aspects of its capital structure must have been true and correct in all material respects or all but de minimis respects, as applicable, as of the date of the merger agreement and must be so true and correct as of the closing date as if made on and as of the closing date (except to the extent that any such representation and warranty expressly speaks as of a particular date or period of time, in which case such representation and warranty must be so true and correct in all respects as of such particular date or period of time); and
 - each other representation and warranty of Hornbeck set forth in the merger agreement must be true and correct in all respects (without giving effect to any qualification by materiality or material adverse effect contained in the merger agreement) as of the date of the merger agreement and as of the closing date (except to the extent that any such representation and warranty expressly speaks as of a particular date or period of time, in which case such representation and warranty must be so true and correct in all respects as of such particular date or period of time), except for any failure of any such representation and warranty to be so true and correct that would not, individually or in the aggregate, reasonably be expected to have a material adverse effect with respect to Hornbeck;
- Hornbeck's performance of, in all material respects, its obligations under the merger agreement required to be performed at or prior to the closing;
- the absence of a Material Adverse Effect with respect to Hornbeck; and
- the receipt by Helix of a certificate of the chief executive officer or chief financial officer of Hornbeck certifying that the conditions in the immediately preceding bullets with respect to representations and warranties, performance of obligations and absence of a material adverse effect with respect to Hornbeck have been satisfied.

Hornbeck's obligation to effect the mergers is subject to the satisfaction at closing or waiver at or prior to closing of each of the following conditions:

- the accuracy of the representations and warranties of Helix as follows:
 - the representations and warranties of Helix regarding organization, good standing and qualification, corporate authority and approval, absence of certain changes, certain representations and warranties relating to the Jones Act, certain aspects of its capital structure, the recommendation and fairness of the mergers, voting requirements, the authority of LLC Sub and Parent Sub, brokers and finders and certain representations and warranties relating to takeover statutes and rights plans and certain Helix actions must have been true and correct in all respects as of the date of the merger agreement and must be true and correct in all respects as of the closing date as if made on and as of the closing date (except to the extent that any such representation and warranty expressly speaks as of a particular date or period of time, in which case such representation and warranty must be so true and correct in all respects as of such particular date or period of time);

- the representation of Helix regarding certain other aspects of its capital structure must have been true and correct in all material respects or all but de minimis respects, as applicable, as of the date of the merger agreement and must be so true and correct as of the closing date as if made on and as of the closing date (except to the extent that any such representation and warranty expressly speaks as of a particular date or period of time, in which case such representation and warranty must be so true and correct in all respects as of such particular date or period of time); and
- each other representation and warranty of Helix set forth in the merger agreement must be true and correct in all respects (without giving effect to any qualification by materiality or material adverse effect contained in the merger agreement) as of the date of the merger agreement and as of the closing date as if made on and as of the closing date (except to the extent that any such representation and warranty expressly speaks as of a particular date or period of time, in which case such representation and warranty must be so true and correct that would not, individually or in the aggregate, reasonably be expected to have a material adverse effect with respect to Helix;
- Helix's, Parent Sub's and LLC Sub's performance of, in all material respects, their obligations under the merger agreement required to be performed at or prior to the closing;
- Helix having taken the actions necessary regarding governance matters as provided in the merger agreement effective as of the effective time;
- the receipt by Hornbeck of a written opinion from Hornbeck's outside legal counsel (or if Hornbeck's outside legal counsel is unable to deliver such opinion, Helix's outside legal counsel), dated as of the closing date, to the effect that the mergers, taken together, will qualify for the Intended Tax Treatment, which opinion will be subject to customary exceptions, assumptions and qualifications;
- the absence of a material adverse effect with respect to Helix;
- the receipt by Hornbeck of a certificate of the chief executive officer or chief financial officer of Helix certifying that the conditions in the immediately preceding bullets with respect to representations and warranties, performance of obligations, actions in respect of governance matters, written tax opinion and the absence of a material adverse effect with respect to Helix have been satisfied;
- execution of the Jones Act Warrant Agreement, in the form attached to the merger agreement;
- the consummation of the Conversion of Helix to a Delaware corporation in accordance with the plan of conversion, including by filing the certificate of incorporation of the combined company with the Secretary of State of the State of Delaware and adopting the bylaws of the combined company; and
- Helix having delivered the Helix ABL credit agreement payoff letters to Hornbeck.

As further discussed under the sections titled "*Risk Factors*" and "*Cautionary Statement Regarding Forward-Looking Statements*," consummation of the mergers is subject to a number of risks and uncertainties, many of which are beyond the control of both Helix and Hornbeck. Accordingly, neither Helix nor Hornbeck can assure you whether, or when, the conditions to the mergers will be satisfied or waived or that the mergers will be completed.

Termination of the Merger Agreement

The merger agreement may be terminated prior to the effective time by mutual written consent of Helix and Hornbeck.

In addition, either Helix or Hornbeck may terminate the merger agreement prior to the effective time if:

- the closing have not been completed by 5:00 p.m. (Eastern time) on December 31, 2026, which date will be automatically extended to no later than June 29, 2027 (as applicable, the "outside date"), if the conditions to closing other than those described in the fourth or fifth bullet pertaining to antitrust or foreign direct investment approvals and the absence of stop orders (solely to the extent relating to any antitrust law or foreign investment law) above in "*Conditions to the Completion of the Mergers*" have been satisfied or are capable of being satisfied at that time (or to the extent permitted by applicable law, have been waived), although such right to terminate will not be available to any party whose action or failure to act has been the

primary cause of, or primarily resulted in, the failure of the closing to occur on or before such date and such action or failure to act constitutes a material breach of the merger agreement by such party, which event is referred to as an “outside date termination event” and such termination is referred to as an “outside date termination”;

- a governmental order permanently restraining, enjoining or otherwise prohibiting consummation of the mergers has become final and non-appealable, although such right to terminate will not be available to any party whose action or failure to act has been the primary cause of, or primarily resulted in, the failure of the closing to occur on or before such date and such action or failure to act constitute a material breach of the merger agreement by such party, which event is referred to as a “regulatory restraint termination event”; or
- the Requisite Hornbeck Approval has not been obtained by 11:59 p.m. (Eastern Time) on the first business day following the date of the merger agreement (the “Consent Time”) or the special meeting has been duly convened at which a vote on the required merger proposals and the other shareholder proposals set forth in this proxy statement/prospectus was taken and concluded and the Requisite Helix Vote has not been obtained, although such right to terminate will not be available to the terminating party where the failure to obtain the Requisite Hornbeck Approval or Requisite Helix Vote, as applicable, was caused by the action or failure to act of such party and such action or failure constitutes a material breach of the merger agreement by such party and the right of either party to terminate will not be available following the time that the Requisite Hornbeck Approval has been obtained (regardless of whether the Requisite Hornbeck Approval has been obtained before or after the Consent Time) (such termination, as applicable, a “Helix no vote termination” or “Hornbeck no vote termination”).

In addition, Helix may terminate the merger agreement prior to the effective time:

- at any time prior to the effective time, if Hornbeck has breached any of its representations, warranties, covenants or agreements set forth in the merger agreement (other than a breach of the non-solicitation covenant) such that the conditions to closing relating to accuracy of representations and warranties and performance of covenants would not be satisfied (a “terminable breach”) (and such breach is not cured by the earlier of 30 days of receipt by Hornbeck of written notice of such breach by Helix and three business days prior to the Outside Date), except that this right to terminate the merger agreement is not available if Helix is then in terminable breach of its representations, warranties, covenants or agreements set forth in the merger agreement; or
- at any time prior to the effective time, if there has been a material breach by Hornbeck of its non-solicitation covenant in a manner that materially impedes, interferes with or prevents the consummation of the transaction on or before the outside date.

In addition, Hornbeck may terminate the merger agreement prior to the effective time:

- prior to, but not after, the receipt of the Requisite Helix Vote, if the Helix Board has made a change of recommendation (whether or not such change or recommendation is permitted by the merger agreement);
- if at any time prior to the effective time, Helix, Parent Sub or LLC Sub has breached any of its respective representations, warranties, covenants or agreements set forth in the merger agreement (other than a breach of the non-solicitation covenant) (and such breach is not cured by the earlier of 30 days of receipt by Helix of written notice of such breach by Hornbeck and three business days prior to the Outside Date), except that this right to terminate the merger agreement is not available if Hornbeck is then in terminable breach any material respect any of its representations, warranties, covenants or agreements set forth in the merger agreement;
- if at any time prior to the effective time, there has been a material breach by Helix of its non-solicitation covenant in a manner that materially impedes, interferes with or prevents the consummation of the transaction on or before the outside date; or
- if at any time prior to the effective time, without the prior written consent of Hornbeck, Helix or its subsidiaries undertakes, or announces any intention to undertake, any of the following actions, subject to certain exceptions: (A) declaring, setting aside, making or paying any dividend or other distribution, payable in cash, stock, property or otherwise, with respect to any of its capital stock (except for dividends paid by any direct or indirect wholly owned subsidiary to it or to any other direct or indirect wholly owned subsidiary) or modifies in any material respect its dividend policy; (B) reclassifying, splitting, combining, subdividing or

redeeming, purchasing (through Helix's share repurchase program or otherwise) or otherwise acquiring, directly or indirectly, any of Helix's or its subsidiaries' capital stock or securities convertible or exchangeable into or exercisable for any shares of its capital stock, other than with respect to: (x) the capital stock or other equity interests of a direct or indirect wholly owned subsidiary of Helix; or (y) the acquisition of shares of Helix common stock in order to pay the exercise price or taxes in connection with the exercise, vesting or settlement of Helix equity awards outstanding as of the signing date or granted in accordance with the merger agreement, pursuant to the terms of the Helix stock plans and the applicable award agreement, in the ordinary course; (C) creating, incurring or assuming any indebtedness (including the issuance of any debt securities, warrants or other rights to acquire any debt security) or guarantee or otherwise become liable for any such indebtedness, in each case, following the date of the merger agreement, except for (x) indebtedness incurred in an aggregate principal amount outstanding at any time not to exceed \$10 million (together with any interest, fees or similar amounts accrued with respect to indebtedness under the Helix ABL credit agreement) and (y) indebtedness incurred pursuant to letters of credit issued under the Helix ABL credit agreement which do not, in the aggregate, exceed a face amount of \$10 million at any time outstanding (such termination, as applicable, a "Helix undertaking termination").

Termination Fees and Expense Reimbursement

Termination Fees Payable by Helix

Helix will be required to pay to Hornbeck a termination fee of \$40.5 million if the merger agreement is terminated:

- by either party pursuant to an outside date termination or a Helix no vote termination, or by Hornbeck pursuant to a Helix terminable breach, and, in either case:
 - a bona fide acquisition proposal with respect to Helix has been publicly announced or otherwise received by the Helix Board after the date of the merger agreement and prior to the Helix shareholder meeting (in the case of a Helix no vote termination) or the date of termination (in the case of an outside date termination or Helix terminable breach); and
 - within twelve months after such termination, (i) Helix or any of its subsidiaries has entered into an alternative acquisition agreement with respect to any acquisition proposal with respect to Helix or (ii) there has been consummated any acquisition proposal with respect to Helix (in each case of clauses (i) and (ii), with 50% being substituted in lieu of 20% in each instance thereof in the definition of "acquisition proposal");
- by Hornbeck following a material breach by Helix of its non-solicitation obligations under the merger agreement or a change of recommendation by Helix;
- by either Helix or Hornbeck pursuant to a Helix no vote termination (and, at the time of such termination, Hornbeck had the right to terminate the merger agreement as a result of a change of recommendation by Helix); or
- by Hornbeck pursuant to a Helix undertaking termination.

Termination Fees Payable by Hornbeck

Hornbeck will be required to pay to Helix a termination fee of \$49.5 million if the merger agreement is terminated:

- by either party pursuant to an outside date termination or a Hornbeck no vote termination, or by Helix pursuant to a Hornbeck terminable breach, and, in either case:
 - a bona fide acquisition proposal with respect to Hornbeck has been publicly announced or otherwise received by the Hornbeck Board after the date of the merger agreement and prior to the Consent Time (in the case of a Hornbeck no vote termination) or the date of termination (in the case of an outside date termination or Hornbeck terminable breach); and
 - within twelve months after such termination, (i) Hornbeck or any of its subsidiaries has entered into an alternative acquisition agreement with respect to any acquisition proposal with respect to Hornbeck or (ii) there has been consummated any acquisition proposal with respect to Hornbeck (in each case of clauses (i) and (ii), with 50% being substituted in lieu of 20% in each instance thereof in the definition of "acquisition proposal"); or

- by Helix following a material breach by Hornbeck of its non-solicitation obligations under the merger agreement.

Expense Reimbursement

If the merger agreement is terminated by (i) either Helix or Hornbeck pursuant to a Hornbeck no vote termination, then promptly, but in no event later than, in the case of such termination by Helix, four business days or, in the case of such termination by Hornbeck, one business day after the date of such termination, Hornbeck will pay all of the documented out-of-pocket costs, fees and expenses of counsel, accountants, financial advisors and other experts and advisors as well as fees and expenses incident to negotiation, preparation and execution of the merger agreement and related documentation and shareholders' meetings and consents of Helix up to a maximum amount equal to \$16.5 million, to Helix or its designee by wire transfer of immediately available cash funds (provided that any such amounts paid will be credited (without interest) against any termination fee payable to Helix (or its designee) pursuant to the terms of the merger agreement).

If the merger agreement is terminated by (i) either Helix or Hornbeck pursuant to a Helix no vote termination, then promptly, but in no event later than, in the case of such termination by Hornbeck, four business days or, in the case of such termination by Helix, one business day after the date of such termination, Helix will pay all of the documented out-of-pocket costs, fees and expenses of counsel, accountants, financial advisors and other experts and advisors as well as fees and expenses incident to negotiation, preparation and execution of the merger agreement and related documentation and stockholders' meetings and consents of Hornbeck up to a maximum amount equal to \$13.5 million, to Hornbeck or its designee by wire transfer of immediately available cash funds (provided that any such amounts paid will be credited (without interest) against any termination fee payable to Hornbeck (or its designee) pursuant to the terms of the merger agreement).

Specific Performance

In addition to any other available remedies a party may have in equity or at law, each party will be entitled to enforce specifically the terms and provisions of the merger agreement and to obtain an injunction restraining any breach or violation or threatened breach or violation of the provisions of the merger agreement in the Court of Chancery of the State of Delaware without necessity of posting a bond or other form of security or proof of damages. For additional information on the ability of each party to seek specific performance of the terms and provisions of the merger agreement, see the section of this proxy statement/prospectus titled "*The Merger Agreement—Specific Performance.*"

Closing and Effective Time of the Mergers

Unless Helix and Hornbeck otherwise agree in writing, the closing of the mergers will take place on the third business day following the day on which the last to be satisfied or (to the extent permissible) waived of the conditions for completion of the mergers set forth in the merger agreement (other than those conditions that by their nature must be satisfied by actions taken at the closing, but subject to such conditions being satisfied at the closing or, to the extent permissible, waived in advance) is satisfied or (to the extent permissible) waived in accordance with the merger agreement.

Upon the terms and subject to the provisions of the merger agreement and in accordance with the DGCL and the DLLCA, as applicable, as soon as practicable on the closing date, (a) Helix will effect the Conversion in accordance with the plan of conversion, and thereafter shall continue as a Delaware corporation governed by the certificate of incorporation of the combined company and the bylaws of the combined company and (b) immediately following the Conversion, the applicable parties will (i) file a certificate of merger with the Secretary of State of the State of Delaware, executed in accordance with the relevant provisions of the DGCL, to effect the first merger and (ii) file a certificate of merger, executed in accordance with the relevant provisions of the DGCL and DLLCA, to effect the second merger, which will be effective one minute after the effectiveness of the first merger.

Helix and Hornbeck are working to complete the merger prior to the outside date of December 31, 2026 (subject to extension in certain circumstances to June 29, 2027 pursuant to the terms of the merger agreement). It is possible that factors outside the control of both companies could result in the mergers being completed at a different time, or not at all. Please see the section of this proxy statement/prospectus titled "*The Merger Agreement—Conditions to the Completion of the Mergers.*"

Comparison of Stockholders' Rights

Helix shareholders whose Helix common stock will be converted to Converted Helix Common Stock, and Hornbeck securityholders receiving Converted Helix Common Stock in the first mergers will have different rights once they become stockholders of the combined company due to differences between the governing documents of Helix, Hornbeck and the combined company. The differences between the current rights of Hornbeck stockholders, the current rights of Helix shareholders and the rights of the combined company's stockholders under the combined company's certificate of incorporation and bylaws upon completion of the mergers are described in more detail in the section of this proxy statement/prospectus titled "*Comparison of Stockholders' Rights*."

Recent Developments

Alliance Disposal

On May 1, 2026, Helix Alliance Decom, LLC, a Delaware limited liability company and wholly owned subsidiary of Helix ("Seller"), entered into an equity purchase agreement (the "Equity Purchase Agreement") with C-Dive, L.L.C., a Louisiana limited liability company ("Purchaser"), and completed the sale of all the equity interests of the Alliance group of companies, Helix's Gulf of America-focused Shallow Water Abandonment business (collectively "Alliance"), to Purchaser for cash consideration of \$107.5 million, subject to customary post-closing adjustments (the "Alliance Disposal"). Helix was a party to the Equity Purchase Agreement solely for purposes of Sections 6.09(c)(iv) (restrictive covenants) and Section 6.15 (guarantee of Seller's obligations) under the Equity Purchase Agreement.

The Equity Purchase Agreement contains certain customary representations and warranties of Seller. The Equity Purchase Agreement also contains customary covenants and agreements. Purchaser will be able to make claims for losses arising out of breaches of the representations and warranties of Seller against a representations and warranties insurance policy (the "R&W Insurance Policy") obtained by Purchaser and against Seller with respect to claims for losses arising out of breaches of certain fundamental representations and warranties (after such time, if any, as the R&W Insurance Policy limit has been reached), tax covenant claims and other customary indemnification matters specifically set forth in the Equity Purchase Agreement, in each case, subject to the terms and limitations set forth in the Equity Purchase Agreement.

Risk Factors

The transactions contemplated by the merger agreement, including the mergers, involve risks. In considering the mergers, including whether to vote for the required merger proposals and the optional vote matters, you should carefully consider the information about these risks set forth under the section of this proxy statement/prospectus titled "*Risk Factors*," a summary of which is set forth below, together with the other information included or incorporated by reference in this proxy statement/prospectus.

Risks Relating to the Mergers

- Because the market price of Helix common stock will fluctuate, Hornbeck stockholders cannot be sure of the value of the shares of Converted Helix Common Stock they will receive in connection with the mergers. The exchange ratio will not be adjusted in the event of any change in the market price of Helix common stock.
- Helix shareholders and Hornbeck stockholders, in each case as of immediately prior to the mergers, will have reduced ownership in the combined company.
- Helix and Hornbeck must obtain certain regulatory approvals and clearances to consummate the mergers, which, if delayed, not granted or granted with unacceptable conditions, could prevent, substantially delay or impair consummation of the mergers, result in additional expenditures of money and resources or reduce the anticipated benefits of the mergers.
- The mergers are subject to a number of conditions to the obligations of both Helix and Hornbeck to complete the mergers, which, if not fulfilled, or not fulfilled in a timely manner, may delay completion of the mergers or result in termination of the merger agreement.
- If the integrated mergers, taken together, do not qualify as a "reorganization" within the meaning of Section 368(a) of the Code, Hornbeck stockholders may be required to pay substantial taxes.
- Hornbeck's ability to utilize its historic U.S. net operating loss carryforwards may be impacted as a result of the completion of the mergers.

- The merger agreement subjects Helix and Hornbeck to restrictions on their respective business activities prior to the effective time.
- Directors and executive officers of Helix have interests in the mergers that may be different from, or in addition to, the interests of Helix shareholders generally.
- The merger agreement limits Helix's and Hornbeck's respective ability to pursue alternatives to the mergers, may discourage other companies from making a favorable alternative transaction proposal and, in specified circumstances, could require Helix or Hornbeck to pay the other party a termination fee.
- The financial forecasts are based on various assumptions that may not be realized.
- The shares of common stock of the combined company will have different rights from shares of Helix common stock prior to the Conversion and shares of Hornbeck common stock.

Risks Relating to the Combined Company

- The combined company may be unable to integrate the businesses of Helix and Hornbeck successfully or realize the anticipated benefit of the mergers.
- The market price of the combined company's common stock may be volatile and may be depressed by the perception that former Hornbeck securityholders may sell the shares of common stock they will acquire at closing and for other reasons which may or may not be related to the mergers. Holders of the combined company's common stock could lose a significant portion of their investment due to drops in the market price of the combined company's common stock following completion of the mergers.
- The combined company's common stock will be subject to restrictions on foreign ownership and possible required divestiture by non-U.S. citizen stockholders.
- Certain of the stockholders of the combined company will have the ability to exercise significant influence over certain corporate actions following completion of the mergers.

Other Risks Relating to Hornbeck

- Hornbeck derives substantial revenues from companies in the oil and natural gas exploration and production industry, which is a historically cyclical industry with levels of activity that are directly affected by the levels and volatility of oil and natural gas prices.
- Hornbeck must continue to comply with the Jones Act's citizenship requirements.
- Imposition of laws, executive actions or regulatory initiatives to restrict, delay or cancel leasing, permitting or drilling activities in deepwaters of the U.S. or foreign countries may reduce demand for Hornbeck's services and products and have a material adverse effect on Hornbeck's business, financial condition or results of operations.
- The early termination of or inability to renew contracts for Hornbeck's vessels could have an adverse effect on Hornbeck's operations.
- Uncertainty surrounding potential legal, regulatory and policy changes, as well as the potential for general market volatility and regulatory uncertainty, may have a material adverse effect on Hornbeck's results of operations, cash flows and financial position.
- Hornbeck's operations in international markets and shipyard activities in foreign shipyards subjects Hornbeck to risks inherent in conducting business internationally.

Risks Relating to Legal, Regulatory, Accounting and Tax Matters

- Hornbeck does not own the Hornbeck Brands, but may use the Hornbeck Brands pursuant to the terms of a license granted by HFR, and its business may be materially harmed if Hornbeck breaches its license agreement or it is terminated.
- Changes in tax laws could adversely affect Hornbeck's business, financial condition and results of operations.
- Hornbeck is regularly confronted with administrative actions taken by Mexican authorities that require a high degree of effort and can be costly to challenge. Not prevailing in any pending or future disputes with Mexican administrative authorities could have a material adverse impact on Hornbeck's operations or financial results.

- Hornbeck is subject to various anti-corruption laws and regulations and laws and regulations relating to economic sanctions. Violations of these laws and regulations could have a material adverse effect on Hornbeck's business, financial condition and results of operations.

Risks Relating to Hornbeck's Indebtedness

- Hornbeck's indebtedness could materially adversely affect its financial condition.
- The terms of the First Lien Credit Agreement and the Second Lien Credit Agreement restrict Hornbeck's current and future operations, including Hornbeck's ability to respond to changes or to take certain actions.

MARKET PRICE INFORMATION

Helix's common stock is currently listed on the NYSE under the symbol "HLX."

The high and low trading prices for Helix common stock as of April 22, 2026, the last full trading day prior to the public announcement of the mergers, were \$9.74 and \$9.41, respectively. The closing price for Helix common stock on _____, 2026, the last practicable trading day before the date of this proxy statement/prospectus, was \$ _____ per share. Hornbeck is a private company, and its common stock is not publicly traded.

As of _____ 2026, the record date for the Helix special meeting, there were _____ shares of Helix common stock issued and outstanding. As of the record date for the Helix special meeting, there were approximately _____ registered holders of record of Helix common stock. As of _____, 2026, there were approximately _____ holders of record of Hornbeck common stock. For detailed information regarding the beneficial ownership of certain Helix shareholders and Hornbeck stockholders, see the sections of this proxy statement/prospectus titled "*Principal Shareholders of Helix*" and "*Principal Stockholders of Hornbeck*."

Assuming Helix shareholders approve the required merger proposals, immediately prior to the first merger, Helix will convert from a Minnesota corporation to a Delaware corporation in accordance with Section 265 of the DGCL and Section 302A.682 of the MBCA. Following the completion of the mergers, it is expected that Converted Helix Common Stock will trade on the NYSE under the combined company's new name, "Hornbeck Offshore Services, Inc.," and under the new ticker symbol, "HOS." See the section of this proxy statement/prospectus titled "*The Mergers—Listing of Converted Helix Common Stock*" for additional information.

Because the exchange ratio is fixed and will not be adjusted for fluctuations in the market price of Helix common stock between the date of the merger agreement and the time at which shares of Converted Helix Common Stock are issued to Hornbeck stockholders and other securityholders in connection with the mergers, the market value of Converted Helix Common Stock that Hornbeck stockholders and other securityholders will have the right to receive on the date the mergers are completed may vary significantly from the market value of the Helix common stock that Hornbeck stockholders and other securityholders would receive if the mergers were completed on the date of this proxy statement/prospectus. As a result, you are encouraged to obtain current market quotations for Helix common stock and to review carefully the other information contained in this proxy statement/prospectus or incorporated by reference herein. No assurance can be given concerning the market price of Helix common stock and Converted Helix Common Stock before or after the effective date of the mergers, respectively. Please see the sections of this proxy statement/prospectus titled "*Risk Factors*" and "*Where You Can Find More Information*" for the location of information incorporated by reference into this proxy statement/prospectus.

CAUTIONARY STATEMENT REGARDING FORWARD-LOOKING STATEMENTS

This proxy statement/prospectus and the documents incorporated by reference into this proxy statement/prospectus contain forward-looking statements within the meaning of the federal securities laws that are not limited to historical facts but reflect Helix's and/or Hornbeck's current beliefs, expectations or intentions regarding future events. All statements in this proxy statement/prospectus and the documents incorporated by reference herein that are not statements of present or historical fact are hereby identified as "forward-looking statements" for the purpose of the safe harbor provided by Section 21E of the Exchange Act and Section 27A of the Securities Act. Words such as "may," "will," "could," "should," "would," "expect," "plan," "project," "intend," "anticipate," "believe," "estimate," "predict," "potential," "pursue," "target," "continue," and similar expressions are intended to identify such forward-looking statements, although not all forward-looking statements contain these identifying words.

These forward-looking statements include, without limitation, statements regarding: Helix's and/or Hornbeck's expectations, hopes, beliefs, intentions, strategies or objectives with respect to the completion of the proposed mergers and other transactions contemplated by the merger agreement, including the Conversion, described in this proxy statement/prospectus, including the ability to consummate such transactions on the anticipated terms and timing, or at all; the ability to obtain required approvals, including Helix shareholder approval, and Helix's and/or Hornbeck's ability to satisfy other conditions precedent to the mergers; regulatory, antitrust and maritime approvals and clearances and any conditions, limitations or remedies that may be imposed with respect to those approvals; the approval for listing on the NYSE of Converted Helix Common Stock to be issued in the mergers, including Helix shareholder approval of the share issuance proposal in accordance with the rules of the NYSE; the anticipated benefits of the mergers (including the expected synergies, cost savings, operational efficiencies, growth opportunities and accretion, costs or other anticipated financial impacts thereof) and the timing of realizing such benefits; the combined company's expectations, strategies, plans, objectives and intentions with respect to future operations and services; future financial and operating results of the combined company; integration planning and execution (including expected costs and challenges); industry conditions, offshore energy demand, commodity price environments, utilization and backlog; the timing of completion of the mergers; and any other statements about events or developments that Helix or Hornbeck expects or anticipates will or may occur in the future.

Although Helix and Hornbeck believe the expectations reflected in such forward-looking statements are reasonable, such expectations may not occur. These forward-looking statements involve known and unknown risks, uncertainties and other factors that may cause the actual results, performance or achievements of the combined company to differ materially from any future results expressed or implied by the forward-looking statements. These risks and uncertainties include but are not limited to those set forth in the section titled "*Risk Factors*" included in this proxy statement/prospectus, as well as risks and uncertainties relating to:

- the receipt of approval from Helix shareholders with respect to the required merger proposals, as well as with respect to the optional vote matters;
- the time required to complete the mergers, and the risk that the mergers are not completed on the anticipated timeline or at all;
- uncertainty as to whether the conditions precedent to closing the mergers will be satisfied or whether the mergers will be completed;
- certain restrictions during the pendency of the mergers that may impact Helix's or Hornbeck's respective abilities to pursue certain business opportunities or strategic transactions;
- the risk of delays in or Helix's and/or Hornbeck's inability to obtain regulatory, antitrust or maritime approvals or clearances that may be required (including approvals under the Jones Act) or the risk that such approvals may be obtained subject to conditions or other limitations that Helix and/or Hornbeck have not anticipated;
- the occurrence of any event, change or other circumstances that could give rise to termination of the merger agreement (which, in certain specified circumstances, may require the payment by Helix or Hornbeck of a termination fee and expense reimbursement);
- uncertainty as to whether merger-related litigation, including any appraisal or other stockholder actions, will occur and, if so, the results of any litigation, settlements and investigations;
- disruption to Helix's or Hornbeck's current plans and operations as a result of the announcement and pendency of the mergers;

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- diversion of management time and attention to merger-related matters and away from ordinary course business activities;
- the prompt and effective integration of Helix's and Hornbeck's businesses without unexpected cost or delay;
- the ultimate timing, outcome and results of integrating the operations of Helix and Hornbeck, including difficulties and delays relating to such integration and/or delays in realizing anticipated synergies, cost savings and other expected benefits of the mergers, if at all;
- the total transaction and integration costs that will be required to complete the mergers and to integrate the businesses and operations of Helix and Hornbeck, and the risks that such costs may be greater than anticipated;
- expected benefits from the mergers and the ability of the combined company to realize those benefits;
- effects of the mergers on the combined company's future financial condition, results of operations, strategy and plans;
- potential adverse reactions or changes to business relationships resulting from the announcement, pendency or completion of the mergers, including loss of customers, suppliers or business partners, and the risk of employee-management issues or the loss of key personnel;
- actions by governments, regulatory authorities, customers, suppliers and partners;
- operating hazards and delays, including delays in delivery, chartering or customer acceptance of assets or services and the terms and timing of such acceptance, and the ability to realize current backlog;
- uncertainties inherent to current global political and economic conditions, and Helix's and Hornbeck's inability to project future developments related thereto;
- changes in market conditions and competitive dynamics in the offshore energy industry;
- geologic risks, and volatility and fluctuations in oil and gas prices and related activity levels;
- inflation, interest rate, foreign exchange and macroeconomic volatility;
- supply-chain constraints and availability and cost of equipment, vessels and labor;
- health, safety, environmental and other regulations and compliance costs;
- cybersecurity risks;
- adverse market or price reactions, including to Helix's common stock, if the mergers are not consummated;
- unknown or contingent liabilities and unexpected costs, charges or expenses arising from or related to the mergers;
- the risk that expected deleveraging, capital structure or credit rating outcomes are not achieved on the expected timeline or at all;
- the risks relating to Helix's, Hornbeck's and the combined company's operating results and businesses generally; and
- other financial, operational and legal risks and uncertainties detailed from time to time in Helix's SEC filings.

Helix and Hornbeck caution that the foregoing list of factors is not exclusive. Additional information concerning these and other risk factors is contained in Helix's most recently filed Annual Reports on Form 10-K, subsequent Quarterly Report on Form 10-Q, recent Current Reports on Form 8-K, merger-related communications filed by Helix pursuant to Rule 425 under the Securities Act and other SEC filings, as well as in the section titled "*Risk Factors*" included elsewhere in this proxy statement/prospectus. All forward-looking statements included in this proxy statement/prospectus speak only as of the date such forward-looking statements are made and, other than as required by law, neither Helix nor Hornbeck undertakes any obligation to update publicly or revise any of these forward-looking statements, whether as a result of new information, future events or otherwise. In the event that a party does update any forward-looking statement, no inference should be made that the parties will make additional updates with respect to that statement, related matters or any other forward-looking statements. All subsequent written and oral forward-looking statements concerning Helix, Hornbeck, the mergers or other matters and attributable to Helix, Hornbeck or any person acting on Helix's or Hornbeck's behalf are expressly qualified in their entirety by the cautionary statements above.

RISK FACTORS

In addition to the other information included or incorporated by reference in this proxy statement/prospectus, including the matters addressed in “Cautionary Statement Regarding Forward-Looking Statements,” you should carefully consider the following risks before deciding how to vote. In addition, you should read and carefully consider the risks associated with Helix and its business. These risks can be found in Helix’s Annual Report on Form 10-K for the year ended December 31, 2025, which is filed with the SEC and incorporated by reference into this proxy statement/prospectus. For further information regarding the documents incorporated into this proxy statement/prospectus by reference, please see the section titled “Where You Can Find More Information.” Realization of any of the risks described below, any of the events described under “Cautionary Statement Regarding Forward-Looking Statements” or any of the risks or events described elsewhere in this proxy statement/prospectus in the documents incorporated by reference could have a material adverse effect on Helix’s, Hornbeck’s or the combined company’s businesses, financial condition, cash flows and results of operations.

Risks Relating to the Transactions, Including the Mergers

Because the market price of Helix common stock will fluctuate, Hornbeck stockholders cannot be sure of the value of the shares of Converted Helix Common Stock they will receive in connection with the mergers. The exchange ratio will not be adjusted in the event of any change in the market price of Helix common stock.

Each eligible share of Hornbeck common stock (other than excluded shares or dissenting shares, but including shares underlying converted Creditor Warrants (subject to Jones Act restrictions) and shares underlying outstanding Hornbeck restricted stock unit awards and performance restricted stock unit awards) will be converted automatically into the right to receive 10.27167 shares of Converted Helix Common Stock in the first merger, with cash paid in lieu of the issuance of any fractional shares. The exchange ratio will not be adjusted for changes in the market price of Helix common stock between the date of the merger agreement and the completion of the mergers. No fractional shares of Converted Helix Common Stock will be issued; cash will be paid in lieu of fractional shares based on the average daily volume-weighted average price of Converted Helix Common Stock on the NYSE over the 10-day trading period ending on the second full trading day immediately prior to the closing of the transactions contemplated by the merger agreement. Changes in the price of Helix common stock prior to the mergers will affect the value of Converted Helix Common Stock that Hornbeck stockholders will receive on the date of the mergers. Stock price changes may result from a variety of factors (many of which are out of Helix’s and Hornbeck’s control), including the following:

- changes in the respective businesses, operations and prospects of Helix and Hornbeck;
- changes in market assessments of the business, operations and prospects of Helix and Hornbeck;
- investor behavior and strategies, including market assessments of the likelihood that the mergers will be completed;
- interest rates, general market and economic conditions and other factors generally affecting the price of Helix common stock; and
- legislation, governmental regulation and legal developments in the businesses in which Helix and Hornbeck operate.

The price of Helix common stock at the closing may vary from its price on the date the merger agreement was executed, on the date of this proxy statement/prospectus and on the date of the special meeting. As a result, the value represented by the exchange ratio will also vary, and you will not know or be able to calculate at the time of the special meeting the market value of the merger consideration Hornbeck stockholders will receive upon completion of the mergers. For example, based on the closing price of Helix common stock on the NYSE during the period from April 22, 2026, the last trading day before public announcement of the mergers, through _____, 2026, the latest practicable trading date before the date of this proxy statement/prospectus, the per share merger consideration represented a value ranging from a high of \$ _____ to a low of \$ _____ for each share of Hornbeck common stock. Neither Helix nor Hornbeck is permitted to terminate the merger agreement solely because of changes in the market price or value of Helix’s common stock or the value of Hornbeck’s equity securities.

The market price for Converted Helix Common Stock following the closing may be affected by factors different from those that historically have affected or currently affect Helix common stock.

Upon completion of the first merger, Hornbeck stockholders will receive shares of Converted Helix Common Stock. Helix’s financial position at and after closing may differ from its financial position before the completion of the

mergers, and the results of operations of the combined company may be affected by factors that are different from those currently affecting the results of operations of Helix and those currently affecting the results of operations of Hornbeck. Accordingly, the market price and performance of Converted Helix Common Stock is likely to be different from the performance of Helix common stock in the absence of the mergers. In addition, general fluctuations in trading activity and prices on the NYSE could have a material adverse effect on the market for, or liquidity of, Converted Helix Common Stock, regardless of Helix's actual operating performance. For a discussion of the respective businesses of Hornbeck and Helix and important factors to consider in connection with those businesses, see "*Hornbeck's Business*," "*Hornbeck Management's Discussion and Analysis of Financial Condition and Results of Operations*" and "*Other Risks Relating to Hornbeck*" elsewhere in this proxy statement/prospectus, and the documents incorporated by reference herein and referred to in "*Where You Can Find More Information*."

Helix shareholders and Hornbeck stockholders, in each case as of immediately prior to the mergers, will have reduced ownership in the combined company.

Based on the number of issued and outstanding shares of Hornbeck common stock and the number of outstanding Creditor Warrants as of June 3, 2026, and the number of issued and outstanding Hornbeck equity awards currently estimated to be payable in shares of Converted Helix Common Stock in connection with the mergers, Helix anticipates issuing approximately 75.2 million shares of Converted Helix Common Stock to Hornbeck securityholders pursuant to the first merger. The actual number of shares of Converted Helix Common Stock to be issued pursuant to the first merger will be determined at the closing of the first merger based on the number of issued and outstanding shares of Hornbeck common stock, the number of outstanding Creditor Warrants and the number of issued and outstanding Hornbeck equity awards payable in shares of Converted Helix Common Stock in connection with the first merger. The issuance of these new shares could have the effect of depressing the market price of Converted Helix Common Stock, through dilution of earnings per share or otherwise. Any dilution of, or delay of any accretion to, Helix's earnings per share could cause the price of Converted Helix Common Stock to decline or increase at a reduced rate.

It is expected that Helix stockholders as of immediately prior to the first merger will own approximately 65%, and Hornbeck securityholders as of immediately prior to the first merger will own approximately 35%, of the issued and outstanding shares of Converted Helix Common Stock immediately after the completion of the mergers. As a result, Helix's current shareholders and Hornbeck's current securityholders will have less influence on the management and policies of the combined company than they currently have on the management and policies of Helix and Hornbeck, respectively.

Helix and Hornbeck must obtain certain regulatory approvals and clearances to consummate the mergers, which, if delayed, not granted or granted with unacceptable conditions, could prevent, substantially delay or impair consummation of the mergers, result in additional expenditures of money and resources or reduce the anticipated benefits of the mergers.

The completion of the mergers is subject to antitrust review in the United States and approval under certain other antitrust and foreign investment laws. Helix and Hornbeck derive revenues in other jurisdictions where antitrust/foreign investment clearances are or may be required, including the United Kingdom, Brazil and Poland. Filings were submitted with the United Kingdom's Investment Security Unit on May 20, 2026, with the Brazilian Administrative Council for Economic Defense on May 20, 2026 and with the Polish Office of Competition and Consumer Protection on May 20, 2026 in order to obtain their approvals. On May 28, 2026, the Polish Office of Competition and Consumer Protection indicated that it has closed its review of the transaction and did not intend to review, and approvals are still pending as of June 4, 2026 from the United Kingdom's Investment Security Unit and the Brazilian Administrative Council for Economic Defense. Regulatory entities may impose certain requirements or obligations as conditions for their approval or in connection with their review. Neither Helix nor Hornbeck can provide any assurance that they will obtain the necessary clearances or approvals, or that any required conditions will not have a material adverse effect on the combined company following the mergers or result in the abandonment of the mergers. Under the HSR Act and the rules promulgated thereunder, the mergers cannot be completed until the parties to the merger agreement have given notification and furnished information to the FTC and the DOJ, and until the applicable waiting period has expired or has been terminated.

Helix and Hornbeck each filed an HSR Act notification with the FTC and the DOJ on May 20, 2026. The 30-day HSR waiting period with respect to the mergers expires at 11:59 p.m. EDT on June 22, 2026. The parties requested early termination of the waiting period under the HSR Act upon filing, but as of June 4, 2026 such request has not yet been granted.

At any time before or after consummation of the mergers, notwithstanding the expiration of the applicable waiting period under the HSR Act, the FTC, the DOJ or any state could take such action under the antitrust laws as it deems necessary or desirable in the public interest, including seeking to enjoin the completion of the mergers or seeking the divestiture of substantial assets of Helix or Hornbeck or their respective subsidiaries or requiring Helix or Hornbeck to license, or hold separate, assets or terminate existing relationships and contractual rights. At any time before or after the completion of the mergers, and notwithstanding the expiration of the applicable waiting period under the HSR Act, any state could take such action under the antitrust laws as it deems necessary or desirable in the public interest. Such action could include seeking to enjoin the completion of the mergers or seeking divestiture of substantial assets of Helix or Hornbeck. Private parties may also seek to take legal action under the antitrust laws under certain circumstances.

The mergers are subject to a number of conditions to the obligations of both Helix and Hornbeck to complete the mergers, which, if not fulfilled, or not fulfilled in a timely manner, may delay completion of the mergers or result in termination of the merger agreement.

The mergers are subject to a number of conditions beyond the control of Helix or Hornbeck that may prevent, delay or otherwise materially adversely affect its completion, including the receipt of the Requisite Helix Vote (as defined herein). Neither Helix nor Hornbeck can predict when, or if, these conditions will be satisfied. If any of these conditions are not satisfied or waived prior to the outside date, it is possible that the merger agreement may be terminated. Although Helix and Hornbeck have agreed in the merger agreement to use reasonable best efforts, subject to certain limitations, to complete the mergers as promptly as reasonably practicable, these and other conditions to the completion of the mergers may fail to be satisfied. In addition, satisfying the conditions to and completing the mergers may take longer, and could cost more, than Helix and Hornbeck expect. Furthermore, the requirements for obtaining the required clearances and approvals could delay the completion of the mergers for a significant period of time or prevent them from occurring. Any delay in completing the mergers may adversely affect the cost savings and other benefits that Helix and Hornbeck expect to achieve if the mergers and the integration of the companies' respective businesses are completed within the expected timeframe. There can be no assurance that all required regulatory approvals will be obtained or obtained prior to the termination date. For additional information, please see "*The Merger Agreement—Conditions to the Completion of the Mergers.*"

If the integrated mergers, taken together, do not qualify as a "reorganization" within the meaning of Section 368(a) of the Code, Hornbeck stockholders may be required to pay substantial taxes.

Based on certain representations, covenants and assumptions (described in the section titled "*The Merger Agreement*"), all of which must continue to be true and accurate in all material respects as of the effective time of the mergers, Hornbeck intends to seek a tax opinion from Kirkland that, for U.S. federal income tax purposes, the integrated mergers are intended to qualify as a "reorganization" within the meaning of Section 368(a) of the Code, and Helix and Hornbeck intend to report the integrated mergers consistent with such qualification. Hornbeck's obligation to complete the integrated mergers is conditioned upon receipt of such tax opinion. Helix and Hornbeck have not sought, and do not intend to seek, any ruling from the IRS regarding the qualification of the integrated mergers as a "reorganization" within the meaning of Section 368(a) of the Code. As a result, there can be no assurance that the IRS would not assert, or that a court would not sustain, a position contrary to the treatment of the integrated mergers as a "reorganization" within the meaning of Section 368(a) of the Code. If the IRS or a court determines that the integrated mergers do not qualify as a reorganization, a U.S. holder of Hornbeck common stock would generally recognize taxable gain or loss upon the exchange of Hornbeck common stock for Converted Helix Common Stock and, in case of any gain recognition, may be required to pay substantial U.S. federal income taxes. Each Hornbeck stockholder should read "*The Mergers—Material U.S. Federal Income Tax Consequences of the Mergers*" for a more complete discussion of the U.S. federal income tax consequences of the integrated mergers to U.S. holders. Each Hornbeck stockholder is strongly encouraged to consult with a tax advisor to determine the particular U.S. federal, state or local or non-U.S. income tax consequences of the Mergers to it.

Hornbeck's ability to utilize its historic U.S. net operating loss carryforwards may be impacted as a result of the completion of the mergers.

As of December 31, 2025, Hornbeck had approximately \$266.0 million of gross U.S. federal net operating losses ("NOLs"). Hornbeck's U.S. federal NOLs were generated after 2017 and can be carried forward indefinitely.

Section 382 of the Code ("Section 382") generally imposes an annual limitation on the amount of NOLs that may be used to offset taxable income when a corporation has undergone an "ownership change" (as determined under

Section 382). An ownership change generally occurs if one or more stockholders (or groups of stockholders) who are each deemed to own at least 5% of such corporation's stock has increased their ownership by more than 50 percentage points over their lowest ownership percentage within a rolling three-year period. Although Helix is the legal acquirer of Hornbeck in the integrated mergers, we expect that the historic securityholders of Hornbeck and holders of Jones Act Warrants will, on a fully diluted basis, be treated, for purposes of Section 382, as owning a majority of the outstanding Converted Helix Common Stock immediately after closing, and therefore there may not be an "ownership change" of Hornbeck solely as a result of the closing of the mergers (although it is possible that the mergers, together with prior "owner shifts" (as determined under Section 382) within the past three years, may lead to an "ownership change" of Hornbeck). If, contrary to our expectation, the historic stockholders of Hornbeck and holders of Jones Act Warrants are not treated, for purposes of Section 382, as owning a majority of the Converted Helix Common Stock immediately after closing, it is expected that there would be an "ownership change" of Hornbeck as a result of the closing of the mergers. In the event that an "ownership change" occurs with respect to Hornbeck, utilization of Hornbeck's NOLs would be subject to an annual limitation under Section 382, generally determined, subject to certain adjustments, by multiplying (i) the fair market value of such corporation's stock outstanding at the time of the ownership change by (ii) a percentage approximately equivalent to the yield on long-term tax-exempt bonds during the month in which the ownership change occurs. Any unused annual limitation may be carried over to later years.

If the closing of the integrated mergers causes an ownership change and Hornbeck's historic NOLs are limited, the ability to utilize such available NOLs and other tax attributes to reduce future taxable income following this "ownership change" would depend on many factors, including our future income, which cannot be assured. Thus, an "ownership change" may delay or prevent utilization of these NOLs, increasing cash taxes payable in earlier years and materially reducing the present value of the NOLs.

Holders of Hornbeck common stock who perfect appraisal rights under Section 262 of the DGCL may be entitled to cash payment of fair value, which could result in material cash outflows from the combined company.

Pursuant to 262 of the DGCL, holders of Hornbeck common stock who do not vote in favor of the adoption of the merger agreement and who otherwise comply with the procedural requirements of DGCL Section 262 may demand appraisal of the "fair value" of their shares as determined by the Delaware Court of Chancery. Such dissenting shares will not be converted into the merger consideration unless and until appraisal rights are lost or withdrawn. If holders of a meaningful number of shares of Hornbeck common stock perfect appraisal rights, the combined company could be required to make substantial cash payments and incur litigation costs, which could adversely affect the combined company's liquidity, capital resources or results of operations.

Uncertainties associated with the mergers may cause a loss of management personnel and other key employees of Helix or Hornbeck, which could adversely affect the future business and operations of the combined company.

Helix and Hornbeck are dependent on the experience and industry knowledge of their officers and other key employees to execute their business plans. The combined company's success after the mergers will depend in part upon its ability to retain key management personnel and other key employees. Current and prospective employees of Helix or Hornbeck may experience uncertainty about their roles within the combined company following the mergers or other concerns regarding the timing and completion of the mergers or the operations of the combined company following the mergers, any of which may have an adverse effect on the ability of Helix or Hornbeck to retain or attract key management and other key personnel. In addition, the loss of key Helix or Hornbeck personnel could diminish the anticipated benefits of the mergers and the integration of the companies may be more difficult. Furthermore, the combined company may have to incur significant costs in identifying, hiring and retaining replacements for departing employees and may lose significant expertise and talent relating to the business of each of Helix and Hornbeck. No assurance can be given that the combined company will be able to retain or attract key management personnel and other key employees of Helix or Hornbeck to the same extent that Helix and Hornbeck have previously been able to retain or attract their own employees.

The business relationships of Helix and Hornbeck may be subject to disruption due to uncertainty associated with the mergers, which could have a material adverse effect on the results of operations, cash flows and financial position of Helix or Hornbeck pending and following the mergers.

Parties with which Helix or Hornbeck do business may experience uncertainty associated with the mergers, including with respect to current or future business relationships with the combined company following the mergers. Helix's and Hornbeck's business relationships may be subject to disruption as customers, distributors, suppliers,

vendors, landlords and other business partners may attempt to delay or defer entering into new business relationships, negotiate changes in existing business relationships or consider entering into business relationships with parties other than Helix or Hornbeck prior to or following the mergers. These disruptions could have a material and adverse effect on the results of operations, cash flows and financial position of Helix or Hornbeck, regardless of whether the mergers are completed, as well as a material and adverse effect on Helix's ability to realize the expected cost savings and other benefits of the mergers. The risk, and adverse effect, of any disruption could be exacerbated by a delay in completion of the mergers or termination of the merger agreement.

The merger agreement subjects Helix and Hornbeck to restrictions on their respective business activities prior to the effective time.

The merger agreement subjects Helix and Hornbeck to restrictions on their respective business activities prior to the effective time. The merger agreement obligates each of Helix and Hornbeck to use its commercially reasonable efforts to conduct its business in all material respects in the ordinary course, and the merger agreement obligates each of Helix and Hornbeck to use its commercially reasonable efforts to preserve intact its respective business organization, except as otherwise expressly contemplated by the merger agreement. These restrictions could prevent Helix and Hornbeck from pursuing certain business opportunities that arise prior to the effective time and are outside the ordinary course of business. See "*The Merger Agreement—Covenants—Conduct of Business Prior to the Effective Time*" for additional details.

Directors and executive officers of Helix have interests in the mergers that may be different from, or in addition to, the interests of Helix shareholders generally.

In considering the recommendation of the Helix Board that Helix shareholders vote in favor of the required merger proposals, Helix shareholders should be aware of and take into account the fact that Helix directors and executive officers have interests in the mergers that may be different from, or in addition to, the interests of Helix shareholders generally. These interests include, among others, severance rights or payments, rights to continuing indemnification and directors' and officers' liability insurance and accelerated vesting of outstanding equity awards. See "*The Mergers—Interests of Helix's Directors and Officers in the Mergers*" for a more detailed description of these interests. The Helix Board was aware of and carefully considered these interests, among other matters, in evaluating the terms and structure, and overseeing the negotiation, of the mergers, in approving the merger agreement and the transactions contemplated thereby, including the mergers, and in recommending that the Helix shareholders approve the required merger proposals and the non-binding compensation proposal.

The merger agreement limits Helix's and Hornbeck's respective ability to pursue alternatives to the mergers, may discourage other companies from making a favorable alternative transaction proposal and, in specified circumstances, could require Helix or Hornbeck to pay the other party a termination fee.

The merger agreement contains certain provisions that restrict each of Helix's and Hornbeck's ability to initiate, solicit, propose, knowingly encourage or knowingly facilitate any inquiry regarding, or the making of any inquiry, proposal or offer that constitutes or would reasonably be expected to lead to, an acquisition proposal with respect to Helix or Hornbeck, as applicable, and Helix and Hornbeck have each agreed to certain terms and conditions relating to their ability to engage, continue or otherwise participate in any discussions or negotiations regarding, or furnish to a third party any non-public information with respect to, or otherwise knowingly facilitate any effort or attempt to make, any acquisition proposal. Further, even if the Helix Board withholds, withdraws, amends, qualifies or modifies in any manner adverse to Hornbeck its recommendation with respect to the required merger proposals, unless the merger agreement has been terminated in accordance with its terms, Helix will still be required to submit the required merger proposals to a vote at the Helix special meeting. In addition, Hornbeck generally has an opportunity to offer to modify the terms of the merger agreement in response to any competing acquisition proposals or intervening events before the Helix Board may withdraw, modify or qualify its recommendations. The merger agreement further provides that, under specified circumstances, including in the event that Helix or Hornbeck has entered into an alternative acquisition agreement with respect to a superior proposal, Helix may be required to pay Hornbeck a termination fee equal to \$40,500,000 or Hornbeck may be required to pay Helix a termination fee equal to \$49,500,000, as applicable. See "*The Merger Agreement—Covenants*," "*—Termination Fees*" and "*—Expense Reimbursement*" for additional details.

These provisions could discourage a potential third-party acquirer or other strategic transaction partner that might have an interest in acquiring all or a significant portion of Helix or Hornbeck from considering or pursuing such an alternative transaction with either party or proposing such a transaction, even if it were prepared, in Helix's case, to pay

consideration with a higher per share value than the total value proposed to be paid or received in the mergers. These provisions might also result in a potential third-party acquirer or other strategic transaction partner proposing to pay a lower price than it might otherwise have proposed to pay because of the added expense of the termination fee that may become payable in certain circumstances.

The financial forecasts are based on various assumptions that may not be realized.

The unaudited prospective financial information set forth in the forecasts included under the section titled “*The Mergers—Unaudited Prospective Financial Information*” were prepared solely for internal use and are subjective in many respects. Helix’s and Hornbeck’s prospective financial information was based solely upon assumptions of, and information available to, Helix’s and Hornbeck’s management when prepared, and these estimates and assumptions are subject to uncertainties, many of which are beyond Helix’s or Hornbeck’s control and may not be realized. Many factors mentioned in this proxy statement/prospectus, including the risks outlined in this “*Risk Factors*” section and the events or circumstances described under “*Cautionary Statement Regarding Forward-Looking Statements*,” will be important in determining the combined company’s future results. As a result of these contingencies, actual future results may vary materially from Helix’s and Hornbeck’s estimates. In view of these uncertainties, the inclusion of prospective financial information in this proxy statement/prospectus is not and should not be viewed as a representation that the forecasted results will necessarily be predictive of actual future results.

The unaudited prospective financial information set forth in the forecasts included under the section titled “*The Mergers—Unaudited Prospective Financial Information*” was not prepared with a view toward compliance with published guidelines of the SEC or the guidelines established by the American Institute of Certified Public Accountants for preparation or presentation of prospective financial information. Further, any forward-looking statement speaks only as of the date on which it is made, and each of Helix and Hornbeck undertake no obligation, other than as required by applicable law, to update, correct or otherwise revise the unaudited prospective financial information herein to reflect events or circumstances after the date those prospective financial information were prepared or to reflect the occurrence of anticipated or unanticipated events or circumstances, even in the event that any or all of the assumptions underlying any such prospective financial information are no longer appropriate (even in the short term).

The unaudited prospective financial information of Helix and Hornbeck included in this proxy statement/prospectus has been prepared by, and is the responsibility of, the management of Helix or the management of Hornbeck, as applicable. Neither KPMG LLP (“KPMG”), the independent registered public accountants of Helix, nor Ernst & Young LLP (“EY”), the independent certified public accountants of Hornbeck, has audited, reviewed, examined, compiled or applied agreed-upon procedures with respect to the accompanying unaudited prospective financial information and, accordingly, neither KPMG nor EY expresses an opinion or any other form of assurance with respect thereto. The report of KPMG with respect to Helix, incorporated by reference in this proxy statement/prospectus relates to the historical financial statements of Helix, does not extend to the unaudited prospective financial information of Helix and should not be read to do so. The report of EY with respect to Hornbeck’s audited financial statements included elsewhere in this proxy statement/prospectus, relates to the historical financial statements of Hornbeck, does not extend to the unaudited prospective financial information of Hornbeck and should not be read to do so. See “*The Mergers—Unaudited Prospective Financial Information*” for more information.

Failure to complete the mergers could negatively impact Helix’s stock price and have a material adverse effect on its results of operations, cash flows and financial position.

If the mergers are not completed for any reason, including as a result of failure to obtain all requisite regulatory approvals or if the Helix shareholders fail to approve the applicable proposals, the ongoing business of Helix may be materially adversely affected and, without realizing any of the benefits of having completed the mergers, Helix would be subject to a number of risks, including the following:

- Helix may experience negative reactions from the financial markets, including negative impacts on Helix’s stock prices;
- Helix and its subsidiaries may experience negative reactions from their respective customers, distributors, suppliers, vendors, landlords and other business partners;
- Helix will still be required to pay certain significant costs relating to the mergers, such as legal, accounting, consulting, financial advisor and printing fees;
- Helix may be required to pay a termination fee or expense reimbursement fee as required by the merger agreement;

- the merger agreement places certain restrictions on the conduct of Helix's business pursuant to the terms of the merger agreement, which may delay or prevent Helix from undertaking business opportunities that, absent the merger agreement, may have been pursued;
- matters relating to the mergers (including integration planning) require substantial commitments of time and resources by Helix's management, which may have resulted in the distraction of each company's management from ongoing business operations and pursuing other opportunities that could have been beneficial to the companies; and
- litigation related to any failure to complete the mergers or related to any enforcement proceeding commenced against Helix to perform its obligations pursuant to the merger agreement.

If the mergers are not completed, the risks described above may materialize and they may have a material adverse effect on Helix's results of operations, cash flows, financial position and stock price.

The shares of common stock of the combined company will have different rights from shares of Helix common stock prior to the Conversion and shares of Hornbeck common stock.

Approval of the plan of conversion proposal is a condition to the consummation of the mergers. Accordingly, upon the completion of the Conversion immediately prior to the first merger, the rights of existing Helix shareholders will cease to be governed by the laws of the state of Minnesota and will instead be governed by the laws of the state of Delaware. Additionally, upon completion of the first merger, Hornbeck stockholders will no longer be stockholders of Hornbeck. Instead, former Hornbeck stockholders will become stockholders of the combined company, and, while their rights as stockholders of the combined company will continue to be governed by the laws of the state of Delaware, their rights will be subject to and governed by the terms of the certificate of incorporation and the bylaws of the combined company, copies of which are attached to this proxy statement/prospectus as *Annex D* and *Annex E*, respectively. The laws of the state of Delaware are different than the laws of the state of Minnesota and the terms of the certificate of incorporation and bylaws of the combined company are in some respects and the articles of incorporation and bylaws of Helix and the certificate of incorporation and bylaws of Hornbeck which currently govern the rights of Helix shareholders and Hornbeck stockholders, respectively. See "*Comparison of Stockholders' Rights*" for a discussion of the different rights associated with shares of Hornbeck common stock, shares of Helix common stock and shares of the combined company's common stock.

Helix and Hornbeck are expected to incur significant transaction costs in connection with the mergers, which may be in excess of those anticipated by them.

Helix and Hornbeck have incurred and are expected to continue to incur significant non-recurring costs associated with negotiating and completing the mergers, combining the operations of the two companies and achieving desired synergies. These costs have been, and will continue to be, substantial and, in many cases, will be borne by Helix and Hornbeck whether or not the mergers are completed. A substantial majority of non-recurring expenses will consist of transaction costs and include, among others, fees paid to financial, legal, accounting and other advisors, employee retention, severance and benefit costs and filing fees. Helix will also incur costs related to formulating and implementing integration plans, including facilities and systems consolidation costs and other employment-related costs. Helix and Hornbeck will continue to assess the magnitude of these costs, and additional unanticipated costs may be incurred in connection with the mergers and the integration of the two companies' businesses. While Helix and Hornbeck have assumed that a certain level of expenses would be incurred, there are many factors beyond their control that could affect the total amount or the timing of the expenses. The elimination of duplicative costs, as well as the realization of other efficiencies related to the integration of the businesses, may not offset integration-related costs and achieve a net benefit in the near term, or at all. The costs described above and any unanticipated costs and expenses, many of which will be borne by Helix or Hornbeck even if the mergers are not completed, could have an adverse effect on Helix's or Hornbeck's financial condition and operating results.

Litigation relating to the transactions contemplated by the merger agreement, including the mergers, could delay or prevent the consummation of the mergers and the other transactions contemplated by the merger agreement and could cause Helix and Hornbeck to incur substantial costs.

Securities class action lawsuits and derivative lawsuits are often brought against companies that have entered into acquisition, merger, or other business combination agreements. Even if such a lawsuit is without merit, defending against these claims can result in substantial costs and divert management time and resources. An adverse judgment could result in monetary damages, which could have a negative impact on Helix's, Hornbeck's or the combined company's respective liquidity and financial condition.

Lawsuits that may be brought against Helix, Hornbeck or their respective directors could also seek, among other things, injunctive relief or other equitable relief, including a request to rescind parts of the merger agreement already implemented and to otherwise enjoin the parties from consummating the transactions contemplated by the merger agreement, including the mergers. One of the conditions to the closing of the transactions contemplated by the merger agreement is that no law or governmental order is in effect that restrains, enjoins, makes illegal or otherwise prohibits the closing of the mergers. Consequently, if a plaintiff were to be successful in obtaining an injunction prohibiting consummation of the transactions contemplated by the merger agreement, that injunction may delay or prevent the mergers from being completed within the expected timeframe or at all, which may adversely affect the respective businesses, financial positions and results of operations of Helix, Hornbeck or the combined company.

Either Helix or Hornbeck may terminate the merger agreement if any governmental order permanently restraining, enjoining or otherwise prohibiting the consummation of the transactions contemplated by the merger agreement becomes final and nonappealable, so long as the party seeking to terminate the merger agreement has used its reasonable best efforts prevent the entry of and to remove such governmental order in accordance with the terms of the merger agreement. There can be no assurance that any party to the Merger Agreement, if named as a defendant in such a lawsuit, would be successful in the outcome of any potential future litigation. The defense or settlement of any lawsuit or claim that remains unresolved at the time the transactions contemplated by the merger agreement, including the mergers, are consummated may adversely affect the respective businesses, financial conditions, results of operations and cash flows of Helix, Hornbeck or the combined company.

The mergers may be completed even though material adverse changes subsequent to the announcement of the mergers, such as industry-wide changes or other events, may occur.

In general, either party can refuse to complete the mergers if there is a material adverse change affecting the other party. However, some types of changes do not permit either party to refuse to complete the transaction, even if such changes would have a material adverse effect on either of the parties. For example, a worsening of Helix's or Hornbeck's financial condition or results of operations due to a decrease in commodity prices or general economic conditions would not give the other party the right to refuse to complete the mergers. In addition, the parties have the ability, but are under no obligation, to waive any material adverse change that results in the failure of a closing condition and instead proceed with completing the mergers. If adverse changes occur that affect either party, but the parties are still required or voluntarily decide to complete the transaction, Helix's share price, business and financial results after the mergers may suffer.

Risks Relating to the Combined Company

The combined company may be unable to integrate the businesses of Helix and Hornbeck successfully or realize the anticipated benefits of the mergers.

The mergers involve the combination of companies that currently operate as independent companies. The combination of independent businesses is complex, costly and time consuming, and the combined company will be required to devote significant management attention and resources to integrating the respective business practices and operations of Helix and Hornbeck. Potential difficulties that may be encountered in the integration process include the following:

- the inability to successfully combine the businesses of Hornbeck with Helix in a manner that permits the combined company to achieve, on a timely basis or at all, the enhanced revenue opportunities and cost savings and other benefits anticipated to result from the mergers;
- complexities associated with managing the combined businesses, including difficulty addressing possible differences in operational philosophies and the challenge of integrating complex systems, technology, networks and other assets of each of the companies in a seamless manner that minimizes any adverse impact on customers, suppliers, employees and other constituencies;
- the assumption of contractual obligations with less favorable or more restrictive terms; and
- potential unknown liabilities and unforeseen increased expenses or delays associated with the mergers.

In addition, Helix and Hornbeck have previously operated and, until the completion of the mergers, will continue to operate, independently. It is possible that the integration process could result in:

- diversion of the attention of each company's management; and

- the disruption of, or the loss of momentum in, each company's ongoing businesses or inconsistencies in standards, controls, procedures and policies.

Any of these issues could adversely affect each company's ability to maintain relationships with customers, suppliers, employees and other constituencies or achieve the anticipated benefits of the mergers or could reduce each company's earnings or otherwise adversely affect the business and financial results of the combined company following the mergers.

The synergies attributable to the mergers may vary from expectations.

The combined company may fail to realize the anticipated benefits and synergies expected from the mergers, which could adversely affect the combined company's business, financial condition and operating results. The success of the mergers will depend, in significant part, on the ability of the combined company to realize the anticipated strategic benefits and synergies from combining the businesses of Helix and Hornbeck. The anticipated benefits of the transaction may not be realized fully or at all, or may take longer to realize than expected. Actual operating, technological, strategic and revenue opportunities, if achieved at all, may be less significant than expected or may take longer to achieve than anticipated. If the combined company is not able to achieve these objectives and realize the anticipated benefits and synergies expected from the mergers within the anticipated timing or at all, the combined company's business, financial condition and operating results may be adversely affected.

Legal proceedings and governmental investigations could have a negative impact on the business, financial condition and results of operations of the combined company.

The nature of the business of the combined company will make it susceptible to legal proceedings and governmental investigations from time to time. Lawsuits or claims against the combined company, including pending lawsuits and claims against Helix and Hornbeck, could have a material adverse effect on the combined company's business, financial condition and results of operations. Any legal proceedings or claims, even if fully indemnified or insured, could negatively affect the combined company reputation among its customers and the public, and make it more difficult for the combined company to compete effectively or obtain adequate insurance in the future.

The future results of the combined company following the mergers will suffer if the combined company does not effectively manage its expanded operations.

Following the mergers, the size and geographic footprint of the business of the combined company will increase. The combined company's future success will depend, in part, upon its ability to manage this expanded business, which may pose substantial challenges for management, including challenges related to the management and monitoring of new operations and geographies and associated increased costs and complexity. The combined company may also face increased scrutiny from governmental authorities as a result of the increase in the size of its business. There can be no assurances that the combined company will be successful or that it will realize the expected operating efficiencies, cost savings, revenue enhancements or other benefits currently anticipated from the mergers.

The mergers may result in a loss of customers, distributors, suppliers, vendors, landlords and other business partners and may result in the modification or termination of existing contracts.

Following the mergers, some of the customers, distributors, suppliers, vendors, landlords and other business partners of Helix or Hornbeck may modify, terminate or scale back their current or prospective business relationships with the combined company. Some customers may not wish to source a larger percentage of their needs from a single company or may feel that the combined company is too closely allied with one of their competitors. In addition, Helix and Hornbeck have contracts with customers, distributors, suppliers, vendors, landlords and other business partners that may require Helix or Hornbeck to obtain consents from these other parties in connection with the mergers, which may not be obtained on favorable terms or at all. If relationships with customers, distributors, suppliers, vendors, landlords and other business partners are adversely affected by the mergers, or if the combined company loses the benefits of the contracts of Helix or Hornbeck, the combined company's business and financial performance could suffer.

The market price of the combined company's common stock may be volatile and may be depressed by the perception that former Hornbeck securityholders may sell the shares of common stock they will acquire at closing and for other reasons which may or may not be related to the mergers. Holders of the combined company's common stock could lose a significant portion of their investment due to drops in the market price of the combined company's common stock following completion of the mergers.

The market price of the combined company's common stock may be volatile due to factors unrelated to the combined company's operating performance or prospects. Specific factors that may have a significant effect on the market price for the combined company's common stock include, among others, the following:

- changes in stock market analyst recommendations or earnings estimates regarding the combined company, other companies comparable to it or companies in the industries they serve;
- actual or anticipated fluctuations in the combined company's operating results or future prospects;
- reaction to public announcements by the combined company;
- strategic actions taken by the combined company or its competitors, such as acquisitions, divestitures or restructurings;
- failure of the combined company to achieve the perceived benefits of the mergers, including financial results and anticipated synergies, as rapidly as or to the extent anticipated by financial or industry analysts; and
- adverse conditions in the financial market or general U.S. or international economic conditions, including those resulting from war, incidents of terrorism and response to such events.

Following the consummation of the mergers, subject to applicable securities laws and the transfer restrictions applicable to certain Hornbeck securityholders party to the Registration Rights Agreement or lock-up agreements entered into in connection with the entry into the merger agreement, former Hornbeck securityholders may seek to sell shares of the combined company's common stock they will acquire pursuant to the mergers (including shares underlying assumed Jones Act Warrants). For Hornbeck securityholders that are not party to the Registration Rights Agreement or such lock-up agreements, there will be no restriction on their ability to sell shares of the combined company's common stock following the consummation of the mergers. Pursuant to the Registration Rights Agreement, subject to certain restrictions, the combined company is required to file with the SEC a Registration Statement on Form S-3 registering for resale the shares of Converted Helix Common Stock issued to such holders in the mergers (including shares underlying assumed Jones Act Warrants) and to conduct certain underwritten offerings at such holders' request. The Registration Rights Agreement also provides such holders with customary piggyback registration rights. These sales (or the perception that these sales may occur, particularly following the expiration of the lock-up period under the Registration Rights Agreement and the lock-up agreements), coupled with the increase in the outstanding number of shares of the Converted Helix Common Stock, may affect the market for, and the market price of, shares of the Converted Helix Common Stock in an adverse manner.

Additionally, current shareholders of Helix and current securityholders of Hornbeck may reduce or eliminate their investment in the combined company for various reasons, including in order to comply with institutional investing guidelines, to increase diversification, to track any rebalancing of stock indices in which Helix's common stock is or may in the future be included, to respond to the risk profile of the combined company or to realize a gain. If, following the mergers, large amounts of the combined company's common stock are sold, the price could decline.

The unaudited pro forma financial information included in this document is presented for illustrative purposes only and may not be an indication of the combined company's financial condition or results of operations following the mergers.

The unaudited pro forma financial information contained in this document is presented for illustrative purposes only, is based on various adjustments, assumptions and preliminary estimates and may not be an indication of the combined company's financial condition or results of operations following the mergers for several reasons. The actual financial condition and results of operations of the combined company following the mergers may not be consistent with—or evident from—this unaudited pro forma financial information. In addition, the assumptions used in preparing the unaudited pro forma financial information may prove to be inaccurate, and other factors may affect the combined company's financial condition or results of operations following the mergers. Any potential decline in the combined company's financial condition or results of operations may cause significant variations in the stock price of the combined company. See "Unaudited Pro Forma Condensed Combined Financial Statements."

Business issues currently faced by Helix or Hornbeck may be imputed to the operations of the other.

To the extent that either Helix or Hornbeck currently has or is perceived by customers to have operational challenges, such as service performance, safety issues or workforce issues, those challenges may raise concerns by existing customers of the other company following the mergers, which may limit or impede the combined company's future ability to obtain additional work from those customers.

Certain of the stockholders of the combined company will have the ability to exercise significant influence over certain corporate actions following completion of the mergers.

Following the mergers, the Ares Investor Group and the Whitebox Investor Group are expected to collectively own approximately 12% and 4% (21% and 11%, on a fully diluted basis), respectively, of the outstanding Converted Helix Common Stock, and will have the right to designate for nomination an aggregate of three nominees for election to the combined company's board of directors. As a result, these stockholders could have significant influence over the outcome of matters requiring a stockholder vote, including the election of directors, the adoption of any amendment to the combined company's bylaws and the approval of mergers and other significant corporate transactions. Their influence over the combined company may have the effect of delaying or preventing a change of control or may adversely affect the voting and other rights of other stockholders.

Pursuant to the Securityholders Agreement, the Ares Investor has designated _____ and _____ to be directors of the combined company's seven-member board, and the Whitebox Investor has designated _____ to be a director of the combined company's seven-member board upon consummation of the mergers. In addition, pursuant to the Securityholders Agreement, in connection with each annual or special meeting of stockholders of the combined company at which directors are to be elected, (i) the Ares Investor will have the right to designate for nomination (A) two nominees for election to the combined company's board of directors for so long as the Ares Investor Group beneficially owns, and at all times since the consummation of the mergers beneficially owned, at least 20% of the Converted Helix Common Stock (including common stock issuable pursuant to Jones Act Warrants), and (B) one nominee for election to the combined company's board of directors for long as the Ares Investor Group beneficially owns, and at all times since the consummation of the mergers beneficially owned, at least 10% but do not beneficially own, and at all times since the consummation of the mergers have not beneficially owned at least 20%, of the Converted Helix Common Stock (including common stock issuable pursuant to Jones Act Warrants); and (ii) the Whitebox Investor will have the right to designate for nomination one nominee for election to the combined company's board of directors for so long as the Whitebox Investor Group beneficially owns, and at all times since the consummation of the mergers beneficially owned, at least 10% of the Converted Helix Common Stock (including common stock issuable pursuant to Jones Act Warrants). Finally, if these stockholders were in the future to sell all or a material number of shares of common stock, the market price of the combined company's common stock could be negatively impacted.

The combined company's common stock will be subject to restrictions on foreign ownership and possible required divestiture by non-U.S. citizen stockholders.

The combined company could lose the privilege of owning and operating vessels in the U.S. coastwise trade if non-U.S. citizens were to own or control, in the aggregate, more than 25% of the combined company's common stock. Such loss could have a material adverse effect on the combined company's results of operations.

The certificate of incorporation and bylaws of the combined company will authorize the board of directors of the combined company to establish with respect to any class or series of capital stock of the combined company certain rules, policies and procedures, including procedures with respect to transfer of shares, to ensure compliance with the Jones Act. In order to provide a reasonable margin for compliance with the Jones Act, the certificate of incorporation of the combined company will provide that all non-U.S. citizens in the aggregate may not own more than 21% of the outstanding shares of the combined company's common stock, with certain limited grandfathered circumstances allowing up to 24% of the outstanding shares of the combined company's common stock to be owned by non-U.S. citizens on and after the effective date of the Conversion. The Jones Act trading privileges of the combined company will be conditioned upon foreign ownership of its common stock never exceeding 24%. While Helix and Hornbeck expect to take steps to prevent foreign ownership of the combined company from exceeding 24%, the combined company will not control trading in its stock and cannot control non-compliance by a foreign purchaser of its stock resulting in the combined exceeding the foreign citizenship ownership limitations. Moreover, the USCG may temporarily or permanently revoke the combined company's coastwise trading privileges, issue fines or penalties,

and/or seize the company's vessels engaging in the coastwise trade if the company is not in compliance with the citizenship requirements, which would have a significant negative impact on the combined company's operations and financial results.

The certificate of incorporation will provide that any transfer (including the combined company's original issuance) will be void *ab initio* and ineffective to the extent that such transfer that would result in ownership by non-U.S. citizens in the aggregate exceeding 21% of the combined company's issued and outstanding common stock, with certain limited grandfathered circumstances allowing up to 24% of the outstanding shares of the combined company's common stock to be owned by non-U.S. citizens on and after the effective date of the Conversion. The company's certificate of incorporation will further provide the combined company's board of directors with authority to take certain actions to protect its Jones Act status, including the right to redeem any share of the combined company's common stock that caused the ownership by non-U.S. citizens to exceed such 21% ownership limitation, with certain limited grandfathered circumstances allowing up to 24% of the outstanding shares of the combined company's common stock to be owned by non-U.S. citizens on and after the effective date of the Conversion. In the event the board of directors of the combined company authorizes such a redemption, the combined company would instruct its transfer agent to issue one Jones Act Warrant, or in certain situations, cash or interest bearing promissory notes, in respect of shares of common stock that caused ownership by non-U.S. citizens to exceed the applicable permitted limit, and such holder(s)' interests in those shares will be terminated. Any purported issuance or transfer of shares of the combined company's common stock in violation of these ownership provisions will be ineffective to issue or transfer the common stock or any voting, dividend or other rights associated with them.

The consummation of the mergers is conditioned upon, among other things, the approval of the Jones Act provisions proposal by Helix shareholders at the special meeting. Accordingly, unless both Helix and Hornbeck waive this condition, the combined company's certificate of incorporation will include the aforementioned provisions. The existence and enforcement of these requirements could have an adverse impact on the liquidity or market value of the combined company's equity securities in the event that U.S. citizens were unable to transfer shares of the combined company's common stock to non-U.S. citizens. Furthermore, under certain circumstances, this ownership requirement could discourage, delay or prevent a change of control of the combined company.

If Helix shareholders adopt the exclusive forum proposal, the certificate of incorporation of the combined company will designate the Court of Chancery of the State of Delaware as the sole and exclusive forum for certain types of actions and proceedings that may be initiated by the combined company's stockholders, which could limit the combined company's stockholders' ability to obtain a favorable judicial forum for disputes with the combined company or its directors, officers, employees or agents.

If the exclusive forum proposal is adopted at the special meeting, the certificate of incorporation of the combined company will provide that, unless the combined company consents in writing to the selection of an alternative forum, the Court of Chancery of the State of Delaware will, to the fullest extent permitted by applicable law, be the sole and exclusive forum for (i) any derivative action or proceeding brought on the combined company's behalf, (ii) any action asserting a claim of breach of a fiduciary duty owed by any of the combined company's directors, advisory directors, board observers, officers or employees to the combined company or its stockholders, (iii) any action asserting a claim against the combined company, its directors, advisory directors, board observers, officers or employees arising pursuant to any provision of the DGCL, the combined company's certificate of incorporation or its bylaws, (iv) any action asserting a claim against the combined company, its directors, advisory directors, board observers, officers or employees that is governed by the internal affairs doctrine or (v) any action asserting an "internal corporate claim," as that term is defined in Section 115 of the DGCL, except for, as to each of clauses (i) through (iv) above, any claim as to which the Court of Chancery determines that there is an indispensable party not subject to the jurisdiction of the Court of Chancery (and the indispensable party does not consent to the personal jurisdiction of the Court of Chancery within ten days following such determination), which is vested in the exclusive jurisdiction of a court or forum other than the Court of Chancery, or for which the Court of Chancery does not have subject matter jurisdiction, in which case a federal district court of the United States of America located in the State of Delaware will be the exclusive forum.

Section 27 of the Exchange Act creates exclusive federal jurisdiction over all suits brought to enforce any duty or liability created by the Exchange Act or the rules and regulations thereunder, and Section 22 of the Securities Act creates concurrent jurisdiction for federal and state courts over all suits brought to enforce any duty or liability created by the

Securities Act or the rules and regulations thereunder. There is uncertainty as to whether a court would enforce the forum selection provision with respect to such claims, and in any event, the combined company's stockholders would not be deemed to have waived the combined company's compliance with federal securities laws and the rules and regulations thereunder.

If the exclusive forum proposal is adopted at the special meeting and included in the combined company's certificate of incorporation, any person or entity purchasing or otherwise acquiring any interest in shares of the combined company's capital stock, including shares issued pursuant to the first merger, will be deemed to have notice of, and consented to, the provisions of the combined company's certificate of incorporation described in the preceding sentences.

Although Helix and Hornbeck believe the provision benefits the combined company by providing increased consistency in the application of Delaware law in the types of lawsuits to which it applies, this choice of forum provision may limit a stockholder's ability to bring a claim in a judicial forum that it finds favorable for disputes with the combined company or its directors, officers, employees or agents, which may discourage such lawsuits against the combined company and such persons. Additionally, there can be no assurances that a court will decide that these provisions are either applicable or enforceable, and if a court were to find the choice of forum provisions proposed to be included in the combined company's certificate of incorporation to be inapplicable or unenforceable in an action, the combined company may incur additional costs associated with resolving such action in other jurisdictions, which could harm the business, operating results and financial condition of the combined company.

Other Risks Relating to Hornbeck

As a result of entering into the merger agreement, Hornbeck's business is and will be subject to the risks described above. In addition, Hornbeck is, and following completion of the mergers, the combined company will be, subject to the following risks:

Hornbeck derives substantial revenues from companies in the oil and natural gas exploration and production industry, which is a historically cyclical industry with levels of activity that are directly affected by the levels and volatility of oil and natural gas prices.

The demand for Hornbeck's services from companies in various energy-related industries is cyclical, and to some extent, seasonal, depending primarily on the capital expenditures of offshore energy companies. These capital expenditures are influenced by such factors as:

- prevailing oil and natural gas prices, particularly with respect to prevailing prices on local price indexes in the areas in which Hornbeck operates and expectations about future commodity prices;
- the action of the Organization of the Petroleum Exporting Countries, plus ("OPEC+"), its members and other state-controlled oil companies relating to oil price and production controls;
- worldwide and regional economic conditions impacting the global supply and demand for oil and natural gas;
- domestic and international political, military, regulatory and economic conditions, including global inflationary pressures, Russia's ongoing war with Ukraine and sanctions related thereto, the joint U.S.-Israel strikes on Iran, continued instability in the Middle East, including obstruction of shipping channels, and the effects of any changes to conditions in or impacting Venezuela;
- delay and regulatory uncertainty stemming from local or environmental opposition to offshore energy development projects;
- the cost of exploring for, producing and delivering hydrocarbons;
- political risks within the countries where Hornbeck operates that can result in reduced exploration and production activities;
- the sale and expiration dates of available offshore leases;
- the discovery rate, size and location of new hydrocarbon reserves, including in offshore areas;
- the rate of decline of existing hydrocarbon reserves due to production;
- laws and regulations related to environmental matters, including those addressing alternative energy sources and the risks of global climate change;

- the development and exploitation of alternative fuels or energy sources and end-user conservation trends;
- domestic, local and foreign governmental regulation and taxes;
- technological advances, including technology related to the exploitation of shale oil, which can result in over-supply of hydrocarbons or a change in demand for hydrocarbons; and
- the ability of offshore energy producers to generate funds for their capital-intensive businesses.

Prices for oil and natural gas have historically been, and Hornbeck anticipates they will continue to be, extremely volatile and reactive to changes in the supply of and demand for oil and natural gas (including changes resulting from the ability of OPEC+ to establish and maintain production quotas), domestic and worldwide economic conditions and political instability in oil producing countries. In the past, low oil prices have adversely affected demand for Hornbeck's services and any decreases, over a sustained period of time, could have a material adverse effect on Hornbeck's business, financial condition, results of operations and cash flows.

Hornbeck's business also depends on its obtaining significant contracts, primarily from companies in the oil and gas exploration and production industry. The timing of or failure to obtain contracts, delays in awards of contracts, cancellations of contracts, delays in completion of contracts, or failure to obtain timely payments from Hornbeck's customers, could result in significant periodic fluctuations in Hornbeck's results of operations and operating cash flows. If customers do not proceed with the completion of significant projects or if significant defaults on customer payment obligations to Hornbeck arise, or if Hornbeck encounters disputes with customers involving such payment obligations, Hornbeck may face difficulties in collecting payment of amounts due, including for costs Hornbeck previously incurred.

Impairment of Hornbeck's long-term assets may adversely impact Hornbeck's financial position and results of operations.

Hornbeck periodically evaluates its long-lived assets, including its property and equipment, and intangible assets. In performing these assessments, Hornbeck projects future cash flows on an undiscounted basis for long-lived assets and compares these cash flows to the carrying amount of the related assets. These cash flow projections are based on Hornbeck's current operating plans, estimates and judgmental assumptions. Hornbeck performs the assessment of potential impairment for its property and equipment and intangibles whenever facts and circumstances indicate that the carrying value of those assets may not be recoverable due to various external or internal factors. In such event, if Hornbeck determines that its estimates of future cash flows were inaccurate or its actual results are materially different from what Hornbeck predicted, Hornbeck could record additional impairment charges in future periods, which could have a material adverse effect on its financial position and results of operations.

The waiver, repeal or administrative weakening of the Jones Act could adversely impact Hornbeck's business.

Substantial portions of Hornbeck's operations are conducted in the U.S. coastwise trade, and thus, are subject to the provisions of the Jones Act which, subject to limited exceptions, restricts maritime transportation of merchandise between points in the United States (known as cabotage or coastwise trade) to vessels that are: (a) built in the United States; (b) registered under the U.S. flag; (c) crewed by U.S. citizens or lawful permanent residents; and (d) owned and operated by U.S. citizens within the meaning of the Jones Act. For years, there have been attempts to repeal or amend such provisions, and such attempts are expected to continue in the future. In addition, the President of the United States may waive the requirement for using U.S.-flag vessels with coastwise endorsements in the U.S. coastwise trade in the interest of national defense. Furthermore, the Jones Act restrictions on the coastwise trade are subject to certain exceptions under certain international trade agreements, including the General Agreement on Trade in Services. If maritime cabotage services were included in the General Agreement on Trade in Services or other international trade agreements, the shipping of maritime cargo between covered U.S. ports could be opened to foreign-flag vessels, foreign-built vessels or foreign-owned vessels. Repeal, substantial amendment, waiver of provisions, or other administrative weakening of the Jones Act could significantly adversely affect Hornbeck by, among other things, resulting in additional competition from competitors with lower operating costs, because of their ability to use vessels built in lower-cost foreign shipyards, owned and manned by foreign nationals with promotional foreign tax incentives and with lower wages and benefits than U.S. citizens. Because foreign vessels may have lower construction costs and operate at significantly lower costs than companies operating in the U.S. coastwise trade, such a change could significantly increase competition in the U.S. coastwise trade, which could have a material adverse effect on Hornbeck's business, financial position, results of operations, cash flows and growth prospects.

Hornbeck must continue to comply with the Jones Act's citizenship requirements.

Because Hornbeck owns and operates U.S.-flagged vessels in the U.S. coastwise trade, the Jones Act requires that at least 75% of the outstanding shares of each class or series of Hornbeck's capital stock must be owned and controlled by U.S. citizens. Hornbeck is responsible for monitoring the ownership of its equity securities and subsidiaries to ensure compliance with the citizenship requirements of the Jones Act. If Hornbeck does not continue to comply with such requirements, it would be prohibited from operating its U.S.-flagged vessels in the U.S. coastwise trade and may incur severe penalties, such as fines and/or forfeiture of such vessels and/or permanent loss of U.S. coastwise trading privileges for such vessels.

The operations of Hornbeck's business may be subject to seasonal factors, which could cause volatility of Hornbeck's earnings from period to period.

Demand for Hornbeck's oilfield-related offshore support services is directly influenced by the levels of offshore drilling and production activity, which are, in turn, affected by a number of factors, including Hornbeck's customers' budget cycles and seasonal weather conditions. Many of Hornbeck's customers operate on a calendar-year budget, which has historically resulted in stronger demand for Hornbeck's services during the second and third calendar quarters, when customers allocate and expend their budgets and when seasonal weather conditions are generally more favorable for offshore activities. This trend is particularly evident in the U.S. Gulf of America (the "U.S. GoA"), where offshore activity typically increases during these periods. Furthermore, the impact of seasonality may vary from year to year due to factors such as the expiration of drilling leases, changes in the supply of and demand for oil and natural gas, and other market dynamics.

Additionally, Hornbeck's diversification into non-oilfield related industries may also contribute to further quarterly earnings volatility. For example, the baseline demand for Hornbeck's vessels that provide HADR services tends to increase during the hurricane season and may further increase immediately following major hurricanes or other named storms in the U.S. GoA, as customers require urgent survey and repair of proximate offshore infrastructure. Further, offshore wind construction projects on the U.S. East Coast are also highly seasonal, with project activity generally occurring between April and September, while servicing of existing offshore wind facilities is expected to occur year-round. In contrast, Hornbeck's government business is typically not subject to seasonality due to such customers' relatively inelastic needs for the services Hornbeck provides, which is reflected in their higher propensity to enter into long-term contracts than Hornbeck's other end-customers. In addition to seasonal fluctuations, certain of Hornbeck's vessels may also experience temporary downtime to the extent it is required to transition and outfit a vessel in order to meet specific customer needs in connection with a specialty project, which could contribute to further volatility in Hornbeck's revenues and quarterly earnings.

Adverse events, such as hurricanes or other severe weather conditions, during peak demand periods, whether expected or unexpected, could significantly disrupt Hornbeck's operations, damage its assets, or delay its customers' projects, any of which may have a material adverse effect on its business, financial position, results of operations, cash flows, and prospects. As a result of the above, seasonal fluctuations in demand, weather-related disruptions and the effect of temporary downtime of Hornbeck's vessels while it adapts a vessel for a specialty job, can create unpredictability in Hornbeck's activity levels, vessel utilization rates, and revenue generation, making it difficult to predict future performance based on historical trends.

Hornbeck's operations may be impacted by changing macroeconomic conditions, including inflation.

Inflation has been an ongoing concern since 2021 and has continued into 2026. Ongoing inflationary pressures have resulted in, and may continue to result in, additional increases to the costs of goods, services and personnel, which in turn could cause Hornbeck's capital expenditures and operating costs to rise, as well as a scarcity of certain products and raw materials. Like others in Hornbeck's industry, in 2023, 2024 and 2025 Hornbeck faced, and continues to face, considerable inflation in the cost of raw materials and personnel. International conflicts or other geopolitical events, such as the continuing Russia-Ukraine war and the ongoing conflicts in the Middle East, may also cause upward pressure on the cost of raw materials due to shipping and transportation disruptions, higher manufacturing costs, disruptions in supply chains and availability of raw materials, interruptions in manufacturing operations and heightened inflation. To the extent inflation remains elevated, Hornbeck may experience further cost increases for its operations, as well as increased labor costs. Sustained levels of high inflation caused the U.S. Federal Reserve to raise its target range for the federal funds rate multiple times in 2022 and 2023, but the U.S. Federal Reserve cut rates multiple times between September and December of 2023, resulting in a total aggregate increase of 350 basis points for the period 2022 through

March 31, 2026. The U.S. Federal Reserve's target rate is currently between 3.50% and 3.75%. Future rate hikes from the U.S. Federal Reserve (or its equivalent in other nations) or other efforts to curb inflationary pressure on the costs of goods and services could have the effect of raising the cost of capital and depressing economic growth, either of which (or the combination thereof) could hurt the financial and operating results of Hornbeck's business.

High oil prices are also inflationary and governmental or economic responses to high oil prices could impact the operations of Hornbeck's customers. Sustained high oil prices could also drive over-investment and create the potential for global over-supply, which could cause prices to fall, also impacting investment by Hornbeck's customers.

Any future reduction in worldwide economic growth and economic activity could, if sustained, ultimately lead to a global recession. In a global recession, it is likely that the demand for oil and natural gas would decline and the number of planned offshore energy projects would decrease. Such a scenario would negatively impact the demand for offshore support services, and in turn, Hornbeck's financial performance.

Certain developments in the global oil and gas markets, such as armed conflict in oil and gas producing regions and shipping channels, including the joint U.S.-Israel strikes on Iran, continued instability in the Middle East and political, economic and social instability in Venezuela have had, and may continue to have, material adverse consequences for general economic, financial and business conditions, and could materially and adversely affect Hornbeck's business, financial condition, results of operations and liquidity and those of its customers, suppliers and other counterparties.

Changes in the supply of and demand for oil and gas impacts the level of services that Hornbeck provides to customers, which in turn impacts Hornbeck's financial position, results of operations and cash flows.

Although as of the date of this proxy statement/prospectus Hornbeck has not been materially impacted by the resulting supply chain disruptions, instability in oil and gas producing regions and shipping channels, including the Russian war with Ukraine and related sanctions, ongoing conflicts in the Middle East and the closing of oil shipping routes, including the Strait of Hormuz, by Iran and affiliated groups in connection with the joint U.S.-Israel strikes on Iran, have significantly disrupted supply chains for crude oil and natural gas. Hornbeck cannot predict the level of future demand, effects on domestic pricing, and impacts on U.S. oil and gas production. Further, these conflicts and other geopolitical tensions, as well as the related international response, have exacerbated inflationary pressures, causing increases in the prices for goods and services and exacerbating global supply chain disruptions, which have resulted in, and may continue to result in, shortages in materials and services and related uncertainties. Such shortages have resulted in, and may continue to result in, cost increases for labor, fuel, materials and services, and could continue to cause costs to increase, and also result in the scarcity of certain materials. Any global economic slowdown or recession, including as a result of such supply chain disruptions or sanctions, may also impact demand and depress the price for crude oil, natural gas or other products that Hornbeck handles, which could have significant adverse consequences on Hornbeck's financial condition and the financial condition of its customers, suppliers and other counterparties, and could diminish Hornbeck's liquidity. The U.S. government has also implemented geographic restrictions for certain offshore oil and gas operators and projects, which may reduce the number of projects Hornbeck's vessels may support. While the geographic areas in which Hornbeck operates are largely unaffected by these sanctions, they could negatively impact Hornbeck's business and financial condition. Further, ongoing conflicts in the Middle East and political, economic and social instability in Venezuela could escalate into broader conflicts that could disrupt energy operations and supply chains globally.

Hornbeck's results of operations are materially affected by conditions in the global capital markets and the economy generally, both in the U.S. and elsewhere around the world. Weak economic conditions, sustained uncertainty about global economic conditions, concerns about future U.S. budgetary cuts, or a prolonged or further tightening of credit markets could cause Hornbeck's customers and potential customers to postpone or reduce spending on products or services or put downward pressure on prices, which could have an adverse effect on Hornbeck's business, results of operations or cash flows. In the event of extreme prolonged adverse market events, such as a global credit crisis, Hornbeck could incur significant losses. The future impact of these current events on Hornbeck's financial condition, results of operations and cash flows depend largely on developments outside Hornbeck's control which cannot be predicted with certainty.

Hornbeck's business and its customers' businesses are subject to complex laws and regulations that can adversely affect the cost, manner, or feasibility of doing business.

Hornbeck's operations are subject to extensive federal, state and local laws and regulations, including complex environmental laws and occupational health and safety laws. Hornbeck may be required to make large expenditures to

comply with such regulations. Failure to comply with these laws and regulations or accidental spills or releases of oil and/or hazardous substances may result in the suspension or termination of operations or permits and other authorizations, and subject Hornbeck to administrative, civil, and criminal penalties. In the event of environmental violations or accidental spills or releases, Hornbeck may be charged with the costs of investigation, remediation or other corrective actions. In addition, citizen groups and other third parties may file claims for nuisance, provision of alternative water supplies, property damage or bodily injury. Laws and regulations protecting the environment have become more stringent in recent years, and may, in some circumstances, result in liability for environmental damage regardless of negligence or fault through a strict, joint and several liability scheme, even if Hornbeck's operations were lawful at the time or in accordance with industry standards. In addition, pollution and similar environmental risks generally are not fully insurable. These liabilities and costs could have a material adverse effect on Hornbeck's business, financial condition, results of operations and cash flows.

Additionally, changes in environmental laws or regulations, including laws relating to the emission of carbon dioxide and other global greenhouse gases ("GHGs"), disclosure of climate-related information or other climate change concerns, could require Hornbeck to devote capital or other resources to comply with these laws and regulations. These changes could also subject Hornbeck to additional costs and restrictions, including increased fuel costs. Such changes in laws or regulations could increase costs of compliance and doing business for Hornbeck's customers and thereby decrease the demand for its services. Because Hornbeck's business depends on the level of activity in the offshore oil and gas industry, existing or future laws and regulations related to GHGs and climate change, including incentives to conserve energy or use alternative energy sources, could have a negative impact on Hornbeck's business if such laws and regulations reduce the worldwide demand for oil and gas or limit drilling opportunities for Hornbeck's customers.

Additionally, Hornbeck operates its vessels in a number of international markets and are subject to various international treaties and the local laws and regulations in jurisdictions where its vessels operate and/or are registered. These conventions, laws and regulations govern matters of environmental protection, GHG emissions, worker health and safety, vessel and port security, and the manning, construction, ownership and operation of vessels, including cabotage requirements similar to the Jones Act. Changes in such international treaties and such local laws and regulations can be unpredictable and may adversely affect Hornbeck's ability to carry out operations overseas.

Imposition of laws, executive actions or regulatory initiatives to restrict, delay or cancel leasing, permitting or drilling activities in deepwaters of the U.S. or foreign countries may reduce demand for Hornbeck's services and products and have a material adverse effect on Hornbeck's business, financial condition or results of operations.

Hornbeck provides services for oil and natural gas exploration and production customers operating offshore in the deepwaters of the U.S. and offshore in other countries.

Any new legislation, executive actions or regulatory initiatives, whether in the U.S. or in other countries, that impose increased costs, more stringent operational standards or result in significant delays, cancellations or disruptions in Hornbeck's customers' operations, could increase the risk of losing leasing or permitting opportunities, expired leases due to the time required to develop new technology, increased supplemental bonding costs, or cause Hornbeck's customers to incur penalties, fines or shut-in production at one or more of their facilities, any or all of which could reduce demand for Hornbeck's services. Hornbeck cannot predict with any certainty the full impact of any new laws, regulations, executive actions or regulatory initiatives on its customers' drilling operations or the opportunity to pursue such operations, or on the cost or availability of insurance to cover the risks associated with such operations. The matters described above, individually or in the aggregate, could have a material adverse effect on Hornbeck's business, financial condition and results of operations.

Hornbeck operates in a highly competitive industry.

The offshore drilling and production support industry is both highly competitive and capital intensive and requires substantial resources and investment to satisfy customers and maintain profitability. Hornbeck's customers award contracts based on price, industry reputation, service quality, vessel offerings and capabilities, transit costs and other similar factors. Increased competition for deepwater and ultra-deepwater drilling contracts could depress dayrates and utilization rates, adversely affecting Hornbeck's profitability. A sustained inability to win contracts in Hornbeck's key markets would put pressure on Hornbeck's ability to service its debt.

Hornbeck's diversification into non-oilfield markets could be impacted by reduced investments in the U.S. offshore wind energy market.

Hornbeck's results of operations may be impacted by reduced investments in the U.S. offshore wind energy market and the inherent complexity of developing wind energy projects. In addition to the state and federal government policies relating to renewable energy, the growth and development of the offshore wind energy market is subject to a number of factors, including, among other things:

- a new and complex permitting process;
- higher development costs than onshore alternatives;
- the availability and cost of financing for the estimated pipeline of offshore wind energy projects;
- fixed price contracts of wind development projects make it difficult to recover cost increases;
- the deferral or cancellation of offshore wind projects, such as when several operators for east coast wind projects terminated their agreements for the provision of wind power due to higher than expected costs;
- dynamics of the electricity market, which may be affected by a number of factors, including government regulation, power transmission, seasonality, fluctuations in demand, and the cost and availability of fuel, particularly natural gas;
- the cost of raw materials used to make wind turbines, particularly steel;
- the general increase in demand for electricity or "load growth";
- the costs of competing power sources, including natural gas, nuclear power, solar power and other power sources;
- the development of new power generating technology, advances in existing technology or discovery of power generating natural resources;
- the development of electrical transmission infrastructure;
- state and federal laws and regulations, particularly those favoring low carbon energy generation alternatives;
- administrative and legal challenges to proposed offshore wind energy development projects; and
- heightened focus on environmental or habitat concerns.

For example, on December 22, 2025, the Trump administration directed five large-scale offshore wind projects to suspend construction activities for at least 90 days, citing national security concerns. The developers of certain of these projects filed legal challenges with respect to the validity of the suspension order, seeking expedited consideration and ultimately prevailed. However, the Trump administration has recently reached settlements with three developers to end their offshore wind leases in exchange for reimbursement of lease fees, and those developers have determined not to pursue new offshore wind projects in the U.S. If new or additional suspensions are imposed in the future, or additional developers reach agreements with the administration not to pursue offshore wind projects, a number of adverse impacts may follow on the U.S. offshore wind energy space, such as difficulty in maintaining or obtaining project financing, implicated projects could be canceled or otherwise fail, new projects may face additional start-up challenges, regulatory uncertainty may lead to a slowing of future investment in the U.S. offshore wind industry generally, among other similar impacts. Any of the foregoing may decrease current and future customer demand for the specialized services Hornbeck provides in connection with offshore wind construction, installation and maintenance through Hornbeck's SOVs and CSOVs. In turn, these concerns could result in adverse impacts on Hornbeck's overall business, results of operations and financial condition. Additionally, the occurrence or persistence of any of the factors discussed above could cause the affected developers to ultimately cancel or abandon these projects, which, in turn, could lower the demand for Hornbeck's related services, decrease Hornbeck's overall revenue and cause it to experience additional unexpected downtime and costs as Hornbeck seeks to secure new contracts for its vessels or retrofit them for use in other applications or industries and would have a material adverse effect on Hornbeck's overall results of operations and financial condition.

Hornbeck may be unable to attract and retain qualified, skilled employees necessary to operate its business, and the loss of key personnel could adversely affect Hornbeck's relationship with the military.

Much of Hornbeck's success depends on its ability to attract and retain highly skilled and qualified personnel. Hornbeck's inability to hire, train and retain a sufficient number of qualified employees, including mariners, could impair Hornbeck's ability to manage, maintain and grow its business.

In crewing its vessels, Hornbeck requires skilled employees who can perform physically demanding work. As a result of past volatility in the oil and gas industry, many industry employees chose to pursue employment in other fields, leading the industry to experience a significant shortfall in qualified mariners. As conditions in the industry have improved, it has become more challenging to engage experienced personnel as crews on Hornbeck's vessels. Hornbeck faces strong competition within the broader oilfield industry for employees and potential employees, including competition from drilling rig operators for fleet personnel. Hornbeck may have difficulty hiring employees or finding suitable replacements as needed and it is possible that Hornbeck would have to raise wage rates or increase benefits offered to attract workers and to retain current employees. In such circumstances, if Hornbeck is unable to increase its service rates to customers to compensate for wage increases or recruit qualified personnel to operate vessels at full utilization, Hornbeck's financial condition and results of operations may be adversely affected.

Additionally, the ongoing viability and potential growth of Hornbeck's contractual relationship with the U.S. military is dependent on Hornbeck's continued employment of certain key personnel. Any action taken by the U.S. military in response to the loss of key personnel, or potential loss of key personnel, from Hornbeck's operations could adversely affect its current and future business with the military and, in turn, adversely affect Hornbeck's financial results.

Further, Hornbeck's operations are dependent upon the efforts and continued employment of its executive officers and key management personnel, including, but not limited to, Hornbeck's Founder, Chairman, President and Chief Executive Officer, Todd M. Hornbeck, who has substantial experience and relationships with Hornbeck's major customers. Given industry management turnover resulting from restructurings and other corporate changes, seasoned managers are in demand. Although Hornbeck has entered into employment agreements with its executive officers and key management personnel, there is no guarantee that they will remain employed by Hornbeck. In the event of the loss of key management personnel, Hornbeck would be required to hire a replacement and there can be no assurance that the replacement will be suitable or favorable to Hornbeck, which could adversely affect Hornbeck's financial results and operations. The loss of services of one or more of Hornbeck's executive officers or key management personnel could have a negative impact on Hornbeck's financial condition and results of operations.

Hornbeck may be adversely affected by potential litigation.

In the future, Hornbeck may become parties to litigation. In general, litigation can be expensive and time consuming to bring or defend against. Such litigation could result in settlements or damages that could significantly affect Hornbeck's financial results or operations. It is not possible to predict the potential litigation that Hornbeck may become party to nor the final resolution of such litigation. The impact of any such litigation on Hornbeck's businesses and financial stability, however, could be material.

Stacked vessels, and the reactivation of such vessels, may require substantial capital and operating expenditures and regulatory approvals.

Due to then-applicable difficult market conditions, Hornbeck has in the past elected, and may in the future elect, to stack certain vessels in its fleet in order to reduce the number of crew and personnel that operate and maintain such vessels. Though vessel stacking reduces the costs of operating a vessel, it reduces the number of available vessels Hornbeck can deploy to service its customers and limits potential revenues. If market conditions should decline, Hornbeck may be required to stack additional vessels.

When Hornbeck elects to reactivate the stacked vessels, Hornbeck will incur substantial capital and operating expenditures. These expenditures could increase as a result of changes in the cost of labor and materials, changes in technology, customer requirements for new or upgraded equipment, the size of Hornbeck's fleet, the cost of replacement parts for existing vessels, the geographic location of the vessels or the length of contracts. Hornbeck will also incur costs associated with regulatory recertification and remobilization, changes in safety or other equipment standards and may incur additional costs to hire and train personnel to operate the vessels. Making such alterations may require the stacked vessels to remain out of service for extended periods of time, with corresponding losses of revenues. Such costs could have an adverse effect on Hornbeck's financial results and operations.

If Hornbeck is unable to fund these capital expenditures with its liquidity, Hornbeck may be required to incur additional borrowings, or seek out additional financing arrangements with banks or other capital providers. Hornbeck's failure to obtain the funds for necessary future capital expenditures could have a material adverse effect on its business and on its financial position, results of operations and cash flows.

Reactivation of vessels could adversely impact the market for OSVs and MPSVs.

As of March 31, 2026, within Hornbeck's fleet, 19 U.S.-flagged OSVs, two foreign-flagged OSVs and three U.S.-flagged MPSVs were stacked. Certain of Hornbeck's competitors have also stacked OSVs and may also stack additional OSVs from time to time. To the extent that Hornbeck or its competitors reactivate vessels in response to improvement or perceived improvement in market conditions faster than the market can absorb such additional vessels, the market for OSVs could become oversaturated and would adversely affect dayrates and utilization for Hornbeck's vessels.

Increases in the supply of vessels could decrease dayrates.

A material increase in the supply of OSVs or MPSVs, whether through new construction (including Hornbeck's own), refurbishment or conversion of vessels from other uses, remobilization, reactivation or changes in law or its application could increase competition for charters, lower utilization or lower dayrates, any of which would adversely affect Hornbeck's revenues and profitability. Such an increase in vessel capacity could also exacerbate the impact of any future downturn in the oil and gas industry, which would have an adverse impact on Hornbeck's business.

Additionally, because the Jones Act does not apply to certain services provided by MPSVs, foreign competitors may deploy additional MPSVs to the U.S. GoA or build additional MPSVs that will compete with Hornbeck in the U.S. GoA.

The early termination of or inability to renew contracts for Hornbeck's vessels could have an adverse effect on Hornbeck's operations.

Certain contracts for Hornbeck's vessels, including contracts with the United States government, allow for early termination at the customer's option. Many of Hornbeck's contracts that contain early termination provisions contain remedies or other provisions that would compensate Hornbeck in the event an option is exercised, such as early termination fees, but customers may choose to exercise their termination rights in spite of such remedies or provisions and such remedies may not fully compensate Hornbeck for the loss of the contract.

Additionally, in economic downturns, customers have requested that Hornbeck adjust the terms of their contracts to be more customer-friendly, including by assuming greater risks. While Hornbeck is not required to give such concessions, commercial considerations may dictate that Hornbeck do so, given the relatively few deepwater and ultra-deepwater customers operating in the U.S. GoA. Certain customers who seek to terminate Hornbeck's contracts may attempt to defeat or circumvent Hornbeck's protections against certain liabilities for which Hornbeck receives indemnity. Hornbeck's customers' ability to perform their obligations under their contracts, including their ability to fulfill their indemnity obligations to Hornbeck, may be negatively impacted by an economic downturn. Hornbeck's customers, which include national energy companies, often have significant bargaining leverage over it. Should a counterparty fail to honor its obligations under an agreement with Hornbeck, Hornbeck could sustain losses, which could have an adverse effect on its business and on its financial position, results of operations or cash flows.

Until Hornbeck replaces the terminated contracts with new contracts, Hornbeck's business could be temporarily disrupted or adversely affected, as there may be a gap in the operation of the vessels between the current contracts and subsequent contracts, or Hornbeck may not be able to secure new contracts on substantially similar terms due to the prevailing market or industry conditions at the time of expiration. The fluctuation in the demand for Hornbeck's services may be impacted by volatility in oil and gas markets, which could ultimately adversely affect Hornbeck's financial position, results of operations or cash flows. As of March 31, 2026, within Hornbeck's fleet, 19 U.S.-flagged OSVs, two foreign-flagged OSVs and three U.S.-flagged MPSVs were stacked. Further, as of March 31, 2026, Hornbeck had 45 existing contracts for its vessels that are currently operating, which had remaining durations ranging from three days to five years. When oil and natural gas prices are low or it is expected that such prices will decrease in the future, Hornbeck may be unable to obtain contracts at attractive dayrates or at all. Hornbeck may not be able to obtain new contracts in direct continuation with existing contracts, or depending on prevailing market conditions, Hornbeck may enter into contracts at dayrates substantially below the existing dayrates or on terms otherwise less favorable.

Hornbeck may not be able to complete the construction of its remaining two newbuilds and may experience delays related to the newbuilds.

The vessels are complex and the shipyard performing the completion work for the Zurich Insurance Company of America and Fidelity & Deposit Company of Maryland may be unable or unwilling to perform on the anticipated timeline or at all, also potentially causing delay and disruption to Hornbeck's planned uses for the vessels.

Failure to successfully complete repairs, maintenance and routine drydockings on-time and on-budget could adversely affect Hornbeck's financial condition and operations.

Hornbeck routinely engages shipyards to drydock vessels for regulatory compliance, repairs and maintenance. Equipment shortages, insufficient shipyard availability, unforeseen engineering issues, work stoppages, weather interference, unanticipated cost increases, inability to obtain necessary certifications and approvals, material shortages, labor issues, and other similar factors could lead to extended delays or additional costs. Significant delays could adversely affect Hornbeck's ability to perform under its contracts, and significant cost overruns could adversely affect Hornbeck's operations and profitability.

On April 30, 2026, Hornbeck's total contracted backlog was \$964.1 million. The contractual revenue Hornbeck ultimately receives may be lower than the contracted backlog due to a number of factors, including vessel downtime or suspension of operations. The actual dayrate may be lower than the contractual operating dayrate assumed in the contracted backlog described above because a down-time (such as waiting on weather) rate, repair rate, standby rate or force majeure rate, may apply under certain circumstances. Several factors could cause vessel downtime or a suspension of operations, including equipment breakdowns and other unforeseen engineering problems, marine casualties, labor strikes and other work stoppages, shortages of material and skilled labor, surveys by government and maritime authorities, periodic classification surveys, severe weather or harsh operating conditions, and force majeure events.

In certain contracts, the dayrate may be reduced to zero if, for example, repairs extend beyond a stated period of time. Hornbeck's total contracted backlog includes only firm commitments and certain contracted option periods, which are represented by signed contracts or, in some cases, other definitive agreements awaiting contract execution. Hornbeck may not be able to realize the full amount of its total contracted backlog due to events beyond Hornbeck's control. In addition, some of Hornbeck's customers have experienced liquidity issues in the past, including some recently, and these liquidity issues could be experienced again if commodity prices decline for an extended period of time. Liquidity issues and other market pressures could lead Hornbeck's customers to seek bankruptcy protection or to seek to repudiate, cancel or renegotiate these agreements for various reasons. Hornbeck's inability to realize the full amount of Hornbeck's total contracted backlog may have an adverse effect on Hornbeck's financial position, results of operations or cash flows.

In addition to industry concentrations, Hornbeck has certain customer concentrations, and the loss of a significant customer would adversely impact Hornbeck's financial results.

For the three months ended March 31, 2026 and the year ended December 31, 2025, the Military Sealift Command (the "MSC"), Shell plc and Occidental Petroleum Company collectively accounted for 31% and 40%, respectively, of Hornbeck's consolidated revenues. The loss or material reduction of business from a significant customer could therefore have a material adverse effect on Hornbeck's results of operations and cash flows. Moreover, Hornbeck's customer contracts subject it to counterparty risks. See "*Hornbeck may be unable to collect amounts owed to it by customers.*" The ability of each of Hornbeck's counterparties to perform their obligations under a contract with Hornbeck will depend on a number of factors that are beyond Hornbeck's control such as the overall financial condition of the counterparty. Should a significant customer fail to honor its obligations under an agreement with Hornbeck, Hornbeck could sustain losses, which could have a material adverse effect on its business, financial condition and results of operations.

Recently completed and future acquisitions by Hornbeck may create additional risks.

Hornbeck regularly considers possible acquisitions of single vessels, vessel fleets and businesses, such as Hornbeck's purchases of 19 OSVs since 2022. The success of this strategy is dependent upon Hornbeck's ability to identify appropriate acquisition targets, negotiate transactions on favorable terms, finance transactions, complete transactions and successfully integrate them into Hornbeck's existing business. Subject to the terms of Hornbeck's indebtedness, Hornbeck may finance future acquisitions with cash from operations, additional indebtedness and/or by issuing additional equity or debt securities. Acquisitions can involve a number of special risks and challenges, including, but not limited to:

- diversion of management time and attention from existing business and other business opportunities;
- delays in closing the acquisition due to third-party consents, regulatory approvals or other reasons;
- adverse effects from disclosed or undisclosed matters pertaining to the acquisition;
- loss or termination of employees and the costs associated with the termination or replacement of such employees;
- the assumption of debt, litigation or other liabilities of the acquired business;
- the incurrence of additional debt related to the acquisition;
- costs, expenses and working capital requirements associated with the acquisition;
- dilution of stock ownership of existing stockholders;
- accounting charges for restructuring and related expenses, impairment of goodwill, amortization of intangible assets and stock-based compensation expense; and
- risks associated with reactivation of idle vessels, such as higher than anticipated cost or time, unknown condition, and obsolescence or unavailability of spare parts or components.

Even if Hornbeck consummates an acquisition, the process of integrating the new acquisition into Hornbeck's operations may result in unforeseen operational difficulties and additional costs, and may adversely affect the effectiveness of internal controls over financial reporting. In addition, valuations supporting Hornbeck's acquisitions and strategic investments could change rapidly and integration may be more costly to accomplish than Hornbeck expects. Moreover, Hornbeck's management may not be able to effectively manage a substantially larger business or successfully operate a new line of business. Failure to manage these acquisition risks could materially and adversely affect Hornbeck's ability to achieve anticipated levels of utilization, profitability or other benefits from the acquisitions, and ultimately could materially and adversely affect Hornbeck's business, results of operations and financial condition.

Uncertainty surrounding potential legal, regulatory and policy changes, as well as the potential for general market volatility and regulatory uncertainty, may have a material adverse effect on Hornbeck's results of operations, cash flows and financial position.

Hornbeck and its customers, particularly in the oil and natural gas industry, face continued regulatory and tax uncertainties. The nature, timing and economic effects of any potential change to the current legal and regulatory framework affecting Hornbeck's and its customers' businesses are uncertain. Some changes may adversely affect Hornbeck's or its customers' operations and have an adverse impact on Hornbeck's business, financial condition, results of operations and growth prospects. In addition, a significant portion of Hornbeck's revenue is generated from contracts with the United States government. For the three ended March 31, 2026, charters with the MSC accounted for 15% of Hornbeck's consolidated revenues. Department of Defense ("DoD") budgets could be negatively impacted by several factors, including, but not limited to, a change in defense spending policy as a result of policy changes or otherwise, the United States government's budget deficits, any U.S. government shutdown, spending priorities, possible political pressure to reduce United States government military spending and the ability of the U.S. government to enact appropriations bills and other relevant legislation, each of which could cause the DoD budget to remain unchanged or to decline. A significant decline in United States military expenditures could negatively impact Hornbeck's revenue through an inability to enter into favorable charters with the United States government.

Hornbeck's contracts with the United States government might not be renewed, may be renewed at lower rates or may impose additional requirements.

In 2023, Hornbeck was informed that the MSC was conducting a market survey of companies capable of providing services Hornbeck currently performs pursuant to a ten-year O&M contract scheduled to expire in February 2025. Hornbeck was subsequently informed that the MSC would seek to renegotiate that O&M contract with Hornbeck on a sole-source basis. Since beginning the renegotiation, Hornbeck was awarded contract extensions to continue Hornbeck's support under the O&M contract until February 2026, and was awarded further contract extensions until February 2031. Due to factors outside Hornbeck's control, including government budget cuts or other political events, such as a prolonged government shutdown, Hornbeck may be unable to renegotiate the contract on favorable terms or at all. Further, the contract or the sole-source determination may be challenged by third parties.

Hornbeck's government contracts may be impacted by new regulatory or legislative requirements that could increase the cost of Hornbeck's government operations or accelerate obsolescence of vessels Hornbeck employs for the government.

Hornbeck's business involves a number of operational risks that may disrupt its business or adversely affect its financial results, and insurance may be unavailable or inadequate to protect against such risks.

Hornbeck's vessels are subject to operating risks, including, but not limited to:

- catastrophic marine disaster;
- adverse weather and sea conditions, which may be exacerbated by the effects of climate change, if applicable;
- mechanical failure;
- collisions or allisions;
- oil spills or other hazardous substance releases;
- navigational errors;
- acts of God; and
- war, terrorism or piracy.

The occurrence of any of the enumerated events, or other similar events, may result in vessel damage, vessel loss, personnel injury or death, or environmental contamination. The occurrence of any such event could expose Hornbeck to liability or costs.

Affected vessels may also be removed from service and thus be unavailable for income-generating activity.

Additionally, certain of Hornbeck's protection and indemnity insurance is provided by various mutual protection and indemnity associations. As associations, they rely on member premiums, investment reserves and income, and reinsurance to manage liability risks on behalf of their members. Increased investment losses, underwriting losses or reinsurance costs could cause domestic or international marine insurance associations to substantially raise the cost of premiums, resulting not only in higher premium costs, but also higher levels of deductibles. Increases in Hornbeck's premiums or deductible levels could adversely affect Hornbeck's operating costs.

While Hornbeck believes that its insurance coverage is adequate and insures against risks that are customary in the industry, Hornbeck may be unable to renew such coverage in the future at commercially reasonable rates. Moreover, existing or future coverage may not be sufficient to cover claims that may arise, and Hornbeck does not maintain insurance for loss of income resulting from a marine casualty.

Operations in offshore waters have inherent and historically higher risk than onshore activities, and Hornbeck's operations could be affected by third-party actions.

Offshore operations are subject to a variety of operating risks specific to the marine environment, such as perils of the sea and marine casualty events that such perils can cause or contribute to, including capsizing, collisions, allisions and damage or loss from adverse weather conditions. In addition to being vulnerable to the risks associated with operating offshore, Hornbeck may also be affected by actions of third-parties. For example, a third-party marine vessel may damage or destroy Hornbeck's assets or an accident caused by a third-party marine vessel may cause Hornbeck to be subject to remediation and other costs resulting from releases of hazardous materials and other environmental and

natural resource damages. In addition to utilization loss of Hornbeck's vessels and increased costs, these hazards could cause serious injuries, fatalities, contamination or property damage for which Hornbeck could be held responsible.

Further, the offshore oil and gas and alternative energy industries are subject to unforeseen occurrences or catastrophic events such as hurricanes, fires, explosions, collisions involving marine vessels and oil spills. Such catastrophic events could negatively affect the industry as a whole, which could have a material adverse effect on Hornbeck's business and on its financial position, results of operations and cash flows.

Hornbeck's operations may be materially adversely affected by tropical storms and hurricanes.

Tropical storms, hurricanes and the threat of tropical storms and hurricanes often result in the shutdown of operations in coastal regions, including the U.S. GoA, as well as operations within the path and the projected path of the tropical storms or hurricanes. The Atlantic hurricane season is June through November. Hornbeck may incur losses in its business in excess of: (i) those experienced in prior years, (ii) the average expected level used in pricing, or (iii) current insurance coverage limits. The incidence and severity of severe weather conditions and other natural disasters are inherently unpredictable. In addition, climate change could result in an increase in the frequency and severity of tropical storms, hurricanes or other extreme weather events. Additionally, climate change may adversely impact the demand, price, and availability of insurance. In the future, during a tropical storm or hurricane, Hornbeck may be unable to operate in the area of the storm. Additionally, tropical storms or hurricanes may cause evacuation of personnel, reduce the areas in which, or the number of days during which, Hornbeck's customers would contract for its vessels in general and cause damage to its vessels and other equipment, which may result in suspension of certain operations. The shutdowns, related evacuations and damage can create unpredictability in activity and utilization rates, as well as delays and cost overruns, which could have a material adverse effect on Hornbeck's business, financial condition and results of operations.

Cybersecurity attacks may result in potential liability or reputational damage or otherwise adversely affect Hornbeck's business.

Many of Hornbeck's business and operational processes are heavily dependent on traditional and emerging technology systems, some of which are managed by Hornbeck and some of which are managed by third-party service and equipment providers, to conduct day-to-day operations, improve safety and efficiency and lower costs. Hornbeck uses computerized systems to help run its financial and operations functions, including the processing of payment transactions, store confidential records and conduct vessel operations, which may subject Hornbeck's business to increased risks. If any of Hornbeck's financial, operational or other technology systems fail or have other significant shortcomings, Hornbeck's financial results could be adversely affected. Hornbeck's financial results could also be adversely affected if an employee or other third party causes its operational systems to fail, either as a result of inadvertent error or by deliberately tampering with or manipulating its operational systems. In addition, dependence upon automated systems, including those on board Hornbeck's vessels, may further increase the risk of operational system flaws, and employee or other tampering or manipulation of those systems will result in losses that are difficult to detect.

Cybersecurity incidents are increasing in frequency and magnitude across all business types. Hornbeck has experienced attempted cybersecurity attacks but has not suffered any material adverse effect to Hornbeck's business and operations as a result of such attempts. Hornbeck has implemented security measures, internal controls and testing that are designed to detect and protect against cyberattacks. Hornbeck regularly updates and reviews Hornbeck's testing protocols, however, no security measure is infallible. Despite these measures and any additional measures Hornbeck may implement or adopt in the future, Hornbeck's facilities, vessels and systems, and those of Hornbeck's third-party service providers, have been and are vulnerable to security breaches, computer viruses, lost or misplaced data, programming errors, scams, burglary, human errors, misdirected wire transfers, and other adverse events, including threats to Hornbeck's critical operations technologies and process control networks. Third-party systems on which Hornbeck relies could also suffer such attacks or operational system failures. Any of these occurrences could result in material harm to Hornbeck's business, including ransom payments, significant remediation and cybersecurity protection costs, loss of customer or employee data, loss of intellectual property or proprietary information, litigation and legal risks, including regulatory actions, potential liability, reputational damage, or damage to Hornbeck's competitiveness, stock price and long-term shareholder value, or otherwise have an adverse effect on Hornbeck's business, operations and financial results.

In addition, laws and regulations governing data privacy and the unauthorized disclosure of confidential or protected information and recent legislation in certain U.S. states, pose increasingly complex compliance challenges and potentially elevate costs, and any failure to comply with these laws and regulations could result in significant penalties and legal liability.

Hornbeck's operations in international markets and shipyard activities in foreign shipyards subjects Hornbeck to risks inherent in conducting business internationally.

Hornbeck derives a portion of its revenues from foreign sources. In addition, certain of Hornbeck's shipyard repair and procurement activities are being conducted with foreign vendors. Hornbeck therefore faces risks inherent in conducting business internationally, such as legal and governmental regulatory requirements, potential vessel detentions, seizures or nationalization of assets, import-export quotas or other trade barriers, difficulties in collecting accounts receivable and longer collection periods, political and economic instability, kidnapping of or assault on personnel, piracy, adverse tax consequences, difficulties and costs of staffing international operations and language and cultural differences. Hornbeck does not hedge against foreign currency risk. While Hornbeck endeavors to contract in U.S. dollars when operating internationally, some contracts may be denominated in a foreign currency, which would result in a foreign currency exposure risk. Hornbeck also faces risks related to administrative or other legal changes in foreign cabotage laws, or other legal or administrative changes that adversely impact planned or expected offshore energy development. See "*Hornbeck is regularly confronted with administrative actions taken by Mexican authorities that require a high degree of effort and can be costly to challenge. Not prevailing in any pending or future disputes with Mexican administrative authorities could have a material adverse impact on Hornbeck's operations or financial results.*" All of these risks associated with Hornbeck's international operations are beyond Hornbeck's control and difficult to insure against. Hornbeck cannot predict the nature and the likelihood of any such events. If such an event should occur, however, it could have a material adverse effect on Hornbeck's financial condition and results of operations.

Hornbeck's employees are covered by federal laws that may subject Hornbeck to job-related claims in addition to those provided by state laws.

Provisions of the Jones Act, the Death on the High Seas Act and general maritime law cover certain of Hornbeck's employees. These laws preempt state workers' compensation laws and permit employees and their representatives to pursue actions against employers for job-related tort claims in federal courts. Because Hornbeck is generally not protected by the damage limits imposed by state workers' compensation statutes for these types of claims, Hornbeck may be exposed to higher damage awards for these types of claims.

Hornbeck is susceptible to unexpected increases in operating expenses such as crew wages, materials and supplies, maintenance and repairs and insurance costs.

Many of Hornbeck's operating costs, such as crew wages, materials and supplies, maintenance and repairs, and insurance costs are unpredictable and vary based on events beyond Hornbeck's control. Hornbeck's profitability will vary based on fluctuations in operating costs. If Hornbeck's operating costs increase, Hornbeck may not be able to recover such costs from customers. Such an increase in operating costs could adversely affect Hornbeck's financial results.

Hornbeck may be unable to collect amounts owed to it by customers.

Hornbeck typically grants customers credit on a short-term basis. Because Hornbeck does not typically collect collateralized receivables from customers, Hornbeck is subject to credit risk on the credit Hornbeck extends. Hornbeck estimates uncollectible accounts in Hornbeck's financial statements based on historical losses, current economic conditions, and individual customer evaluations. However, Hornbeck's estimates may not be accurate and the receivables due from customers as reflected in Hornbeck's financial statements may not be collectible.

Hornbeck's business may be subject to risks related to climate change, including physical risks such as increased adverse weather patterns and transition risks such as evolving climate change regulation, alternative fuel measures and/or mandates, shifting consumer preferences, technological advances and negative shifts in market perception towards the oil and natural gas industry and associated businesses, any of which could result in increased operating expenses and capital costs or decreased resources and adversely affect Hornbeck's financial results.

One of the asserted long-term physical effects of climate change may be an increase in the severity and frequency of adverse weather conditions, such as hurricanes, which may increase Hornbeck's insurance costs or risk retention, limit insurance availability or reduce the areas in which, or the number of days during which, Hornbeck's customers

would contract for Hornbeck's vessels in general and in the U.S. GoA in particular. Such conditions could also cause damage to Hornbeck's assets. Any of these impacts, individually or in the aggregate, could materially and adversely affect Hornbeck's business, financial conditions, and results of operations. Hornbeck is currently unable to predict the manner or extent of any such effect. Hornbeck's ability to mitigate the adverse physical impacts of climate change depends in part upon Hornbeck's disaster preparedness and response and business continuity planning.

Combating the effects of climate change continues to attract global attention, including from regulators, legislators, companies in a variety of industries, financial market participants and other stakeholders. This focus, together with government grants, incentives and subsidies focused on alternative energy development and changes in consumer and industrial/commercial behavior, preferences and attitudes with respect to the generation and consumption of energy, petroleum products and the use of products manufactured with, or powered by, petroleum products, may in the long-term result in (i) the enactment of additional climate change-related regulations, policies and initiatives (at the government regulator, corporate and/or investor community levels), including alternative energy requirements, new fuel consumption standards, energy conservation and emissions reductions measures and responsible energy development, (ii) technological advances with respect to the generation, transmission, storage and consumption of energy (e.g., wind, solar and hydrogen power, smart grid technology and battery technology, and increasing efficiency) and (iii) increased availability of, and increased consumer and industrial/commercial demand for, alternative energy sources and products manufactured with, or powered by, alternative energy sources (e.g., electric vehicles and renewable residential and commercial power supplies).

Climate change legislation and regulatory initiatives may arise from a variety of sources, including international, national, regional and state levels of government and associated administrative bodies, seeking to monitor, restrict or regulate existing emissions of GHGs, such as carbon dioxide and methane, as well as to restrict or eliminate future emissions. Restrictions on GHG emissions that may be imposed, or the adoption and implementation of regulations that require reporting of GHG emissions or other climate-related information or otherwise seek to limit GHG emissions (including carbon pricing schemes) from Hornbeck or its customers, could adversely affect Hornbeck's business and the oil and gas industry. Accordingly, Hornbeck's business and operations, and those of Hornbeck's customers, are subject to executive, regulatory, political and financial risks associated with marine transportation, petroleum products and the emission of GHGs. Any legislation or regulatory programs related to climate change could increase Hornbeck's costs and require substantial capital, compliance, operating and maintenance costs, reduce demand for petroleum and related marine transportation services, reduce Hornbeck's access to financial markets, and create greater potential for governmental investigations or litigation. For example, the adoption of legislation or regulatory programs to reduce GHG emissions could require Hornbeck or its customers to incur increased operating costs or acquire emissions allowances or to comply with new regulatory requirements. Such regulatory initiatives could also stimulate demand for alternative forms of energy that do not rely on petroleum products and indirectly reduce demand for Hornbeck's services.

Fuel conservation measures, alternative fuel requirements, increasing consumer demand for alternatives to oil and natural gas, technological advances in fuel economy and energy generation devices, and the increased competitiveness of and technological advances with respect to alternative energy sources (such as electric vehicles, wind, solar, geothermal, tidal, fuel cells and biofuels) could reduce demand for oil and natural gas and therefore indirectly negatively impact Hornbeck's revenues. Furthermore, as Hornbeck's competitors use or develop new technological advances designed to reduce their impacts on the environment or climate change, such as the use of alternative fuels for marine vessels, Hornbeck may be placed at a competitive disadvantage or may be forced by competitive pressures to implement new technologies at substantial costs. Hornbeck may not be able to respond to these competitive pressures or implement new technologies on a timely basis or at an acceptable cost. If one or more of the technologies Hornbeck uses now or in the future were to become obsolete, Hornbeck's business, financial condition or results of operations could be materially and adversely affected.

Additionally, certain segments of the investor community have recently expressed negative sentiment towards investing in the oil and natural gas industry and associated businesses. Climate change-related developments in particular may result in negative perceptions of the traditional oil and gas industry and, in turn, reputational risks involving business activities associated with petroleum product exploration and production. There have been efforts in recent years, for example, to influence the investment community, including investment advisors, insurance companies, and certain sovereign wealth, pension and endowment funds and other groups, by promoting divestment of fossil fuel equities and pressuring lenders to limit funding and insurance underwriters to limit coverages to companies engaged in the extraction of fossil fuel reserves. Financial institutions may elect in the future to shift some or all of their investment

into non-fossil fuel related sectors. Some investors, including certain pension funds, university endowments and family foundations, have stated policies to reduce or eliminate their investments in the oil and natural gas sector based on social and environmental considerations. Institutional lenders who provide financing to companies associated with the oil and gas industry have also become more attentive to sustainable lending practices, and some may elect not to provide traditional energy producers or companies that support such producers with funding. Such developments could ultimately result in reduced demand for Hornbeck's services or reduce Hornbeck's access to, and increase the cost of, debt or capital.

Any legislation, regulatory programs, technological advances or social pressures related to climate change could increase Hornbeck's or its customers' operating and compliance costs, reduce demand for Hornbeck's services, and, together with negative investor sentiment, may have a material adverse effect on Hornbeck's business, financial condition, results of operations and cash flows.

Increased scrutiny and changing stakeholder expectations with respect to sustainability matters may impact Hornbeck's business and expose Hornbeck to additional risks.

Companies across all industries are facing increasing scrutiny from stakeholders related to their sustainability practices. A number of advocacy groups, both domestically and internationally, have engaged in activism campaigns centered around increasing attention and demands for governmental and private sector action related to climate change and promoting the use of substitutes to fossil fuel products. Further, failure or a perception (whether or not valid) of failure to implement Hornbeck's sustainability strategy or any achieve sustainability goals and targets that Hornbeck has or may set, could damage Hornbeck's reputation, causing its investors or other stakeholders to lose confidence in Hornbeck, and negatively impact Hornbeck's operations. In addition, Hornbeck could be criticized for the timing, scope or nature of these initiatives or goals, or for any revisions to them. There can be no assurance that Hornbeck will be able to accomplish any announced goals, targets initiatives, commitments or objectives related to its sustainability strategy, as statements regarding the same reflect Hornbeck's current plans and aspirations and are not guarantees that Hornbeck will be able to achieve them within the timelines it announces, or at all. In certain circumstances, Hornbeck could determine in its discretion that it is not feasible or practical to implement or complete certain of its sustainability goals, targets, initiatives, policies or procedures based on cost, timing or other considerations.

Hornbeck's efforts to research, establish, accomplish and accurately report on the implementation of Hornbeck's sustainability strategy, including any related goals, may also create additional operational risks and expenses and expose Hornbeck to reputational, legal and other risks. Moreover, while Hornbeck may create and publish voluntary disclosures regarding sustainability matters from time to time, some of the statements in those voluntary disclosures may be based on hypothetical expectations and assumptions that may or may not be representative of current or actual risks or events or forecasts of expected risks or events, including the costs associated therewith. Such expectations and assumptions are necessarily uncertain and may be prone to error or subject to misinterpretation given the long timelines involved and the lack of an established single approach to identifying, measuring and reporting on many sustainability matters. Challenges brought by third parties could also result in Hornbeck's being penalized or criticized based on any inaccuracy, inadequacy, or incompleteness of such disclosures. The occurrence of any of the foregoing could have a material adverse effect on Hornbeck's reputation, business and financial condition.

Further, Hornbeck's business and growth opportunities require Hornbeck to have strong relationships with various key stakeholders, including Hornbeck's investors, employees, suppliers, customers and others. Hornbeck may face pressures from stakeholders, many of whom are increasingly focused on climate change, to prioritize sustainable energy practices, reduce Hornbeck's carbon footprint and promote sustainability while at the same time remaining a successfully operating business. At the same time, stakeholders and regulators have increasingly expressed or pursued divergent and evolving views, legislation and investment expectations with respect to sustainability, including the enactment or proposal of "anti-ESG" legislation or policies. Hornbeck may also face negative impacts from consumers who do not support climate-related initiatives or concerns. If Hornbeck does not successfully manage expectations across these varied stakeholder interests, it could erode Hornbeck's stakeholder trust and thereby affect its brand and reputation. Such erosion of confidence could negatively impact Hornbeck's business through decreased demand and growth opportunities, delays in projects, increased legal action and regulatory oversight, adverse press coverage and other adverse public statements, difficulty hiring and retaining top talent, difficulty obtaining necessary approvals and permits from governments and regulatory agencies on a timely basis and on acceptable terms and difficulty securing investors and access to debt or capital.

In addition, organizations that provide information to investors on corporate governance and related matters have developed ratings processes and benchmarking assessments for evaluating companies on their approach to

sustainability matters. Such ratings are used by some investors to inform their investment decisions and thus unfavorable ratings could have a negative impact on Hornbeck's access to and cost of capital as well as Hornbeck's reputation.

Supplier capacity constraints or shortages in parts, equipment or materials, supplier production disruptions, supplier quality and sourcing issues or price increases could increase Hornbeck's operating costs, decrease its revenues and adversely impact its operations.

Hornbeck's reliance on third-party suppliers, manufacturers and service providers to secure equipment and materials used in its operations exposes Hornbeck to volatility in the quality, price and availability of such items. During periods of reduced demand, many of these third-party suppliers reduced their inventories of parts and equipment and, in some cases, reduced their production capacity. Further, the volatility of the price of steel can impact the construction and repair costs of Hornbeck's vessels. When Hornbeck seeks to reactivate stacked vessels, upgrade its active vessels or purchase additional vessels, these reductions and global supply chain constraints could make it more difficult for Hornbeck to find equipment, materials, parts and labor for Hornbeck's vessels. If an alternative vendor to obtain equipment or parts is unavailable, many of the specialized parts and equipment Hornbeck utilizes are rebuildable, can be found in the aftermarket, or can be substituted with crossover components in a similar time period, or if such options were unavailable or could not be completed in a timely manner, Hornbeck has a sufficient fleet size with legacy technology to use component parts from certain vessels to keep its other vessels running. However, there is a risk that the use of one or more of such alternatives could cause a disruption or delay to Hornbeck's operations resulting in an adverse effect on its business. While Hornbeck believes it maintains a sufficient inventory of spare parts and equipment and have employed highly-trained, internal technical resources, including engineers and repair technicians, capable of maintaining, repairing or rebuilding the specialized machinery and equipment aboard Hornbeck's vessels, there can be no assurance that these measures would be sufficient to avoid an adverse impact on Hornbeck's business during periods of reduced demand or supply chain constraints. A disruption or delay in the deliveries from third-party suppliers, capacity constraints, production disruptions, price increases (including those related to the price of steel, inflation and supply chain disruptions), defects or quality-control issues, recalls or other decreased availability or servicing of parts and equipment could adversely affect Hornbeck's ability to meet its commitments to customers on a timely basis and adversely impact Hornbeck's operations and revenues by resulting in uncompensated downtime, reduced dayrates, the incurrence of liquidated damages or other penalties or the cancellation or termination of contracts, or increase Hornbeck's operating costs.

Hornbeck may be unable to effectively and efficiently manage its fleet as Hornbeck expands or further diversifies its business and service offerings, which could cause volatility of Hornbeck's earnings from period to period or have an adverse effect on its business, financial condition and results of operations.

Hornbeck has expanded, and plans to continue to expand, the size, scope and nature of its business through mergers and acquisitions, resulting in an increase in the breadth of Hornbeck's fleet, the variety of services Hornbeck offers and the geographic markets in which Hornbeck operates, including in traditional oilfield drilling, production and specialty services as well as offshore wind, military and other non-oilfield applications. Business expansion and revenue diversification into non-oilfield related industries places increasing demands on Hornbeck and its fleet. Hornbeck must anticipate demand well into the future in order to service its extensive customer base. The inability to effectively and efficiently manage Hornbeck's assets to meet the current and future needs of its customers, which may vary widely from Hornbeck's original expectations due to a number of factors beyond Hornbeck's control, including periods of difficult market conditions or slowdowns in any of the business sectors or various regions in which Hornbeck operates, could have an adverse effect on Hornbeck's business, financial condition and results of operations. Additionally, as Hornbeck continues to diversify its business, it may experience temporary downtime in use of its vessels as Hornbeck transitions and outfit a vessel in response to changing customer demands and specific needs of a particular project. Further, Hornbeck could experience any of these conditions simultaneously, which could magnify any adverse impact on Hornbeck's results of operations, including greater volatility of its earnings from period to period, than might have otherwise occurred if such conditions were experienced individually.

Certain of Hornbeck's principal stockholders are involved in other ventures related to the offshore services industry and have the ability to take actions that could conflict with Hornbeck's interests.

Certain of Hornbeck's directors, including those directors appointed by its principal stockholders or their investment managers or respective affiliates are involved in the offshore services industry through their direct and indirect participation in businesses which are Hornbeck's potential competitors, service providers or customers.

Situations may arise in connection with potential acquisitions, investments or contractual disputes where the other interests of these directors may conflict with Hornbeck's interests. Although Hornbeck's directors with conflicts of interest will be subject to and expected to follow the procedures set out in applicable legislation, regulations, rules and policies, any conflicts of interest may not be resolved in favor of Hornbeck's interests. Additionally, the involvement of Hornbeck's directors with other business ventures may require their time and attention be shared with their other business ventures.

Hornbeck's principal stockholders may also have an interest in pursuing acquisitions, divestitures, financings or other transactions that, in their judgment, could enhance their equity investment, even though such transactions might involve risks to Hornbeck's other investors and lenders. In addition, Hornbeck's principal stockholders and their investment managers and respective affiliates are in the business of making investments in companies and may, from time to time, acquire interests in businesses that directly or indirectly compete with Hornbeck's business, as well as businesses that are significant existing or potential customers or service providers. Hornbeck's principal stockholders or their investment managers or respective affiliates may also seek to acquire businesses and/or assets that Hornbeck seeks to acquire and, as a result, these acquisition opportunities may not be available to Hornbeck or may be more expensive for Hornbeck to pursue.

Risks Relating to Legal, Regulatory, Accounting and Tax Matters

Hornbeck does not own the Hornbeck Brands, but may use the Hornbeck Brands pursuant to the terms of a license granted by HFR, and its business may be materially harmed if Hornbeck breaches its license agreement or it is terminated.

In connection with the closing of the mergers, Hornbeck will amend and restate its Third Amended and Restated Trade Name and Trademark License Agreement, dated September 4, 2020 (the "Third A&R License Agreement") as the Fourth Amended and Restated Trade Name and Trademark License Agreement (the "Fourth A&R License Agreement"). The Fourth A&R License Agreement was executed on April 23, 2026 and will be effective upon the closing of the mergers, and in the event the merger agreement is terminated, the Third A&R License Agreement will remain in full force and effect. Pursuant to the Fourth A&R License Agreement (as defined herein) between Hornbeck and HFR, LLC, a Texas limited liability company owned by Todd M. Hornbeck and his brother Troy A. Hornbeck ("HFR"), the combined company will have an exclusive license to use the various Hornbeck trade names and trademarks as provided in the Fourth A&R License Agreement, which include "Hornbeck," "Hornbeck Offshore," "Hornbeck Offshore Services," "HOS," "HOSMAX," "HOSS" and Hornbeck's current horse head logos (the "Hornbeck Brands") in connection with the existing Hornbeck business and the recently-merged Helix business. The Fourth A&R License Agreement eliminates the ongoing quarterly fee of \$250,000 (\$1.0 million annually) for use of the Hornbeck Brands, and an additional annual fee payable based upon Hornbeck achieving certain EBITDA thresholds in a given year (the "Performance Fee") in exchange for a single one-time payment of \$17,400,000 paid to HFR plus any amounts earned under the Third A&R License Agreement that remain due and payable through the closing of the mergers. The Fourth A&R License Agreement will continue until the later of the seventh (7th) anniversary of the closing of the mergers and the second (2nd) anniversary of the date that Todd M. Hornbeck is no longer Hornbeck's President and Chief Executive Officer (other than for Todd M. Hornbeck's resignation as President while he remains Chief Executive Officer). The Fourth A&R License Agreement is terminable by HFR for Hornbeck's material breach of the Fourth A&R License Agreement or if Hornbeck ceases to use a Hornbeck Brand as its primary corporate identifier for the Hornbeck business, ceases to use HOS ticker symbol (subject to certain exceptions), or ceases to use a Hornbeck Brand in the corporate name of the surviving company.

Termination of the Fourth A&R License Agreement would eliminate Hornbeck's rights to use the Hornbeck Brands, the HOS ticker symbol, and Hornbeck's corporate name and may result in Hornbeck's having to undergo other significant rebranding efforts. Loss of the rights to use the Hornbeck Brands could disrupt Hornbeck's recognition in the marketplace, damage goodwill Hornbeck may have generated, and otherwise have a material adverse effect on Hornbeck. These rebranding efforts may require significant resources and expenses and may affect Hornbeck's ability to attract and retain customers, all of which may have a material adverse effect on Hornbeck's business, contracts, financial condition, operating results, liquidity and prospects.

Hornbeck's success also depends in part upon successful prosecution, maintenance, enforcement and protection of its owned and licensed intellectual property, including the Hornbeck Brands that it licenses from HFR. Under the Fourth A&R License Agreement, Hornbeck will be obligated to take actions to obtain, maintain, enforce and protect the

Hornbeck Brands. Should Hornbeck fail to maintain, enforce or protect the Hornbeck Brands or other intellectual property, Hornbeck could be materially harmed. See “*Related Party Transactions of Directors and Executive Officers of Hornbeck—Third and Fourth Amended and Restated License Agreement*.”

Defending against intellectual property claims could adversely affect Hornbeck’s business.

Hornbeck may from time to time face allegations that it is infringing, misappropriating or otherwise violating the intellectual property rights of third parties, including the intellectual property rights of its competitors. Hornbeck may be unaware of the intellectual property rights that others may claim cover some or all of its technology or services. Irrespective of the validity of any such claims, Hornbeck could incur significant costs and diversion of resources in defending against them, and there is no guarantee any such defense would be successful, which could have a material adverse effect on Hornbeck’s business, contracts, financial condition, operating results, liquidity and prospects.

Even if these matters do not result in litigation or are resolved in Hornbeck’s favor or without significant cash settlements, these matters, and the time and resources necessary to litigate or resolve them, could divert the time and resources of Hornbeck’s management team and harm Hornbeck’s business, operating results and reputation.

Subjective estimates and judgments used by management in the preparation of Hornbeck’s financial statements, including estimates and judgments that may be required by new or changed accounting standards, may impact Hornbeck’s financial condition and results of operations.

The preparation of financial statements requires management to make estimates and judgments that affect the reported amounts of assets, liabilities, revenue and expenses. Due to the inherent uncertainty in making estimates, results reported in future periods may be affected by changes in estimates reflected in Hornbeck’s financial statements for earlier periods. Estimates and judgments are continually evaluated and are based on historical experience and other factors, including expectations of future events that are believed to be reasonable under the circumstances. From time to time, there may be changes in the financial accounting and reporting standards that govern the preparation of Hornbeck’s financial statements. These changes can materially impact how Hornbeck records and reports its financial condition and results of operations. In some instances, Hornbeck could be required to apply a new or revised standard retrospectively. If the estimates and judgments Hornbeck uses in preparing its financial statements are subsequently found to be incorrect or if Hornbeck is required to restate prior financial statements, Hornbeck’s financial condition or results of operations could be significantly affected.

Changes in tax laws could adversely affect Hornbeck’s business, financial condition and results of operations.

Changes in tax laws in any of the multiple jurisdictions in which Hornbeck operates, or adverse outcomes from tax audits that Hornbeck may be subject to in any such jurisdiction, could result in an unfavorable change in Hornbeck’s effective tax rate, which could adversely affect Hornbeck’s business, financial condition and operating results. The United States has recently enacted significant changes to U.S. tax law. Hornbeck is continuing to review the impact of this legislation. Additionally, new income, sales, use, or other tax laws, statutes, rules, regulations, or ordinances could be enacted at any time, or interpreted, changed, modified, or applied adversely to Hornbeck, any of which could adversely affect Hornbeck’s business operations and financial performance.

Further, Hornbeck operates in a number of jurisdictions, which contributes to the volatility of Hornbeck’s effective tax rate. Changes in tax laws or the interpretation of tax laws in the jurisdictions in which Hornbeck operates may affect Hornbeck’s effective tax rate. For example, a number of countries, as well as organizations such as the Organization for Economic Cooperation and Development, support a global minimum tax initiative. Such countries and organizations are also actively considering changes to existing tax laws or have proposed new tax laws that could increase Hornbeck’s tax obligations. In addition, Hornbeck is required under GAAP to place valuation allowances against Hornbeck’s NOL carryforwards and other deferred tax assets in certain tax jurisdictions. These valuation allowances result from analysis of positive and negative evidence supporting the realization of tax benefits. Negative evidence includes a cumulative history of pre-tax operating losses in specific tax jurisdictions. Changes in valuation allowances have historically resulted in material fluctuations in Hornbeck’s effective tax rate. Economic conditions or changes in tax laws may dictate the continued imposition of current valuation allowances and, potentially, the establishment of new valuation allowances. While significant valuation allowances remain, Hornbeck’s effective tax rate will likely continue to experience significant fluctuations. Furthermore, certain foreign jurisdictions may take actions to delay Hornbeck’s ability to collect value-added tax refunds.

Hornbeck is regularly confronted with administrative actions taken by Mexican authorities that require a high degree of effort and can be costly to challenge. Not prevailing in any pending or future disputes with Mexican administrative authorities could have a material adverse impact on Hornbeck's operations or financial results.

In Mexico, Hornbeck is regularly confronted with actions taken by administrative authorities, which actions create uncertainty for Hornbeck and require a high degree of effort and can be costly to challenge.

For instance, in 2023, Mexican regulators challenged Hornbeck's right to perform cabotage services in Mexico. Hornbeck believes that it is fully compliant with Mexican cabotage requirements and took legal action to preserve its cabotage privileges there, resulting in a Mexican court ordering that Hornbeck's privileges be reinstated. However, the Secretaría de Marina, the Mexican executive cabinet office responsible for designing, planning, executing and coordinating Mexican maritime public policy ("SEMAR"), has yet to record Hornbeck's bylaws, which creates uncertainty for Hornbeck's Mexican franchise. Mexican courts can be unpredictable and recent legal changes in Mexico make it more difficult to obtain interim constitutional relief from illegal actions taken by Mexican administrative authorities. If Hornbeck prevails in its litigation, Hornbeck expects that it will be able to continue to exercise its reinstated privileges, unless legislative or other actions disallow such operations. If Hornbeck does not prevail, Hornbeck expects that it may not be able to continue Mexican cabotage operations under its current structure.

In addition, for several years the Mexican tax authorities have audited certain of Hornbeck's subsidiaries' tax returns and asserted certain positions that disallowed significant deductions that Hornbeck believes were validly applied, resulting in additional taxes, interest and penalties being assessed. Hornbeck disagrees with the positions taken by the tax authorities and the resulting amounts assessed and has had to pursue administrative and legal challenges against the Mexican tax authorities, several of which are ongoing. Although Hornbeck does not believe that the final outcome of these particular assessments and related proceedings will have a material adverse effect on its financial position or results of operations, these matters require diversion of management's time and resources which may distract from ongoing business matters and potentially from strategic pursuits or business opportunities that could be beneficial to Hornbeck. Additionally, there can be no assurances Hornbeck will prevail with respect to such assessments and related proceedings, and an adverse final outcome in any such proceedings could have a material adverse impact on Hornbeck's operations and strategic efforts in Mexico and its business, financial condition and results of operations.

Hornbeck expects that it will continue to face actions from Mexican administrative authorities from time to time that may require it to pursue administrative appeals or litigation, such as those described above. Challenging such actions, regardless of their merit, can be time-consuming, divert management's attention and resources, cause Hornbeck to incur significant expenses or require Hornbeck to change its business practices. There can be no assurances Hornbeck will prevail in such challenges, and an adverse final outcome in any such future proceedings could have a material adverse impact on Hornbeck's operations and strategic efforts in Mexico and its business, financial condition and results of operations.

Hornbeck is subject to various anti-corruption laws and regulations and laws and regulations relating to economic sanctions. Violations of these laws and regulations could have a material adverse effect on Hornbeck's business, financial condition and results of operations.

Hornbeck is subject to various anti-corruption laws, including the U.S. Foreign Corrupt Practices Act, the United Nations Convention Against Corruption and the Brazil Clean Company Act. These laws generally prohibit companies and their intermediaries from engaging in bribery or making other improper payments of cash (or anything else of value) to government officials and other persons in order to obtain or retain business or to obtain an improper business benefit. Hornbeck's business operations also must be conducted in compliance with applicable economic sanctions laws and regulations, including rules administered by the U.S. Department of the Treasury's Office of Foreign Assets Control, the U.S. Department of State, the U.S. Department of Commerce, the United Nations Security Council, and other relevant authorities.

Hornbeck strives to conduct its business activities in compliance with relevant anti-corruption laws and regulations, and Hornbeck has adopted proactive procedures to promote such compliance. While Hornbeck is not aware of issues of historical noncompliance, full compliance cannot be guaranteed. Violations of anti-corruption laws and regulations, or even allegations of such violations, could result in civil or criminal penalties or other fines or sanctions, including prohibition of Hornbeck's participating in or curtailment of business operations in those jurisdictions and the seizure of vessels or other assets, which could have a material adverse effect on Hornbeck's business, financial

condition and results of operation. Moreover, Hornbeck may be held liable for actions taken by local partners or agents in violation of applicable anti-bribery laws, even though these partners or agents may themselves not be subject to such laws. Further, changes to the applicable laws and regulations, and/or significant business growth, may result in the need for increased compliance-related resources and costs.

Risks Relating to Hornbeck's Indebtedness

Hornbeck's indebtedness could materially adversely affect its financial condition.

Hornbeck has a significant amount of indebtedness. As of March 31, 2026, Hornbeck's total indebtedness was approximately \$467.6 million, consisting of \$442.6 million outstanding principal amount of Hornbeck's outstanding term loans (the "Second Lien Term Loans due 2033") under the Second Lien Term Loan Credit Agreement, dated December 27, 2024, by and among Hornbeck, as borrower, Stonebriar Commercial Finance LLC, as administrative agent, Wilmington Trust, National Association, as collateral trustee, and the lenders party thereto (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the "Second Lien Credit Agreement"), and \$25.0 million outstanding principal amount of revolving loans under the Credit Agreement, dated as of August 13, 2024, as amended by that certain First Amendment to Credit Agreement, dated as of December 27, 2024, by and among Hornbeck, DNB Bank ASA, New York Branch, as administrative agent, Wilmington Trust, National Association, as collateral agent and collateral trustee, and the lenders party thereto (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the "First Lien Credit Agreement").

Hornbeck's substantial indebtedness could have important consequences, including the following:

- making it more difficult for Hornbeck to satisfy its other obligations;
- limiting Hornbeck's ability to obtain additional financing to fund future working capital, capital expenditures, acquisitions or other general corporate requirements;
- requiring Hornbeck to dedicate a substantial portion of its cash flows to debt service payments instead of other purposes, thereby reducing the amount of cash flows available for working capital, capital expenditures, acquisitions and other general corporate purposes;
- increasing Hornbeck's vulnerability to general adverse economic and industry conditions;
- limiting Hornbeck's flexibility in planning for and reacting to changes in the industry in which Hornbeck competes;
- placing Hornbeck at a disadvantage compared to other, less leveraged competitors; and
- increasing Hornbeck's cost of borrowing.

In addition, each of the First Lien Credit Agreement and the Second Lien Credit Agreement contains restrictive covenants that limit Hornbeck's ability to engage in activities that may be in its long-term best interest. Hornbeck's failure to comply with those covenants could result in an event of default which, if not cured or waived, could result in the acceleration of all Hornbeck's debt and/or the exercise of other remedies by the lenders and other secured parties thereunder. See "*Hornbeck Management's Discussion and Analysis of Financial Condition and Results of Operations—Liquidity and Capital Resources.*"

Hornbeck may not be able to generate sufficient cash to service all of its indebtedness or repay such indebtedness when due and may be forced to take other actions to satisfy its obligations under its indebtedness, such as refinancings, which may not be successful or completed on favorable terms.

Hornbeck's ability to make scheduled payments on or refinance its debt obligations depends on its financial condition and operating performance, which are subject to prevailing economic and competitive conditions and to certain financial, business, legislative, regulatory and other factors beyond Hornbeck's control. Hornbeck cannot be sure that its business will generate sufficient cash flows from operating activities, or that future borrowings will be available, to permit Hornbeck to pay the principal, premium, if any, and interest on its indebtedness.

If Hornbeck's cash flows and capital resources are insufficient to fund its debt service obligations, Hornbeck could face substantial liquidity problems and could be forced to reduce or delay investments and capital expenditures or to dispose of material assets or operations, seek additional debt or equity capital or restructure or refinance its indebtedness. Hornbeck may not be able to implement any such alternative measures, if necessary, on a timely basis or

at all. Even if successful, Hornbeck may not be able to negotiate such alternative actions on favorable terms and such actions may not be sufficient to allow Hornbeck to meet its scheduled debt service obligations.

For example, the loans under the Second Lien Credit Agreement mature in January 2033. If, at such time, market conditions are materially different or Hornbeck's credit profile has deteriorated, the cost of refinancing Hornbeck's debt may be significantly higher than its indebtedness existing at that time and may require Hornbeck to comply with more onerous covenants that could further restrict its business operations, or Hornbeck may not be able to refinance such debt at all. Additionally, each of the First Lien Credit Agreement and the Second Lien Credit Agreement restricts, and any of Hornbeck's future debt instruments may restrict, Hornbeck's ability to dispose of assets and use the proceeds from those dispositions and may also restrict Hornbeck's ability to raise debt or equity capital to be used to repay other indebtedness when it becomes due. Hornbeck may not be able to consummate any such dispositions or to obtain proceeds in an amount sufficient to meet any debt service obligations then due. See "*Hornbeck Management's Discussion and Analysis of Financial Condition and Results of Operations—Liquidity and Capital Resources—Debt Agreements.*"

Any failure to meet any future debt service obligations or any inability to obtain any additional financing on terms acceptable to Hornbeck or to comply therewith could have a material adverse effect on Hornbeck's business, financial condition and results of operations.

Despite Hornbeck's current level of indebtedness, Hornbeck and its subsidiaries may still be able to incur substantially more debt. This could further exacerbate the risks to Hornbeck's financial condition described herein.

Hornbeck and its subsidiaries may be able to incur significant additional indebtedness in the future. Although each of the First Lien Credit Agreement and the Second Lien Credit Agreement contains restrictions on the incurrence of additional indebtedness, these restrictions are subject to a number of qualifications and exceptions, and the additional indebtedness incurred in compliance with these restrictions could be substantial. These restrictions on the incurrence of additional indebtedness also will not prevent Hornbeck from incurring obligations that do not constitute indebtedness.

The terms of the First Lien Credit Agreement and the Second Lien Credit Agreement restrict Hornbeck's current and future operations, including Hornbeck's ability to respond to changes or to take certain actions.

Each of the First Lien Credit Agreement and the Second Lien Credit Agreement contains a number of restrictive covenants that impose significant operating and financial restrictions on us and may limit Hornbeck's ability to engage in acts that may be in Hornbeck's long-term best interest. See "*Hornbeck Management's Discussion and Analysis of Financial Condition and Results of Operations—Liquidity and Capital Resources—Debt Agreements.*" The restrictive covenants under the First Lien Credit Agreement and the Second Lien Credit Agreement include restrictions on Hornbeck's ability to:

- incur additional indebtedness and guarantee indebtedness;
- pay dividends or make other distributions or repurchase or redeem Hornbeck's capital stock;
- prepay, redeem or repurchase subordinated, junior lien and unsecured debt;
- issue certain preferred stock or similar equity securities;
- make loans and investments;
- sell or otherwise dispose of assets or property, except in certain circumstances;
- create or incur liens;
- enter into transactions with affiliates;
- enter into agreements restricting Hornbeck's subsidiaries' ability to pay dividends, to enter into and perform certain intercompany debt transactions and to transfer assets to us or other subsidiaries;
- permit the sum of Hornbeck's and Hornbeck's subsidiaries' unrestricted cash and cash equivalents, determined in accordance with GAAP (including any cash and cash equivalents held in an account subject to a control agreement in favor of the secured parties under the First Lien Credit Agreement and the Second Lien Credit Agreement and any unused commitments available to be borrowed under any other permitted debt facility) to be less than \$25 million as of the last day of any fiscal quarter; and
- make fundamental changes in Hornbeck's business, corporate structure or capital structure, including, among other things, entering into mergers, acquisitions, consolidations and other business combinations.

As a result of these restrictions, Hornbeck may be:

- limited in how Hornbeck conduct its business;
- unable to raise additional debt or equity financing to operate during general economic or business downturns; or
- unable to compete effectively or to take advantage of new business opportunities. These restrictions may affect Hornbeck's ability to grow in accordance with its strategy.

A breach of the covenants or restrictions under the First Lien Credit Agreement or the Second Lien Credit Agreement could result in a default or an event of default. Such a default may allow the creditors to accelerate the related debt and/or exercise other remedies and may result in the acceleration of any other debt to which a cross-acceleration or cross-default provision applies. In exacerbated or prolonged circumstances, one or more of these events could result in Hornbeck's bankruptcy or liquidation.

SPECIAL MEETING

General

This proxy statement/prospectus is being provided to Helix shareholders as part of a solicitation of proxies by the Helix Board for use at the special meeting. This proxy statement/prospectus provides Helix shareholders with important information about the special meeting and should be read carefully in its entirety.

Date, Time and Place of the Special Meeting

The special meeting of Helix shareholders will be held at Helix's corporate office at 3505 West Sam Houston Parkway North, Suite 400, Houston, Texas 77043, on _____, 2026, at _____, Central Daylight Time (Houston time).

Purpose of the Special Meeting

The special meeting of Helix shareholders is being held to consider and vote on:

1. a proposal to approve the issuance of shares of Converted Helix Common Stock pursuant to the merger agreement for purposes of complying with Section 312.03(c) of the NYSE's Listed Company Manual and, in the event such issuance constitutes a change of control, Section 312.03(d) of the NYSE's Listed Company Manual;
2. a proposal to approve an increase in the authorized Converted Helix Common Stock and Converted Helix Preferred Stock, as set forth in Article V of the certificate of incorporation of the combined company;
3. a proposal to approve the second merger;
4. a proposal to approve the plan of conversion, pursuant to which, immediately prior to the first merger, Helix will convert from a Minnesota corporation to a Delaware corporation in accordance with Section 265 of the DGCL and Section 302A.682 of the MBCA;
5. a proposal to approve the provisions regarding compliance with the Jones Act, as set forth in Article XV of the certificate of incorporation of the combined company;
6. a proposal to approve the director and officer citizenship requirement provisions, as set forth in Section 6.7 of the certificate of incorporation of the combined company;
7. a proposal to approve the submission to jurisdiction provisions, as set forth in Article XIV of the certificate of incorporation of the combined company;
8. a proposal to approve the provisions limiting liability of officers, set forth in Article VII of the certificate of incorporation of the combined company;
9. a proposal to approve the removal of the supermajority approval requirements, as set forth in Article XI of the certificate of incorporation of the combined company;
10. a proposal to approve the corporate opportunities provisions, as set forth in Article IX of the certificate of incorporation of the combined company;
11. a proposal to approve, on a non-binding advisory basis, the compensation that may be paid or become payable to Helix's named executive officers that is based on or otherwise relates to the mergers; and
12. a proposal to approve the adjournment of the special meeting to solicit additional proxies if there are not sufficient votes at the time of the special meeting to approve the required merger proposals.

Completion of the mergers is conditioned on the approval by Helix shareholders of each of the required merger proposals. The approval of the optional vote matters is not a condition to the completion of the mergers.

Recommendation of the Helix Board

The Helix Board has (a) determined that the merger agreement, the plan of conversion and the transactions contemplated by the merger agreement, including the Conversion, were fair to, advisable and in the best interests of, Helix and its shareholders, (b) approved and declared advisable the merger agreement, the plan of conversion and the

transactions contemplated by the merger agreement, including the Conversion, on the terms and subject to the conditions set forth in the merger agreement, (c) directed that the required merger proposals, as well as the optional vote matters, be submitted to Helix shareholders for approval and (d) resolved to recommend that the Helix shareholders vote in favor of the required merger proposals, as well as the optional vote matters. Accordingly, the Helix Board recommends that Helix shareholders vote “**FOR**” the share issuance proposal, “**FOR**” the authorized share increase proposal, “**FOR**” the second merger proposal, “**FOR**” the plan of conversion proposal, “**FOR**” the Jones Act provisions proposal, “**FOR**” the D&O citizenship matters proposal, “**FOR**” the exclusive forum proposal, “**FOR**” the officer exculpation proposal, “**FOR**” the removal of supermajority approval requirement proposal, “**FOR**” the corporate opportunities proposal, “**FOR**” the non-binding compensation proposal and “**FOR**” the adjournment proposal. For additional information regarding how the Helix Board recommends that Helix shareholders vote and the factors the Helix Board considered in determining to make such recommendations, see the section titled “*The Mergers—Recommendation of the Helix Board and Reasons for the Mergers.*”

Amy H. Nelson abstained from voting on the transaction due in large part to concerns regarding Helix’s intention to change its name in connection with closing of the transaction to “Hornbeck Offshore Services, Inc.” pursuant to the terms of the merger agreement, and the associated licensing arrangement pursuant to which an entity partially owned by Todd M. Hornbeck will provide, in exchange for an upfront fee and subject to certain conditions and termination events, a seven-year license to the combined company to use various Hornbeck trade names and trademarks. See “*The Mergers—Recommendation of Helix’s Board and Reasons for the Mergers—Views of Abstaining Director.*”

This proxy statement/prospectus contains important information regarding the required merger proposals and the optional vote matters, as well as the factors that Helix shareholders should consider when deciding how to cast their votes. Helix shareholders are encouraged to read the entire document carefully, including the annexes to and documents incorporated by reference into this proxy statement/prospectus, for more detailed information regarding the merger agreement, including the mergers and other transactions contemplated by the merger agreement, the required merger proposals and the optional vote matters.

Voting by Directors and Executive Officers

On the record date, Helix directors and executive officers, as a group, beneficially owned and were entitled to vote _____ shares of Helix common stock, or approximately _____ % of the issued and outstanding shares of Helix common stock. Although none of them has entered into any agreement obligating them to do so as a director or executive officer of Helix, Helix currently expects that all of its directors and executive officers will vote their shares “**FOR**” the share issuance proposal, “**FOR**” the authorized share increase proposal, “**FOR**” the second merger proposal, “**FOR**” the plan of conversion proposal, “**FOR**” the Jones Act provisions proposal, “**FOR**” the D&O citizenship matters proposal, “**FOR**” the exclusive forum proposal, “**FOR**” the officer exculpation proposal, “**FOR**” the removal of supermajority approval requirement proposal, “**FOR**” the corporate opportunities proposal, “**FOR**” the non-binding compensation proposal and “**FOR**” the adjournment proposal.

Record Date

The Helix Board has fixed the close of business on _____, 2026 as the record date for the determination of the Helix shareholders entitled to receive notice of, and to vote at, the special meeting. The Helix shareholders of record on the record date are the only Helix shareholders that are entitled to receive notice of, and to vote at, the special meeting.

Outstanding Shares and Voting Rights of Helix Shareholders

At the close of business on the record date, _____ shares of Helix common stock were issued and outstanding, held of record by _____ holders. Each share of Helix common stock outstanding on the record date is entitled to one vote on each proposal and any other matter coming before the special meeting.

Shareholder List

A list of the Helix shareholders of record who are entitled to vote at the special meeting will be available at the special meeting for examination by any shareholder present at such meeting.

Quorum

No business may be transacted at the special meeting unless a quorum is present. Holders of shares of Helix common stock entitled to exercise a majority of the voting power of Helix entitled to vote at the special meeting, present in person or represented by proxy, will constitute a quorum for the transaction of business to be considered at such

meeting. Abstentions and broker non-votes will be included in determining whether a quorum is present at the special meeting. A “broker non-vote” occurs when a nominee (such as a broker) holding shares for a beneficial owner abstains from voting on a particular proposal because the nominee does not have discretionary voting power for that proposal and has not received instructions from the beneficial owner on how to vote those shares.

If a quorum is present at the time the special meeting is convened, Helix shareholders present at the special meeting, whether in person or represented by proxy, may continue to transact business at the special meeting until adjournment, even if a number of Helix shareholders withdraw from the special meeting such that the number of Helix shareholders remaining present thereafter constitutes less than a quorum. However, if a quorum is not present, whether in person or represented by proxy, the holders of shares of Helix common stock present at the special meeting and entitled to vote thereat will have the power to, and may be asked to, adjourn the special meeting to a future date. See “—*Adjournment*” below for additional information.

Adjournment

The special meeting may be adjourned from time to time by the affirmative vote of the holders of shares of Helix common stock representing a majority of the shares of Helix common stock, present in person or represented by proxy at the special meeting and entitled to vote thereon, regardless of whether there is a quorum, without further notice other than by an announcement made at the special meeting as to the date, time and place to which an adjournment is taken. If a quorum is not present at the special meeting, or if a quorum is present at the special meeting but there are not sufficient votes at the time of the special meeting to approve the required merger proposals, then Helix shareholders may be asked to approve the adjournment proposal to adjourn the special meeting in order to permit the further solicitation of proxies.

No notice of the reconvened meeting is required to be given if the date, time and place to which an adjournment is taken are announced at the special meeting and the reconvened meeting will be held not more than 120 days after the date of the original meeting. At any reconvened special meeting at which a quorum is present, (i) any business may be transacted that may have been transacted at the special meeting had a quorum been present and (ii) all proxies will be voted in the same manner as the manner in which such proxies would have been voted at the original convening of the special meeting, except for any proxies that have been validly revoked or withdrawn prior to the subsequent meeting. See “—*Proxies and Revocation*” below for additional information.

Vote Required

The votes required to approve the proposals at the special meeting are as follows:

- The share issuance proposal requires the affirmative vote of the holders of shares of Helix common stock representing a majority of the outstanding shares of Helix common stock entitled to vote on such proposal. Assuming a quorum is present, shares that are entitled to vote on the share issuance proposal but not present in person or by proxy, abstentions and broker non-votes (if any) will have the same effect as a vote “AGAINST” the approval of such proposal.
- The authorized share increase proposal requires the affirmative vote of the holders of shares of Helix common stock representing a majority of the outstanding shares of Helix common stock entitled to vote on such proposal. Assuming a quorum is present, shares that are entitled to vote on the authorized share increase proposal but not present in person or by proxy, abstentions and broker non-votes (if any) will have the same effect as a vote “AGAINST” the approval of such proposal.
- The second merger proposal requires the affirmative vote of the holders of shares of Helix common stock representing a majority of the outstanding shares of Helix common stock entitled to vote on such proposal. Assuming a quorum is present, shares that are entitled to vote on the second merger proposal but not present in person or by proxy, abstentions and broker non-votes (if any) will have the same effect as a vote “AGAINST” the approval of such proposal.
- The plan of conversion proposal requires the affirmative vote of the holders of shares of Helix common stock representing a majority of the outstanding shares of Helix common stock entitled to vote on such proposal. Assuming a quorum is present, shares that are entitled to vote on the plan of conversion proposal but not present in person or by proxy, abstentions and broker non-votes (if any) will have the same effect as a vote “AGAINST” the approval of such proposal.

- The Jones Act provisions proposal requires the affirmative vote of the holders of shares of Helix common stock representing a majority of the outstanding shares of Helix common stock entitled to vote on such proposal. Assuming a quorum is present, shares that are entitled to vote on the Jones Act provisions proposal but not present in person or by proxy, abstentions and broker non-votes (if any) will have the same effect as a vote “AGAINST” the approval of such proposal.
- The D&O citizenship matters proposal requires the affirmative vote of the holders of shares of Helix common stock representing a majority of the outstanding shares of Helix common stock entitled to vote on such proposal. Assuming a quorum is present, shares that are entitled to vote on the D&O citizenship matters proposal but not present in person or by proxy, abstentions and broker non-votes (if any) will have the same effect as a vote “AGAINST” the approval of such proposal.
- The exclusive forum proposal requires the affirmative vote of the holders of shares of Helix common stock representing a majority of the outstanding shares of Helix common stock entitled to vote on such proposal. Assuming a quorum is present, shares that are entitled to vote on the exclusive forum proposal but not present in person or by proxy, abstentions and broker non-votes (if any) will have the same effect as a vote “AGAINST” the approval of such proposal.
- The officer exculpation proposal requires the affirmative vote of the holders of shares of Helix common stock representing a majority of the outstanding shares of Helix common stock entitled to vote on such proposal. Assuming a quorum is present, shares that are entitled to vote on the officer exculpation proposal but not present in person or by proxy, abstentions and broker non-votes (if any) will have the same effect as a vote “AGAINST” the approval of such proposal.
- The removal of supermajority approval requirement proposal requires the affirmative vote of the holders of shares of Helix common stock representing 80% the outstanding shares of Helix common stock entitled to vote on such proposal. Assuming a quorum is present, shares that are entitled to vote on the removal of supermajority vote requirement proposal but not present in person or by proxy, abstentions and broker non-votes (if any) will have the same effect as a vote “AGAINST” the approval of such proposal.
- The corporate opportunities proposal requires the affirmative vote of the holders of shares of Helix common stock representing a majority of the outstanding shares of Helix common stock entitled to vote on such proposal. Assuming a quorum is present, shares that are entitled to vote on the corporate opportunities proposal but not present in person or by proxy, abstentions and broker non-votes (if any) will have the same effect as a vote “AGAINST” the approval of such proposal.
- The non-binding compensation proposal requires the affirmative vote of the holders of shares of Helix common stock representing a majority of the outstanding shares of Helix common stock present at the special meeting, either in person or represented by proxy, and entitled to vote on such proposal. Assuming a quorum is present, abstentions will have the same effect as a vote “AGAINST” and broker non-votes (if any) will have no effect on the approval of such proposal.
- The adjournment proposal requires the affirmative vote of the holders of shares of Helix common stock representing a majority of the outstanding shares of Helix common stock present at the special meeting, either in person or represented by proxy, and entitled to vote on the adjournment proposal, regardless of whether there is a quorum. Shares that are not present in person or by proxy and broker non-votes (if any) will have no effect on the vote for the adjournment proposal; however, abstentions will have the same effect as a vote “AGAINST” the approval of such proposal.

Voting of Proxies by Holders of Record

If you were a record holder of Helix common stock at the close of business on the record date for the special meeting, a proxy card is enclosed for your use. Helix requests that you vote your shares as promptly as possible by (i) accessing the internet site listed on the Helix proxy card, (ii) calling the toll-free number listed on the Helix proxy card or (iii) submitting your Helix proxy card by mail by using the provided self-addressed, stamped envelope. Information and applicable deadlines for voting through the internet or by telephone are set forth on the enclosed proxy card. When the accompanying proxy is returned properly executed, the shares of Helix common stock represented by it will be voted at the special meeting in accordance with the instructions contained in the proxy card. Your internet or telephone vote authorizes the named proxies to vote your shares in the same manner as if you had marked, signed and returned a proxy card.

If a proxy is returned without an indication as to how the shares of Helix common stock represented are to be voted with regard to a particular proposal, the Helix common stock represented by the proxy will be voted in accordance with the recommendation of the Helix Board and, therefore, “**FOR**” each of the required merger proposals and the optional vote matters, including specifically “**FOR**” the share issuance proposal, “**FOR**” the authorized share increase proposal, “**FOR**” the second merger proposal, “**FOR**” the plan of conversion proposal, “**FOR**” the Jones Act provisions proposal, “**FOR**” the D&O citizenship matters proposal, “**FOR**” the exclusive forum proposal, “**FOR**” the officer exculpation proposal, “**FOR**” the removal of supermajority approval requirement proposal, “**FOR**” the corporate opportunities proposal, “**FOR**” the non-binding compensation proposal and “**FOR**” the adjournment proposal.

The business to be conducted at the special meeting is generally limited to the matters set forth in the Notice of Special Meeting of Shareholders. At the date hereof, the Helix Board has no knowledge of any business that will be presented for consideration at the special meeting that would be required to be set forth in this proxy statement/prospectus or the related proxy card other than the matters set forth in Helix’s notice of special meeting of shareholders. If any other matter is properly presented at the special meeting for consideration, it is intended that the persons named in the enclosed form of proxy and acting thereunder will vote in accordance with their best judgment on such matter.

Your vote is important. Accordingly, if you were a record holder of Helix common stock on the record date for the special meeting, please sign and return the enclosed proxy card or vote via the internet or telephone regardless of whether you plan to attend the special meeting in person. Proxies submitted through the specified internet website or by phone must be received by 10:59 p.m., Central Daylight Time (Houston time), on _____, 2026 to ensure that the proxies are voted.

Shares Held in Street Name

If you hold shares of Helix common stock through a broker, bank or other nominee, you are considered the “beneficial holder” of the shares held for you in what is known as “street name.” The “record holder” of such shares is your broker, bank or other nominee, and not you, and you must provide the record holder of your shares with instructions on how to vote your shares. Please follow the voting instructions provided by your broker, bank or other nominee. Please note that you may not vote shares held in street name by returning a proxy card directly to Helix or by voting in person at the special meeting unless you have a “legal proxy,” which you must obtain from your broker, bank or other nominee. Furthermore, brokers, banks or other nominees who hold shares of Helix common stock on behalf of their customers may not give a proxy to Helix to vote those shares without specific instructions from their customers.

If you are a Helix shareholder and you do not instruct your broker, bank or other nominee on how to vote your shares, your broker, bank or other nominee may not vote your shares on any of the proposals.

Voting in Person

If you plan to attend the special meeting and wish to vote in person, you will be given a ballot at the special meeting. If you are a registered Helix shareholder, please be prepared to provide proper identification, such as a driver’s license, at the special meeting. If your shares are held in “street name,” you must bring to the special meeting a proxy executed in your favor from the record holder (your broker, bank or other nominee) of the shares authorizing you to vote at the special meeting.

Proxies and Revocation

Helix shareholders of record may revoke their proxies at any time before their shares of Helix common stock are voted at the special meeting in any of the following ways:

- delivering written notice of revocation of the proxy to Helix’s corporate secretary at Helix’s principal executive offices at 3505 West Sam Houston Parkway North, Suite 400, Houston, Texas 77043, by no later than _____, Central Daylight Time (Houston time), on _____, 2026;
- delivering another proxy with a later date to Helix’s corporate secretary at Helix’s principal executive offices at 3505 West Sam Houston Parkway North, Suite 400, Houston, Texas 77043, by no later than _____, Central Daylight Time (Houston time), on _____, 2026 (in which case only the later-dated proxy is counted and the earlier proxy is revoked);
- submitting another proxy again via the internet or by telephone at a later date, by no later than 10:59 p.m., Central Daylight Time (Houston time), on _____, 2026 (in which case only the later-dated proxy is counted and the earlier proxy is revoked); or

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- attending the special meeting in person and voting his, her or its shares during the meeting; attendance at the special meeting will not, in and of itself, revoke a valid proxy that was previously delivered unless you give written notice of revocation to the Helix corporate secretary before the proxy is exercised or unless you vote your shares in person during the special meeting.

If your shares are held in “street name” through a broker, bank or other nominee and deliver voting instructions to the record holder of those shares, you may only revoke the voting of those shares in accordance with your instructions if the record holder revokes the original proxy as directed above and either resubmits a proxy reflecting your voting instructions or delivers to you a legal proxy giving you the right to vote the shares.

Solicitation of Proxies

Helix and Hornbeck will share equally in the costs incurred by Helix for the printing, filing and mailing of this proxy statement/prospectus in connection with the special meeting. However, Helix will pay for the proxy solicitation costs otherwise related to the special meeting. In addition to sending and making available these materials, some of Helix’s directors, officers and other employees may solicit proxies by contacting Helix shareholders by telephone, by mail, by e-mail or online. Helix shareholders may also be solicited by, among others, news releases issued by Helix and/or Hornbeck, postings on Helix’s or Hornbeck’s websites and social media accounts and advertisements in periodicals. None of Helix’s directors, officers or employees will receive any extra compensation for their solicitation services. Helix has also retained Okapi Partners LLC as its proxy solicitor to assist in the solicitation of proxies. For these proxy solicitation services, Okapi Partners LLC will receive an estimated fee of approximately \$50,000, plus reasonable out-of-pocket expenses and fees for any additional services. Helix will also reimburse banks, brokers, and other nominees for their expenses in sending proxy solicitation materials to the beneficial owners of shares of Helix common stock and obtaining their proxies.

Other Matters

At this time, Helix knows of no other matters to be submitted at the special meeting.

Questions and Additional Information

Helix shareholders may contact Helix’s proxy solicitor with any questions about the required merger proposals, the optional vote matters or how to vote or to request additional copies of any materials at:

Okapi Partners LLC
1212 Avenue of the Americas, 17th Floor
New York, New York 10036
info@okapipartners.com
Shareholders may call toll-free: (888) 785-6709
Banks and brokers, please call: (212) 297-0720

THE SHARE ISSUANCE PROPOSAL

This proxy statement/prospectus is being furnished to you as a shareholder of Helix as part of the solicitation of proxies by the Helix Board for use at the special meeting to consider and vote upon a proposal to approve the issuance of Converted Helix Common Stock pursuant to the terms of the merger agreement, which is attached as *Annex A* to this proxy statement/prospectus.

Under the NYSE rules, a company listed on the NYSE is required to obtain shareholder approval prior to the issuance of common stock if (i) the number of shares of common stock to be issued in such transaction is equal to or in excess of 20% of the number of shares of common stock outstanding before the issuance of the common stock under Section 312.03(c) of the NYSE's Listed Company Manual or (ii) such issuance constitutes a change of control under Section 312.03(d) of the NYSE's Listed Company Manual. If the mergers are completed, it is currently estimated that the combined company will issue, or will become obligated to issue upon exercise of certain securities of Hornbeck to be assumed by the combined company in connection with the mergers, an aggregate of approximately 188.7 million shares of Converted Helix Common Stock as a result of the mergers, including 184.9 million shares of Converted Helix Common Stock issuable to Hornbeck securityholders and 3.8 million shares of Converted Helix Common Stock issuable upon settlement of Helix's outstanding unvested restricted stock unit awards and performance share unit awards (assuming achievement of maximum performance for Helix performance share unit awards), which will exceed 20% of the shares of Helix common stock outstanding before such issuance, and such issuance may also constitute a change of control under Section 312.03(d) of the NYSE's Listed Company Manual, and for these reasons Helix must obtain the approval of Helix shareholders for such issuance.

Upon completion of the mergers, and subject to the terms and conditions of the merger agreement, each share of Hornbeck common stock issued and outstanding immediately prior to the effective time (excluding excluded shares and dissenting shares) will be converted into the right to receive 10.27167 shares of Converted Helix Common Stock, as described in the section titled "*The Merger Agreement—Merger Consideration.*" In addition, in connection with the mergers, at the effective time, (i) each Creditor Warrant that is outstanding as of immediately prior to the effective time will be converted into the right to receive, in accordance with the merger agreement, a number of shares of Converted Helix Common Stock (or, in accordance with the applicable Jones Act restrictions in the certificate of incorporation of the combined company, new Jones Act Warrants to acquire such Converted Helix Common Stock), (ii) each Hornbeck performance restricted stock unit award and restricted stock unit award that is outstanding as of immediately prior to the effective time will be canceled and the holder thereof will become entitled to receive, in accordance with the merger agreement, a number of shares of Converted Helix Common Stock, (iii) each Helix restricted stock award that is outstanding immediately prior to the effective time will be in respect of Converted Helix Common Stock and be fully vested, (iv) each Helix performance share unit award and Helix restricted stock unit award that is outstanding as of immediately prior to the effective time will be canceled and the holder thereof will become entitled to receive, in accordance with the merger agreement, a number of shares of Converted Helix Common Stock (or a cash payment, as the Helix Board may instead determine prior to the effective time, in its discretion but after consultation with the Hornbeck Board, to settle such awards in cash), (v) each Hornbeck stock option that is outstanding as of immediately prior to the effective time will be fully vested, assumed by the combined company and converted into, in accordance with the merger agreement, a number of options in respect of Converted Helix Common Stock and (vi) each Jones Act Warrant that is outstanding as of immediately prior to the effective time will be assumed by the combined company and, subject to the applicable Jones Act restrictions in the certificate of incorporation of the combined company, will be exercisable into a number of shares of Converted Helix Common Stock, in each case as described in the section titled "*The Merger Agreement—Treatment of Equity Awards and Warrants.*" The actual number of shares of Converted Helix Common Stock to be issued pursuant to the merger agreement will be determined at the completion of the mergers based on the number of Helix equity awards outstanding immediately prior to such time, calculated on a fully diluted basis, and the number of shares of Hornbeck common stock, warrants and equity awards issued and outstanding immediately prior to such time, calculated on a fully diluted basis.

In the event the share issuance proposal is approved by the Helix shareholders, but Helix shareholders do not approve each of the other required merger proposals, one or more of the other conditions to consummation of the mergers are not satisfied or waived or the merger agreement is terminated (without the mergers being completed) prior to the consummation of the transactions contemplated thereby, Helix will not issue any shares of Converted Helix Common Stock as a result of the approval of the share issuance proposal.

Effect of Not Obtaining Required Vote for the Share Issuance Proposal

Pursuant to the merger agreement, approval of this proposal by Helix shareholders is a condition to the consummation of the mergers. Accordingly, if this proposal is not approved, the mergers will not be consummated.

Required Vote

This proposal requires the affirmative vote of the holders of shares of Helix common stock representing a majority of the outstanding shares of Helix common stock entitled to vote on such proposal.

**THE HELIX BOARD OF DIRECTORS RECOMMENDS THAT YOU VOTE “FOR”
THE SHARE ISSUANCE PROPOSAL.**

THE AUTHORIZED SHARE INCREASE PROPOSAL

Helix shareholders are being asked at the special meeting to consider and vote upon a proposal to approve an increase in the authorized Helix common stock and Helix preferred stock as set forth in Article V of the certificate of incorporation of the combined company. If adopted by the Helix shareholders, the increased authorized Helix common stock and Helix preferred stock would become effective upon filing of the certificate of incorporation of the combined company with the Secretary of State of the State of Delaware.

Helix's existing Articles of Incorporation authorizes Helix to issue 240,000,000 shares of common stock, without par value, and 5,000,000 shares of preferred stock with \$0.01 par value. The certificate of incorporation of the combined company authorizes the issuance up to 410,000,000 shares of capital stock, consisting of up to 400,000,000 shares of common stock, par value \$0.00001 per share, and up to 10,000,000 shares of preferred stock, par value \$0.00001 per share.

As of June 3, 2026, Helix had 240,000,000 authorized shares of Helix common stock, with approximately 147.4 million shares of Helix common stock (including approximately 127,000 shares of Helix common stock subject to restricted stock awards) outstanding, approximately 3.8 million shares of Helix common stock subject to outstanding unvested restricted stock unit awards and performance share unit awards (assuming maximum performance), and approximately 5.4 million shares of Helix common stock remain available for grant under Helix's equity incentive plans. As of June 3, 2026, Helix had 5,000,000 authorized shares of Helix preferred stock, with approximately no shares of Helix preferred stock outstanding. In addition, if the mergers are completed, it is currently estimated that the combined company will issue, or will become obligated to issue upon exercise of certain securities of Hornbeck to be assumed by the combined company in connection with the mergers, an aggregate of approximately 188.7 million shares of Converted Helix Common Stock as a result of the mergers, including 184.9 million shares of Converted Helix Common Stock issuable to Hornbeck securityholders and 3.8 million shares of Converted Helix Common Stock issuable upon settlement of Helix's outstanding unvested restricted stock unit awards and performance share unit awards (assuming achievement of maximum performance for Helix performance share unit awards).

Approval of the authorized share increase proposal is a condition to the completion of the mergers. The additional authorized shares of Helix common stock and Helix preferred stock contemplated by the authorized share increase proposal are necessary to effect the issuance of shares of Converted Helix Common Stock pursuant to the terms of the merger agreement. The Helix Board believes that the increased number of authorized shares of capital stock contemplated by the authorized share increase proposal also is important to the combined company in order for additional shares to be available for issuance from time to time, without further action or authorization by the combined company stockholders (except as required by applicable law or NYSE rules), for such corporate purposes as may be determined by the combined company board, including, but not limited to, financings, potential strategic transactions, including mergers, acquisitions and business combinations, grants under equity compensation plans, stock dividends, and stock splits, as well as other general corporate purposes. The additional authorized common stock and preferred stock would be a part of the existing classes of Helix common stock and Helix preferred stock and, if issued, would have the same rights and privileges as the shares of Helix common stock and preferred stock presently issued and outstanding (in each case after giving effect to the Conversion and the effectiveness of the certificate of incorporation of the combined company). For more information on the rights and privileges of the shares of Helix capital stock before and after the Conversion, see the sections titled "*Plan of Conversion Proposal*" and "*Comparison of Stockholders' Rights*."

Other than payment of the merger consideration, the issuance of shares upon exercise of the assumed warrants and options, the issuances of shares upon vesting and cancellation of Helix and Hornbeck equity awards, the issuance of shares available for grant under Helix's equity incentive plans, Helix has no current plan, commitment, arrangement, understanding or agreement regarding the issuance of the additional shares of Converted Helix Common Stock that will result from Helix's adoption of the proposal. While adoption of the proposal would not have any immediate dilutive effect on the proportionate voting power or other rights of Helix's existing shareholders, the issuance of shares of Converted Helix Common Stock to Hornbeck stockholders pursuant to the terms of the merger agreement will, among other things, dilute the earnings per share of Converted Helix Common Stock and the equity and voting rights of those holding Converted Helix Common Stock at the time such shares are issued. For additional information, see the section titled "*The Share Issuance Proposal*." Further, any future issuance of additional authorized shares of Converted Helix Common Stock may, among other things, dilute the earnings per share of the Converted Helix Common Stock and the equity and voting rights of those holding Converted Helix Common Stock at the time the additional shares are issued.

In addition to the corporate purposes mentioned above, an increase in the number of authorized shares of Helix common stock may make it more difficult to, or discourage an attempt to, obtain control of Helix by means of a takeover

bid that the Helix Board determines is not in the best interest of Helix and its shareholders. However, the Helix Board does not intend or view the proposed increase in the number of authorized shares of Helix common stock as an anti-takeover measure and is not aware of any attempt or plan to obtain control of Helix.

In the event the authorized share increase proposal is approved by the Helix shareholders, but Helix shareholders do not approve each of the other required merger proposals, one or more of the other conditions to consummation of the mergers are not satisfied or waived or the merger agreement is terminated (without the mergers being completed) prior to the consummation of the transactions contemplated thereby, Helix will not file the certificate of incorporation of the combined company with the Secretary of State of the State of Delaware as a result of the approval of the authorized share increase proposal and the existing Articles of Incorporation of Helix will not reflect the authorized share increase.

Effect of Not Obtaining Required Vote for the Share Increase Proposal

Pursuant to the merger agreement, approval of this proposal by Helix shareholders is a condition to the consummation of the mergers. Accordingly, if this proposal is not approved, the mergers will not be consummated.

Required Vote

This proposal requires the affirmative vote of the holders of shares of Helix common stock representing a majority of the outstanding shares of Helix common stock entitled to vote on such proposal.

**THE HELIX BOARD OF DIRECTORS RECOMMENDS THAT YOU VOTE “FOR”
THE AUTHORIZED SHARE INCREASE PROPOSAL.**

THE SECOND MERGER PROPOSAL

Helix shareholders are also being asked to vote on a separate proposal to approve the second merger.

Pursuant to the merger agreement, (i) Parent Sub will merge with and into Hornbeck, with Hornbeck continuing as the surviving entity (the “Surviving Corporation”) (the “first merger”) and (ii) immediately following the first merger, the Surviving Corporation will merge with and into LLC Sub (the “second merger”), with LLC Sub continuing as the surviving entity.

In the event the second merger proposal is approved by the Helix shareholders but Helix shareholders do not approve each of the other required merger proposals, one or more of the other conditions to consummation of the mergers are not satisfied or waived or the merger agreement is terminated (without the mergers being completed) prior to the consummation of the transactions contemplated thereby, the second merger will not be effected.

For a summary and more detailed information regarding this proposal, see the information about the mergers and the merger agreement throughout this proxy statement/prospectus, including the information set forth in sections titled “*The Mergers*” and “*The Merger Agreement*” of this proxy statement/prospectus. A copy of the merger agreement is attached as *Annex A* to this proxy statement/prospectus.

Effect of Not Obtaining Required Vote for the Second Merger Proposal

Pursuant to the merger agreement, approval of this proposal by Helix shareholders is a condition to the consummation of the mergers. Accordingly, if this proposal is not approved, the mergers will not be consummated.

Required Vote

This proposal requires the affirmative vote of the holders of shares of Helix common stock representing a majority of the outstanding shares of Helix common stock entitled to vote on such proposal.

**THE HELIX BOARD OF DIRECTORS RECOMMENDS THAT YOU VOTE “FOR”
THE SECOND MERGER PROPOSAL.**

THE PLAN OF CONVERSION PROPOSAL

The Helix Board has approved and recommends that the Helix shareholders approve a proposal to change Helix's state of incorporation from Minnesota to Delaware (the "Conversion"). If Helix shareholders approve the proposal and the other required merger proposals, we intend to effect the Conversion immediately prior to the effective time of first merger (assuming all other conditions to the consummation of the mergers have been satisfied or waived) by converting to a Delaware corporation as provided by Minnesota law and Delaware law. In this proxy statement/prospectus, we sometimes refer to Helix as a Minnesota corporation before the Conversion as "Helix Minnesota," refer to Helix as a Delaware corporation after the Conversion as "Helix Delaware" and refer to Helix Delaware after the mergers as the "combined company." The Helix Board has approved a plan of conversion attached as *Annex C* to this proxy statement/prospectus (the "Plan of Conversion") to effect the Conversion.

Assuming the Helix shareholders approve this proposal and the other required merger proposals, and the Conversion is effected, the principal effects will be that:

- Helix will become subject to Delaware corporation laws, and Helix's existing Articles of Incorporation (the "Minnesota Articles of Incorporation") and Bylaws (the "Minnesota Bylaws") will be replaced by a new certificate of incorporation (the "Delaware Certificate of Incorporation") and bylaws (the "Delaware Bylaws"), as more fully described below;
- Helix Delaware will (a) be deemed to be the same entity as Helix Minnesota for all purposes under Minnesota and Delaware law, and (b) continue to have all of the rights, privileges and powers of Helix Minnesota, except for the changes that result from being governed by Delaware law, the Delaware Certificate of Incorporation and Delaware Bylaws;
- each outstanding share of Helix Minnesota common stock will continue as an outstanding share of Helix Delaware common stock, and each outstanding option or other right to acquire shares of Helix Minnesota common stock will continue as an outstanding option or other right to acquire shares of Helix Delaware common stock;
- other than the change in corporate domicile, the Conversion (without giving effect to the mergers) will not result in any change in the business, physical location, management, assets or liabilities of Helix, nor will it result in any change in location of Helix's current employees, including management;
- the Delaware Certificate of Incorporation will change the par value of Helix's capital stock, currently no par value and par value \$0.01 per share with respect to Helix Minnesota common stock and preferred stock, respectively, to par value \$0.00001 per share with respect to both the common stock and preferred stock of Helix Delaware;
- the Delaware Certificate of Incorporation will increase the total number of shares of all classes of capital stock that Helix has authority to issue to 410,000,000 shares of capital stock, consisting of up to 400,000,000 shares of common stock and up to 10,000,000 shares of preferred stock; and
- the name of Helix following the Conversion will be changed to "Hornbeck Offshore Services, Inc."

Certain Risks Associated with the Conversion

Notwithstanding the belief of the Helix Board as to the benefits to our shareholders of the Conversion, there can be no assurance that the Conversion will result in the benefits discussed in this proxy statement/prospectus, including the benefits of or resulting from incorporation under Delaware, the ability to attract and retain qualified directors and officers or certain changes in our corporate governance. The Conversion would cause Helix to be governed by Delaware law rather than Minnesota law. Although the rights of shareholders may be similar under the MBCA and the DGCL, the substantive rights of the shareholders of Helix will be altered by the change in governing law.

Reasons for the Conversion

Background

Pursuant to the merger agreement, the obligations of Helix and Hornbeck to consummate the mergers are subject to, among other things, the approval of the required merger proposals, including the approval of this plan of conversion proposal. The mergers would be completed under Delaware law upon the completion of the Conversion.

Reasons for Conversion to Delaware

The Helix Board believes that the Conversion is in the best interests of Helix and will help maximize shareholder value by allowing us to be able to draw upon Delaware's well-established principles of corporate governance in making business and legal decisions. The prominence and predictability of Delaware corporate law provides a reliable foundation on which our governance decisions can be based. We believe that shareholders and Helix will benefit from the responsiveness of Delaware corporate law. Below is a summary of the principal factors the Helix Board considered in electing to pursue the Conversion.

Highly Developed and Predictable Corporate Law

Delaware has comprehensive and flexible corporate laws that are revised regularly by the Delaware legislature to meet changing business circumstances. The Delaware legislature is sensitive to issues of corporate law and responsive to developments in modern corporate law. Delaware's specialized Chancery Court deals almost exclusively with corporate law and has streamlined procedures and processes to provide relatively quick decisions. In addition, the Delaware Supreme Court, the only Delaware appeals court, is highly regarded. These courts have considerable expertise in dealing with corporate issues and have developed a substantial and influential body of corporate case law. In contrast, Minnesota does not have a similarly robust body of corporate case law and lacks a similar specialized court established to hear only corporate law cases.

Nearly two-thirds of the Fortune 500 companies are incorporated in Delaware, resulting in Delaware law and administrative practices being well-known and widely understood. Thus, it is anticipated that our legal affairs and corporate governance will be more efficient, predictable and flexible under Delaware law than they currently are under Minnesota law. In addition, Delaware provides a well-developed body of law defining the fiduciary duties and decision-making processes expected of boards of directors in a variety of contexts, including in evaluating potential and proposed corporate takeover offers and business combinations. The Helix Board believes that Delaware law will help it protect our strategic objectives, consider fully any proposed takeover and alternatives, and, if appropriate, negotiate terms that maximize the benefits to all of our shareholders.

Enhanced Ability to Attract and Retain Directors and Officers

The Helix Board believes that the Conversion will enhance our ability to attract and retain qualified directors and officers, and encourage directors and officers to continue to make independent decisions in good faith on behalf of Helix. We are in a competitive industry and compete for talented individuals to serve on our management team and on the Helix Board. Delaware law is more familiar than Minnesota law to potential director candidates, and offers directors and officers greater certainty and stability. Director and officer liability is more extensively addressed in Delaware court decisions and is therefore better defined and better understood than under Minnesota law. We believe that the better understood and comparatively stable corporate environment afforded by Delaware law will enable us to compete more effectively in the recruitment and retention of talented and experienced directors and officers.

Effect of Conversion

If this proposal and the other required merger proposals are approved, the Conversion will effect a change in the legal domicile of Helix and other changes of a legal nature, the most significant of which are described in the section titled "*Comparison of Stockholders' Rights*" elsewhere in this proxy statement/prospectus.

The conversion will not result in any change in the business, physical location, management, assets, liabilities or net worth of Helix, nor will it result in any change in location of our headquarters or current employees, including management. The Conversion will not affect our daily business operations, our organizational structure or our consolidated financial condition and results of operations. In addition, the Conversion will not alter the composition of management or the Helix Board. However, the consummation of the mergers will affect these and many other aspects of our business, as discussed throughout this proxy statement/prospectus, and we will only effect the Conversion if the other required merger proposals are approved by our shareholders, all other conditions to consummation of the mergers have been satisfied or waived and the mergers are to be consummated immediately thereafter. After the Conversion, our principal executive offices will remain located at 3505 West Sam Houston Parkway North, Suite 400, Houston, Texas 77043. Following the mergers, we will also maintain principal executive offices and headquarters located at 103 Northpark Boulevard, Suite 300, Covington, Louisiana 70433.

Plan of Conversion

The Conversion will be effected pursuant to the Plan of Conversion to be adopted by Helix Minnesota. The Plan of Conversion provides that Helix will convert into a Delaware corporation and become subject to Delaware law. By virtue of the Conversion, all of the rights, privileges and powers of Helix Minnesota, all property owned by Helix Minnesota, all debts due to Helix Minnesota and all causes of action belonging to Helix Minnesota immediately prior to the Conversion will remain vested in Helix Delaware following the Conversion. In addition, by virtue of the Conversion, all debts, liabilities and duties of Helix Minnesota immediately prior to the Conversion will remain attached to Helix Delaware following the Conversion. Each director and officer of Helix Minnesota will continue to hold his or her respective office with Helix Delaware until the first merger is consummated.

If this proposal and the other required merger proposals are approved by our shareholders, the Conversion would become effective upon the filing and effectiveness of the Minnesota Articles of Conversion, a certificate of conversion (the “Delaware Certificate of Conversion”) and the Delaware Certificate of Incorporation. If this and the other required merger proposals are approved, it is anticipated that the Helix Board will cause the Conversion to be effected immediately prior to the consummation of the first merger (assuming all other conditions to the consummation of the mergers have been satisfied or waived) (the “Conversion Effective Time”). However, the Conversion will only be effected if the other required merger proposals are approved by our shareholders, all other conditions to consummation of the mergers have been satisfied or waived and the mergers are to be consummated immediately thereafter.

At the Conversion effective time, each outstanding share of common stock of Helix Minnesota will automatically convert into one share of common stock of Helix Delaware and each outstanding option or other right to purchase shares of Helix Minnesota common stock will constitute an option or other right to purchase an equal number of shares of Helix Delaware common stock. Helix shareholders and holders of Company stock options will not be required to exchange their Helix Minnesota stock certificates or stock options, respectively, and should not destroy any stock certificate or stock option or submit any stock certificate or stock option to Helix unless they are requested to do so by Helix. Any Helix Minnesota stock certificates submitted to Helix for transfer after the Conversion Effective Time, whether pursuant to a sale or otherwise, will be exchanged automatically for Helix Delaware stock certificates.

Dissenters’ or Appraisal Rights

Our shareholders will not be entitled to dissenters’ rights or appraisal rights as a result of the Conversion.

Description of Helix Delaware’s Capital Stock and Warrants

If this proposal and the other required merger proposals are approved by our shareholders and the Conversion becomes effective, at the Conversion Effective Time, Helix Minnesota will convert into Helix Delaware, and the rights of stockholders of Helix Delaware will generally be governed by Delaware law, the Delaware Certificate of Incorporation and the Delaware Bylaws. The following is a description of the capital stock of Helix Delaware at the Conversion Effective Time. This description is not intended to be complete and is qualified in its entirety by reference to the full texts of the Delaware Certificate of Incorporation and Delaware Bylaws, copies of which are attached to this proxy statement/prospectus as *Annex D* and *Annex E*, respectively, and to the Plan of Conversion, which is attached to this proxy statement/prospectus as *Annex C*, and relevant provisions of Delaware law.

Generally

At the Conversion Effective Time, assuming the authorized share increase proposal is approved, the total number of shares of all classes of capital stock that Helix has authority to issue will increase to 410,000,000 shares of capital stock, consisting of up to 400,000,000 shares of common stock and up to 10,000,000 shares of preferred stock, and the par value of all classes of Helix capital stock will be changed to \$0.00001 per share. The approval of the authorized share increase proposal is a condition to the consummation of the mergers, and the Conversion will not be effected if such proposal, and the other required merger proposals, are not approved.

Description of Common Stock

All issued and outstanding shares of common stock at the Conversion Effective Time will remain outstanding.

At the Conversion Effective Time, the holders of shares of Helix Delaware common stock will continue to be entitled to one vote per share on all matters to be voted on by stockholders. Notwithstanding the foregoing, to the fullest extent permitted by law, holders of common stock will have no voting power with respect to, and will not be entitled to

vote on, any amendment to the Delaware Certificate of Incorporation that relates solely to the terms of one or more outstanding series of preferred stock if the holders of such affected series are entitled to vote thereon pursuant to the Delaware Certificate of Incorporation or Delaware law. Except as otherwise provided in the Delaware Certificate of Incorporation or required by applicable law, the holders of common stock will vote together as a single class on all matters submitted to a vote of the stockholders generally. The holders of shares of common stock will not have cumulative voting rights.

Except with respect to the election of directors or as otherwise required by law, all questions submitted to a vote of Helix Delaware stockholders at which a quorum is present will be decided by the affirmative vote of the majority of shares present in person or represented by proxy at the meeting and entitled to vote on the matter; provided that the removal of directors requires the affirmative vote of stockholders representing at least 68% of the voting power of all then-outstanding shares of stock of Helix Delaware entitled to vote thereon, voting as a single class, and amendments to certain provisions of the Delaware Certificate of Incorporation, including provisions relating to the classification of the Helix Board, require the affirmative vote of at least 66 2/3% of the voting power of all then-outstanding shares entitled to vote, voting together as a single class. Directors will be elected by a majority of the votes cast by the shares present in person or represented by proxy and entitled to vote on the election of directors, provided that directors are elected by a plurality of the votes cast by shares present and entitled to vote on the election of directors in the case of a contested election.

In addition, any holder of common stock may, at its election and with written notice to Helix Delaware, exchange any shares of common stock for Jones Act Warrants exercisable for the same number of shares of common stock, except to the extent such exchange would result in non-U.S. citizens beneficially owning, in the aggregate, more than the permitted percentage of each class or series of the capital stock of Helix Delaware.

At the Conversion Effective Time, the holders of Helix Delaware common stock will be entitled to receive dividends when, as and if declared by the Helix Board, subject to applicable law and the rights of holders of any outstanding series of preferred stock or any class or series of stock having a preference over or the right to participate with the common stock with respect to the payment of dividends and other distributions.

In the event of any voluntary or involuntary liquidation, dissolution or winding up of the affairs of Helix Delaware, after payment or provision for payment of Helix Delaware's debts and other liabilities and subject to the rights of the holders of shares of any series of preferred stock or any class or series of stock having a preference over the common stock as to distributions upon dissolution, liquidation or winding up, the holders of the shares of Helix Delaware common stock will be entitled to receive the remaining assets of Helix available for distribution ratably in proportion to the number of shares held by each such stockholder.

The Minnesota Articles of Incorporation and Minnesota Bylaws have, and the Delaware Certificate of Incorporation and Delaware Bylaws will contain, provisions that could have the effect of delaying or deferring a change in control of Helix, including provisions that:

- provide for a classified board, which has the effect of making it more difficult for shareholders to change the composition of the Helix Board;
- grant the Helix Board discretion to create and issue preferred stock from time to time without shareholder approval;
- provide that any vacancy on the Helix Board may be filled only by the affirmative vote of a majority of the remaining directors then in office, and not by the shareholders; and
- establish advance notice requirements for shareholders to nominate candidates for election as directors at any meeting of shareholders or to present any other business for consideration at any meeting of shareholders.

At the Conversion Effective Time, Section 203 of the DGCL will not apply to Helix Delaware and its stockholders. However, assuming the corporate opportunities proposal is approved, the Delaware Certificate of Incorporation will contain provisions similar to Section 203 of the DGCL. See "*The Corporate Opportunities Proposal*" elsewhere in this proxy statement/prospectus.

After the Conversion Effective Time, the Helix common stock will continue to be listed on the NYSE and trade under the symbol "HLX." After the consummation of the first merger, Helix Delaware's common stock will be listed on the NYSE and trade under the symbol "HOS."

Description of Preferred Stock

At the Conversion Effective Time, the Delaware Certificate of Incorporation will continue to authorize the Helix Delaware Board to create and provide for the issuance of up to 10,000,000 shares of preferred stock without the approval of our stockholders. The Helix Delaware Board will be authorized from time to time to provide for the issuance of shares of preferred stock in one or more series, setting forth the designation of each such series, and fixing the relative rights and preferences of each such series, including, without limitation, dividend rights, redemption rights, conversion privileges and liquidation rights.

Helix Minnesota is currently authorized to issue up to 5,000,000 shares of preferred stock under the Minnesota Articles of Incorporation. As of the date hereof, Helix has neither designated nor issued any shares of preferred stock.

The transfer agent and registrar for a particular series of preferred stock will be in connection with the initial issuance thereof.

Description of Jones Act Warrants

In connection with the mergers, Helix Delaware will assume all of the outstanding Hornbeck Jones Act Warrants. The Jones Act Warrants have a perpetual term and are exercisable until the date on which no Jones Act Warrants remain outstanding. Following the mergers, each Jones Act Warrant will represent the right to purchase one share of Helix Delaware common stock, par value \$0.00001 per share, for an exercise price of \$0.00001 per share, subject to the terms and conditions of the Jones Act Warrant Agreement pursuant to which such warrants are issued, including the limitations on foreign ownership as set forth in Delaware Certificate of Incorporation that are intended to assist Helix Delaware in complying with the Jones Act.

Computershare Inc., a Delaware corporation, together with its affiliate, Computershare Trust Company, N.A., a federally chartered trust company, is the warrant agent for the Jones Act Warrants.

Description of Creditor Warrants

Pursuant to Amendment No. 2 to the Creditor Warrant Agreement, in connection with the mergers, the outstanding Hornbeck Creditor Warrants will be settled in Helix Delaware common stock in connection with the merger; *provided, however*, that Helix Delaware will assume the outstanding Hornbeck Creditor Warrants in connection with the mergers if (a) the exercise price of the Creditor Warrants (after adjusting for the exchange ratio) equals or exceeds the average closing price per share of Converted Helix Common Stock over the ten trading days immediately preceding the second business day prior to the closing date of the mergers or (b) the merger agreement is modified, amended or restated in a manner adverse to certain holders of Creditor Warrants prior to the consummation of the mergers.

The Creditor Warrants have seven-year terms and are exercisable through September 4, 2027. If assumed by Helix Delaware in connection with the mergers, each Creditor Warrant will represent the right to purchase one share of Helix Delaware common stock, par value \$0.00001 per share, at an exercise price of approximately \$2.71 per share (based on the current exercise price of the Hornbeck Creditor Warrants, after adjusting for the exchange ratio), subject to certain adjustments as provided in the Creditor Warrant Agreement pursuant to which such warrants were issued. All unexercised Creditor Warrants will expire, and the rights of the holders of Creditor Warrants to purchase shares of common stock will terminate on the first to occur of (i) the close of business on September 4, 2027, or (ii) upon their earlier exercise or settlement in accordance with the terms of the Creditor Warrant Agreement.

Computershare Inc., a Delaware corporation, together with its affiliate, Computershare Trust Company, N.A., a federally chartered trust company, is the warrant agent for the Creditor Warrants.

The Charters and Bylaws of Helix Delaware and Helix Minnesota

The provisions of the Delaware Certificate of Incorporation and the Delaware Bylaws will be similar in substance to those of Helix's existing Minnesota Articles of Incorporation and Minnesota Bylaws in many respects. The differences include but are not limited to:

- assuming the Jones Act provisions proposal is approved by shareholders, the Delaware Certificate of Incorporation will (i) provide that all non-U.S. citizens in the aggregate may not own more than 21% of the outstanding shares of Helix Delaware's common stock, with certain limited grandfathered circumstances allowing up to 24% of the outstanding shares of Helix Delaware's common stock to be owned by non-U.S. citizens on and after the Conversion Effective Date and (ii) authorize the Helix Board to establish with respect

to any class or series of capital stock of Helix Delaware certain rules, policies and procedures, including procedures with respect to transfer of shares, to ensure compliance with the Jones Act; the approval of the Jones Act provisions proposal is a condition to the consummation of the mergers, and the Conversion will not be effected if such proposal, and the other required merger proposals, are not approved (see “*The Jones Act Provisions Proposal*” elsewhere in this proxy statement/prospectus);

- assuming the D&O citizenship matters proposal is approved by shareholders, the Delaware Certificate of Incorporation will (i) provide that all of the executive officers of the Helix Delaware must be U.S. citizens for purposes of the Jones Act, and (ii) require Helix Delaware to take all necessary action to cause in all events the Helix Board to be in compliance with the Jones Act, including requiring (A) the Chairperson of the Helix Board and the Lead Independent Director, if any, to be U.S. citizen for purposes of the Jones Act and (B) that no more than a minority of the number of directors necessary to constitute a quorum of the Helix Board (in order for Helix Delaware to continue as a U.S. citizen for Jones Act purposes) (or any committee thereof) shall be non-U.S. citizens for Jones Act purposes; the approval of the D&O citizenship matters proposal is a condition to the consummation of the mergers, and the Conversion will not be effected if such proposal, and the other required merger proposals, are not approved (see “*The D&O Citizenship Matters Proposal*” elsewhere in this proxy statement/prospectus);
- assuming the removal of supermajority approval requirement proposal is approved, the Delaware Certificate of Incorporation will not include the provision requiring the affirmative vote of at least 80% of the voting power of all then-outstanding shares to amend, alter, repeal or rescind provisions of the Delaware Certificate of Incorporation or the Delaware Bylaws relating to: (i) the taking of less than unanimous stockholder action without a meeting; (ii) the right of stockholders to call a special meeting; (iii) the number, election and term of Helix Delaware’s directors; (iv) the procedures for the removal of directors or filling vacancies on the Helix Board; and (v) fixing a quorum for meetings of stockholders; instead, amendments to such provisions will be governed by the same 66 2/3% voting standard applicable to other specified provisions of the Delaware Certificate of Incorporation and Bylaws;
- assuming the corporate opportunities proposal is approved, the Delaware Certificate of Incorporation will contain a corporate opportunities provision which provides that (i) certain identified persons, including investors, investor directors, and their respective affiliates, managers, directors, principals, officers, employees and other representatives, may engage in the same or similar activities or lines of business as those in which Helix Delaware or its affiliates engage or may engage, (ii) no such identified person shall have any duty to refrain from engaging in any such opportunity or otherwise competing with Helix Delaware or its affiliates, (iii) no such identified person shall have any duty or obligation to refer or offer to Helix Delaware any opportunity, except for any identified person who is a director, who shall have the duty to refer or offer to Helix Delaware any opportunity that is expressly first presented in writing to such director in his or her capacity as a director or if knowledge of such opportunity is first acquired solely as a result of such director’s position as a director, and (iv) Helix Delaware hereby renounces any interest or expectancy in being offered an opportunity to participate in any other opportunity which may be a corporate or business opportunity for Helix Delaware or any of its affiliates;
- assuming the exclusive forum proposal is approved by shareholders, the Delaware Certificate of Incorporation will contain an exclusive jurisdiction provision, which provides that, subject to certain exceptions, any stockholder derivative suits, fiduciary duty claims, any action asserting a claim arising pursuant to any provision of the DGCL or the Delaware Certificate of Incorporation or Delaware Bylaws, any action asserting a claim governed by the internal affairs doctrine or any action asserting an “internal corporate claim,” as that term is defined in Section 115 of the DGCL, must be brought in the Delaware Court of Chancery (see “*The Exclusive Forum Proposal*” elsewhere in this proxy statement/prospectus); and
- assuming the officer exculpation proposal is approved by shareholders, the Delaware Certificate of Incorporation will provide that no officer of Helix Delaware will be personally liable to Helix Delaware or its shareholders for monetary damages for breach of fiduciary duty as an officer to the extent permitted by Delaware law (see “*The Officer Exculpation Proposal*” elsewhere in this proxy statement/prospectus).

For a discussion of all the legal changes that will result from the Conversion, see “*Comparison of Stockholders’ Rights*,” as well as the full texts of the Delaware Certificate of Incorporation and Delaware Bylaws, copies of which are attached to this proxy statement/prospectus as *Annex D* and *Annex E*, respectively, and to the Plan of Conversion, which is attached to this proxy statement/prospectus as *Annex C* to this proxy statement/prospectus.

No Changes to Employee Benefit Plans

Upon effectiveness of the Conversion, all of Helix Minnesota’s employee benefit plans will be continued by Helix Delaware, and each equity-based award issued and outstanding pursuant to such plans will automatically convert into an equity-based award with respect to the same number of shares of Helix Delaware, upon the same terms and subject to the same conditions as set forth in the applicable plan under which the award was granted and in the agreement reflecting the award. Approval of the Conversion would constitute approval of the assumption of these plans by Helix Delaware. Assuming the Conversion is approved, Helix Delaware will continue Helix Minnesota’s other employee benefit arrangements upon the terms and subject to the conditions currently in effect.

Comparison of Shareholder Rights Before and After the Conversion

The conversion will result in certain changes to the rights of Helix’s shareholders because of differences between Minnesota law and Delaware law and differences between Helix’s governing documents before and after the Conversion. The most significant provisions of Minnesota law and Delaware law are summarized in the section titled “*Comparison of Stockholders’ Rights*,” along with the differences between the rights of Helix’s shareholders immediately before and immediately after the Conversion.

Material U.S. Federal Income Tax Consequences of the Conversion

The following discussion summarizes the material U.S. federal income tax consequences of the Conversion to holders of our common stock. This summary is not a comprehensive description of all of the U.S. federal income tax consequences of the Conversion that may be relevant to holders, including holders that are subject to special tax rules. **We urge you to consult your own tax advisor regarding your particular circumstances and the U.S. federal income and non-income tax consequences to you of the Conversion, as well as any tax consequences arising under the laws of any state, local, foreign or other tax jurisdiction.**

The conversion provided for in the Plan of Conversion is intended to be treated as a “reorganization” under Section 368(a) of the U.S. Internal Revenue Code. Assuming the Conversion qualifies as a “reorganization” within the meaning of Section 368(a) of the U.S. Internal Revenue Code, and subject to the qualifications and assumptions described in this proxy statement/prospectus: (a) holders of Helix Minnesota common stock will not recognize any gain or loss as a result of the consummation of the Conversion, (b) the aggregate tax basis of shares of Helix Delaware common stock held by a holder immediately following consummation of the Conversion will be equal to the aggregate tax basis of the shares of Helix Minnesota common stock held by a holder immediately before consummation of the Conversion, and (c) the holding period for the shares of Helix Delaware common stock held by a holder following the Conversion will include the holding period of Helix Minnesota common stock converted therefor. The Conversion is not intended to be deemed (a) a change of control or similar transaction or (b) a reorganization for any other purpose other than under Section 368(a) of the U.S. Internal Revenue Code.

Accounting Consequences Associated with the Conversion

We expect that the Conversion, and the establishment of a par value for the Converted Helix Common Stock, will not have a material impact on Helix from an accounting perspective because there is no change in the entity as a result of the Conversion. However, because Hornbeck will be the accounting acquiror in the mergers, the historical financial statements of Hornbeck will become the historical financial statements of Helix Delaware reported to the SEC in Helix Delaware’s periodic reports filed with the SEC for all periods ending after the consummation of the mergers.

Effect of Vote for the Plan of Conversion Proposal

A vote in favor of this proposal is a vote in favor of the Conversion and the Plan of Conversion, which will authorize us to file the Minnesota Articles of Conversion, the Delaware Certificate of Conversion and the Delaware Certificate of Incorporation, and adopt the Delaware Bylaws. If this proposal is approved by the Helix shareholders, it will be implemented only if the other required merger proposals are also approved at the special meeting, all other conditions to consummation of the mergers have been satisfied or waived and the mergers are to be completed immediately after the Conversion.

Effect of Not Obtaining Required Vote for Approval of the Plan of Conversion Proposal

Pursuant to the merger agreement, approval of this proposal by Helix shareholders is a condition to the consummation of the mergers. If we fail to obtain the requisite vote of shareholders for approval of this proposal, the Conversion will not occur, the mergers will not be consummated and Helix will continue to be incorporated in Minnesota and governed by Minnesota Law, the Minnesota Articles of Incorporation and the Minnesota Bylaws.

Required Vote

This proposal requires an affirmative vote of the holders of a majority of our outstanding common stock.

**THE HELIX BOARD OF DIRECTORS RECOMMENDS THAT YOU VOTE “FOR”
THE PLAN OF CONVERSION PROPOSAL.**

THE JONES ACT PROVISIONS PROPOSAL

In conjunction with its review and approval of the plan of conversion proposal, the Helix Board has approved and recommends that the Helix shareholders approve a proposal to include in the Delaware Certificate of Incorporation provisions that will provide, among other things, (i) that all non-U.S. citizens (as defined under the Jones Act) in the aggregate may not own more than 21% of Helix Delaware issued and outstanding common stock (or any other class or series of capital stock), with certain limited grandfathered circumstances allowing up to 24% of the outstanding shares of Converted Helix Common Stock to be owned by non-U.S. citizens on and after the effective date of the Delaware Certificate of Incorporation, (ii) that any individual non-U.S. citizen may not own more than 4.9% of Helix Delaware issued and outstanding common stock (or any other class or series of capital stock), and (iii) for possible required divestiture by non-U.S. citizen stockholders in excess of such limits (the “Jones Act Provisions”).

The description of the Jones Act Provisions is not intended to be complete and is qualified in its entirety by reference to the full text of the Jones Act Provisions which is included as Article XV in the Delaware Certificate of Incorporation, a copy of which is attached as Exhibit A to the Plan of Conversion, which is attached to this proxy statement/prospectus as *Annex C*.

Reasons for the Jones Act Provisions

Following the completion of the mergers, substantial portions of the combined company’s operations will be conducted in the U.S. coastwise trade, and thus, will be subject to the provisions of the Jones Act. The Jones Act requires, among other things, that at least 75% of the company’s interest and voting power must be owned and controlled at all times by “U.S. citizens” (as defined under the Jones Act) in order for the combined company to own and operate vessels in the U.S. coastwise trade.

A “U.S. citizen” for purposes of the Jones Act includes the following:

- If the stockholder is an individual, the stockholder is deemed a citizen of the United States (for Jones Act purposes) if the stockholder is native-born, naturalized, or a derivative citizen of the United States, or otherwise qualifies as a United States citizen.
- If the stockholder is a partnership, limited liability company that is member-managed or limited partnership, the entity is deemed a citizen of the United States (for Jones Act purposes) if the stockholder: (a) is organized under the laws of the United States or a state, (b) each general partner or member is a citizen of the United States and (c) if not less than 75.0% of the interest and voting power of the partnership, limited liability company or limited partnership is ultimately held by citizens of the United States free of any voting trust, fiduciary arrangement or other agreement, arrangement or understanding whereby non-citizens may directly or indirectly assert control.
- If the stockholder is a corporation or a limited liability company that is manager-managed, the stockholder is deemed a citizen of the United States (for Jones Act purposes) if: (a) the stockholder is organized or formed under the laws of the United States or a State, (b) each of its president or other chief executive and the chairman of its board of directors or managers is a citizen of the United States, (c) no more than a minority of the number of its directors or managers necessary to constitute a quorum for the transaction of business by the stockholder are non-citizens of the United States and (d) not less than 75.0% of the shares or interests (beneficially and of record) of each class or series of shares or interests are owned by citizens of the United States, and free of any voting trust, fiduciary arrangement or other agreement, arrangement or understanding whereby non-citizens may directly or indirectly assert control.
- Where the stockholder is an entity (and not an individual), the requirement that at least 75.0% of the interests and voting power be owned and controlled by U.S. citizens extends up through the various tiers to all levels of direct and indirect ownership in the entity. Accordingly, each entity in the chain of ownership, at each tier of ownership, of the underlying entity must meet the definition of citizen of the United States (for Jones Act purposes) applicable to such entity.

The combined company will be responsible for monitoring the ownership of its equity securities and subsidiaries to ensure compliance with the citizenship requirements of the Jones Act. If the combined company does not comply with such requirements, it would be prohibited from operating its U.S.-flagged vessels in the U.S. coastwise trade and may incur severe penalties, such as fines and/or forfeiture of such vessels and/or permanent loss of U.S. coastwise trading privileges for such vessels. Such loss could have a material adverse effect on our results of operations. While we take, and will continue to take, steps to prevent foreign ownership from exceeding 25%, we do not control trading in our

stock and cannot control non-compliance by a foreign purchaser of our stock resulting in our exceeding the foreign citizenship ownership limitations except for the safeguards contained in the Jones Act Provisions described below.

Because of the risk associated with the non-compliance with the Jones Act, the Jones Act Provisions are intended to provide certain safeguards to assist the combined company with maintaining its status as a U.S. citizen in compliance with the Jones Act. These Jones Act Provisions provide that any transfer (including Helix Delaware's original issuance) is void ab initio and ineffective to the extent that such transfer would result in ownership by (a) all non-U.S. citizens in the aggregate exceeding 21% of Helix Delaware issued and outstanding common stock (or any other class or series of capital stock), with certain limited grandfathered circumstances allowing up to 24% of the outstanding shares of Converted Helix Common Stock to be owned by non-U.S. citizens on and after the effective date of the Delaware Certificate of Incorporation, and (b) any individual non-U.S. citizen exceeding 4.9% of Helix Delaware issued and outstanding common stock (or any other class or series of capital stock). The Jones Act Provisions will authorize the Helix Board to establish with respect to any class or series of capital stock of Helix Delaware certain rules, policies and procedures, including procedures with respect to transfer of shares. These actions may include redeeming any share of Converted Helix Common Stock that caused the ownership by non-U.S. citizens to exceed the applicable permitted limit. In the event the Helix Board authorizes such a redemption, Helix Delaware would instruct its transfer agent to issue one Jones Act Warrant, or in certain situations, cash or interest bearing promissory notes, in respect of shares of common stock that caused ownership by non-U.S. citizens to exceed the applicable permitted limit, and such holder(s)' interests in those shares will be terminated. Any purported issuance or transfer of shares of Converted Helix Common Stock in violation of these ownership provisions will be ineffective to issue or transfer the common stock or any voting, dividend or other rights associated with them.

Although the combined company's Jones Act trading privileges will be conditioned upon foreign ownership of its common stock never exceeding 25%, the Jones Act Provisions provide that all non-U.S. citizens in the aggregate may not own more than 21% of the outstanding shares of Converted Helix Common Stock, with certain limited grandfathered circumstances allowing up to 24% of the outstanding shares of Converted Helix Common Stock to be owned by non-U.S. citizens on and after the effective date of Delaware Certificate of Incorporation. The Helix Board believes these thresholds provide a reasonable margin for the important purpose of maintaining compliance with the Jones Act given that the company's stock will continue to be publicly traded.

The Jones Act Provisions further provide that Helix Delaware may require beneficial owners of its common stock to confirm their citizenship from time to time through written statement or affidavit and could, in the discretion of the Helix Board, suspend the voting rights of such beneficial owner, pay into an escrow account dividends or other distributions (upon liquidation or otherwise) with respect to such shares held by such beneficial owner and restrict, prohibit or void the transfer of such shares and refuse to register such shares of common stock held by such beneficial owner until confirmation of its citizenship status is received.

The Helix Board believes implementation of the Jones Act Provisions is in the best interests of Helix and will help ensure that, following the Conversion and the mergers, the combined company will remain a U.S. citizen for Jones Act purposes eligible to own and operate vessels in the U.S. coastwise trade.

Certain Risks Associated with the Jones Act Provisions

The Jones Act Provisions may adversely impact the marketability of Converted Helix Common Stock, particularly in markets outside of the United States. Further, if the Helix Board authorizes redemption of common stock that caused the ownership by non-U.S. citizens to exceed the applicable permitted limit, because a stockholder would not have control over the timing of such redemption, the stockholder may be subject to redemption at a time when the market price or timing of the redemption is disadvantageous to such stockholder. Furthermore, under certain circumstances, this ownership requirement and the related redemption provisions may have the effect of impeding or discouraging a merger, tender offer or proxy contest by a non-U.S. citizen, even if it were favorable to the interests of some or all of Helix Delaware's stockholders.

Effect of the Jones Act Provisions

If this proposal and the other required merger proposals are approved, following the Conversion Effective Time non-U.S. citizens would not be prohibited from owning shares of Converted Helix Common Stock, but if non-U.S. citizens in the aggregate own in excess of 21% of Helix Delaware issued and outstanding common stock (or any other class or series of capital stock), with certain limited grandfathered circumstances allowing up to 24% of the outstanding shares of Converted Helix Common Stock to be owned by non-U.S. citizens on and after the effective date of the

Delaware Certificate of Incorporation, Helix Delaware would be permitted to redeem shares it determines to be in excess of the applicable permitted limit. Additionally, similar limitations and redemption rights will apply to individual non-U.S. citizens owning in excess of 4.9% of Helix Delaware issued and outstanding common stock (or any other class or series of capital stock).

Effect of Vote for the Jones Act Provisions Proposal

A vote in favor of this proposal is a vote in favor of the Jones Act Provisions, which will authorize us to adopt the Jones Act Provisions in the Delaware Certificate of Incorporation, assuming that the required merger proposals are approved by the Helix shareholders. If this proposal is approved by the Helix shareholders, it will be implemented only if the other required merger proposals are also approved at the special meeting, all other conditions to consummation of the mergers have been satisfied or waived and the Conversion is to be effected immediately prior to the consummation of the mergers.

Effect of Not Obtaining Required Vote for the Jones Act Provisions Proposal

Pursuant to the merger agreement, approval of this proposal by Helix shareholders is a condition to the consummation of the mergers. If we fail to obtain the requisite vote of shareholders for approval of this proposal, the Conversion will not occur, the mergers will not be consummated and Helix will continue to be incorporated in Minnesota and governed by Minnesota Law, the Minnesota Articles of Incorporation and the Minnesota Bylaws.

Required Vote

This proposal requires the affirmative vote of the holders of shares of Helix common stock representing a majority of the outstanding shares of Helix common stock entitled to vote on such proposal.

**THE HELIX BOARD OF DIRECTORS RECOMMENDS THAT YOU VOTE “FOR”
THE JONES ACT PROVISIONS PROPOSAL.**

THE D&O CITIZENSHIP MATTERS PROPOSAL

In conjunction with its review and approval of the plan of conversion proposal, the Helix Board has approved and recommends that the Helix shareholders approve a proposal to include in the Delaware Certificate of Incorporation provisions that will (i) provide that all of the executive officers of the Helix Delaware must be U.S. citizens for purposes of the Jones Act, and (ii) require Helix Delaware to take all necessary action to cause in all events the Helix Board to be in compliance with the Jones Act, including requiring (A) the Chairperson of the Helix Board and the Lead Independent Director, if any, to be U.S. citizen for purposes of the Jones Act and (B) that no more than a minority of the number of directors necessary to constitute a quorum of the Helix Board (in order for Helix Delaware to continue as a U.S. citizen for Jones Act purposes) (or any committee thereof) shall be non-U.S. citizens for Jones Act purposes (the “D&O Citizenship Provision”).

The description of the D&O Citizenship Provision is not intended to be complete and is qualified in its entirety by reference to the full text of the D&O Citizenship Provision which is included as Section 6.7 in the Delaware Certificate of Incorporation, a copy of which is attached to this proxy statement/prospectus as *Annex D*.

Reasons for the D&O Citizenship Provision

For a corporation to be deemed a U.S. citizen for purposes of the Jones Act, it must be incorporated under the laws of the United States or of a U.S. state, the chief executive officer must be a U.S. citizen, the Chairperson of the Helix Board must be a U.S. citizen and no more directors may be non-U.S. citizens than a minority of the number necessary to constitute a quorum. If the combined company does not comply with such requirements and is deemed not to be a U.S. citizen for Jones Act purposes, it would be prohibited from operating U.S.-flagged vessels in the U.S. coastwise trade and may incur severe penalties, such as fines and/or forfeiture of such vessels and/or permanent loss of U.S. coastwise trading privileges for such vessels.

We believe that the D&O Citizenship Provision is in the best interests of Helix and will help ensure that, following the Conversion and the mergers, the combined company will remain a U.S. citizen for Jones Act purposes eligible to own and operate vessels in the U.S. coastwise trade.

Certain Risks Associated with the D&O Citizenship Provision

Notwithstanding our belief as to the benefits to our shareholders of the D&O Citizenship Provision, it will have the effect of limiting the pool of candidates eligible to serve as directors or officers of Helix.

Effect of the D&O Citizenship Provision

If this proposal and the other required merger proposals are approved, following the Conversion Effective Time all of our executive officers, the Chairperson of the Helix Board and a majority of our directors (and members of the committees of the Helix Board) will be required to be U.S. citizens for Jones Act purposes.

Although we could adopt the D&O Citizenship Provision in the Delaware Bylaws without obtaining separate shareholder approval for the provision, we determined to include the provision in the Delaware Certificate of Incorporation and that it would be in the best interests of Helix and our shareholders, and consistent with our commitment to strong corporate governance practices, for our shareholders to have the opportunity to consider and act upon the D&O Citizenship Provision.

Effect of Vote for the D&O Citizenship Matters Proposal

A vote in favor of this proposal is a vote in favor of the D&O Citizenship Provision, which will authorize us to adopt the D&O Citizenship Provision in the Delaware Certificate of Incorporation, assuming that the required merger proposals are approved by our shareholders. If this proposal is approved by the Helix shareholders, it will be implemented only if the other required merger proposals are also approved at the special meeting, all other conditions to consummation of the mergers have been satisfied or waived and the Conversion is to be effected immediately prior to the consummation of the mergers.

Effect of Not Obtaining Required Vote for Approval of the D&O Citizenship Matters Proposal

Pursuant to the merger agreement, approval of this proposal by Helix shareholders is a condition to the consummation of the mergers. If we fail to obtain the requisite vote of shareholders for approval of this proposal, the Conversion will not occur, the mergers will not be consummated and Helix will continue to be incorporated in Minnesota and governed by Minnesota Law, the Minnesota Articles of Incorporation and the Minnesota Bylaws.

Required Vote

This proposal requires the affirmative vote of the holders of shares of Helix common stock representing a majority of the outstanding shares of Helix common stock entitled to vote on such proposal.

**THE HELIX BOARD OF DIRECTORS RECOMMENDS THAT YOU VOTE “FOR”
THE D&O CITIZENSHIP MATTERS PROPOSAL.**

THE EXCLUSIVE FORUM PROPOSAL

In conjunction with its review and approval of the plan of conversion proposal, the Helix Board has approved and recommends that the Helix shareholders approve the adoption of an exclusive forum provision in the Delaware Certificate of Incorporation which would specify that, unless Helix Delaware consents in writing to the selection of an alternative forum, the Court of Chancery of the State of Delaware will, to the fullest extent permitted by applicable law, be the sole and exclusive forum for (i) any derivative action or proceeding brought on Helix Delaware's behalf, (ii) any action asserting a claim of breach of a fiduciary duty owed by any of Helix Delaware's directors, advisory directors, board observers, officers or employees to Helix Delaware or its stockholders, (iii) any action asserting a claim against Helix Delaware, its directors, advisory directors, board observers, officers or employees arising pursuant to any provision of the DGCL, the Delaware Certificate of Incorporation or the Delaware Bylaws, (iv) any action asserting a claim against Helix Delaware, its directors, advisory directors, board observers, officers or employees that is governed by the internal affairs doctrine or (v) any action asserting an "internal corporate claim," as that term is defined in Section 115 of the DGCL, except for, as to each of clauses (i) through (iv) above, any claim as to which the Court of Chancery determines that there is an indispensable party not subject to the jurisdiction of the Court of Chancery (and the indispensable party does not consent to the personal jurisdiction of the Court of Chancery within ten days following such determination), which is vested in the exclusive jurisdiction of a court or forum other than the Court of Chancery, or for which the Court of Chancery does not have subject matter jurisdiction, in which case a federal district court of the United States of America located in the State of Delaware will be the exclusive forum (the "Exclusive Forum Provision").

The description of the Exclusive Forum Provision is not intended to be complete and is qualified in its entirety by reference to the full text of the Exclusive Forum Provision which is included as Article XIV in the Delaware Certificate of Incorporation, a copy of which is attached to this proxy statement/prospectus as *Annex D*.

Reasons for the Exclusive Forum Provision

Adopting Delaware as the exclusive forum for certain litigation is intended to assist Helix Delaware in avoiding multiple lawsuits in multiple jurisdictions regarding the same matter. The ability to require such claims to be brought in a single forum will help to assure consistent consideration of the issues and should promote efficiency and cost-savings in the resolutions of such claims. Providing for such exclusive forum would promote judicial fairness and avoid conflicting results, as well as make Helix Delaware's defense of applicable claims less disruptive and more economically feasible, principally by avoiding duplicative discovery.

We believe that the Exclusive Forum Provision is in the best interests of Helix Delaware and will help maximize stockholder value by allowing us to be able to draw upon Delaware's well-established principles of corporate governance in making business and legal decisions. The Delaware legislature is sensitive to issues of corporate law and responsive to developments in modern corporate law. Delaware's specialized Chancery Court deals almost exclusively with corporate law and has streamlined procedures and processes to provide relatively quick decisions. In addition, the Delaware Supreme Court, the only Delaware appeals court, is highly regarded. These courts have considerable expertise in dealing with corporate issues and have developed a substantial and influential body of corporate case law. Further, we believe that Helix Delaware and its stockholders will benefit from the responsiveness of the Delaware courts. Therefore, the prominence, predictability and proactivity of the Delaware courts provide a reliable forum where our governance decisions can be based and litigated.

Certain Risks Associated with the Exclusive Forum Provision

Notwithstanding our belief as to the benefits to our shareholders of the Exclusive Forum Provision, there can be no assurance that the Exclusive Forum Provision will result in the benefits discussed in this proxy statement/prospectus, including the benefits of avoiding potentially duplicative and costly litigation matters or the greater expertise of the designated courts.

The Exclusive Forum Provision may impose additional costs and burdens on stockholders who wish to bring claims against Helix Delaware or its directors, officers or other employees, which may discourage stockholders from bringing such claims or limit their ability to bring a claim in a judicial forum that they find favorable.

Section 27 of the Exchange Act creates exclusive federal jurisdiction over all suits brought to enforce any duty or liability created by the Exchange Act or the rules and regulations thereunder, and Section 22 of the Securities Act creates concurrent jurisdiction for federal and state courts over all suits brought to enforce any duty or liability created by the

Securities Act or the rules and regulations thereunder. There is uncertainty as to whether a court would enforce the Exclusive Forum Provision with respect to such claims, and in any event, Helix Delaware's stockholders would not be deemed to have waived Helix's compliance with federal securities laws and the rules and regulations thereunder. If a court were to find the Exclusive Forum Provision to be inapplicable or unenforceable with respect to such claims or any other action, Helix Delaware may incur additional costs associated with resolving such action in other jurisdictions or resolving lawsuits involving similar claims in multiple jurisdictions, all of which could harm its business, results of operations and financial condition.

Effect of the Exclusive Forum Provision

If the required merger proposals and this proposal are approved by our shareholders, the Exclusive Forum Provision will effect a change in the legal forum for certain claims, as discussed above, and will become effective upon the Conversion Effective Time.

Although we could adopt the Exclusive Forum Provision in the Delaware Bylaws without obtaining separate shareholder approval for the provision, we determined to include the provision in the Delaware Certificate of Incorporation and that it would be in the best interests of Helix and our shareholders, and consistent with our commitment to strong corporate governance practices, for our shareholders to have the opportunity to consider and act upon the Exclusive Forum Provision.

Effect of Vote for the Exclusive Forum Provision

A vote in favor of this proposal is a vote in favor of the Exclusive Forum Provision, which will authorize us to adopt the Exclusive Forum Provision in the Delaware Certificate of Incorporation, assuming that the required merger proposals are approved by our shareholders. If this proposal is approved by the Helix shareholders, it will be implemented only if the required merger proposals are also approved at the special meeting, all other conditions to consummation of the mergers have been satisfied or waived and the Conversion is to be effected immediately prior to the consummation of the mergers.

Effect of Not Obtaining Required Vote for Approval of the Exclusive Forum Provision

Assuming that the required merger proposals are approved by our shareholders, if we fail to obtain the requisite vote of shareholders for approval of this proposal, the Exclusive Forum Provision will not be included in the Delaware Certificate of Incorporation.

Required Vote

This proposal requires the affirmative vote of the holders of shares of Helix common stock representing a majority of our outstanding shares of Helix common stock entitled to vote on such proposal.

**THE HELIX BOARD OF DIRECTORS RECOMMENDS THAT YOU VOTE "FOR"
THE EXCLUSIVE FORUM PROPOSAL.**

THE OFFICER EXCULPATION PROPOSAL

In conjunction with its review and approval of the plan of conversion proposal, the Helix Board has approved and recommends that the Helix shareholders approve a proposal to include in the Delaware Certificate of Incorporation provisions that expand exculpation to certain officers of Helix in specific circumstances, to the extent permitted by Delaware law (the “Officer Exculpation Provision”).

The description of the Officer Exculpation Provision is not intended to be complete and is qualified in its entirety by reference to Section 102(b)(7) of the DGCL and the full text of the Officer Exculpation Provision, which is included in Article VII in the Delaware Certificate of Incorporation, a copy which is attached to this proxy statement/prospectus as *Annex D*.

Background

Until recently, the DGCL limited exculpation to directors alone. However, legislation enacted in the State of Delaware in 2022 permits Delaware corporations to include a provision in their certificates of incorporation to exculpate certain officers, in addition to their directors, for personal liability for breach of the duty of care in certain actions.

As amended, Section 102(b)(7) of the DGCL only permits exculpation for direct claims brought by stockholders for breach of an officer’s fiduciary duty of care, including class actions, and accordingly would not eliminate officers’ monetary liability for breach of fiduciary duty claims brought by the corporation itself or for derivative claims brought by stockholders in the name of the corporation. The Officer Exculpation Provision would not limit the liability of officers for any breach of the duty of loyalty to Helix Delaware or its stockholders, any acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of the law, and any transaction from which the officer derived an improper personal benefit. The Officer Exculpation Provision is similar to the limitations of liability currently afforded to our directors, under Helix’s Minnesota Articles of Incorporation. The rationale for limiting the scope of our officers’ liability, as further described below, is to strike a balance between stockholders’ interest in accountability and their interest in Helix being able to attract and retain quality officers to work on its behalf.

Reasons for the Officer Exculpation Provision

As part of the Helix Board’s ongoing evaluation of the corporate governance structures and practices of Helix, we considered the benefits and detriments of eliminating personal liability of certain of our officers under certain circumstances. We believe that stockholders and Helix will benefit from the inclusion of the Officer Exculpation Provision and have included a summary below of the principal factors the Helix Board considered in electing to pursue the Officer Exculpation Provision.

Enhanced Ability to Attract and Retain Officers

Adopting the Officer Exculpation Provision would enable our officers to exercise their business judgment in furtherance of our stockholders’ interests without the potential distraction of risking personal liability. An officer’s role often requires them to make decisions on crucial matters and in response to time-sensitive opportunities and challenges, which can create substantial risk of investigations, claims, actions, suits, or proceedings seeking to impose liability based on hindsight, especially in the current litigious environment and regardless of merit. Further, enhancing our ability to retain and attract experienced officers is in the best interests of Helix and we should seek to assure such persons that exculpation under certain circumstances is available. We believe that failing to adopt the Officer Exculpation Provision could impact our recruitment and retention of exceptional officer candidates who conclude that the potential exposure to liabilities, costs of defense, and other risks of proceedings exceeds the benefits of serving as an officer of Helix.

Addressing Rising Litigation and Insurance Costs for Stockholders

Prior to the amendment of Section 102(b)(7) of the DGCL, Delaware law permitted Delaware corporations to exculpate directors from personal liability for monetary damages associated with breaches of the duty of care, but that protection did not extend to a Delaware corporation’s officers. Consequently, stockholder plaintiffs have employed the tactic of bringing certain claims that would otherwise be exculpated if brought against directors against individual officers to avoid dismissal of such claims. The amendment to Section 102(b)(7) of the DGCL was adopted to address inconsistent treatment between officers and directors and address rising litigation and insurance costs for stockholders.

Accordingly, the Officer Exculpation Provision will align the protections available to our directors with those available to our officers. Further, the Officer Exculpation Provision will not negatively impact stockholder rights, considering the narrow class and type of claims for which officers' liability would be exculpated. In addition, we are not proposing the Exculpation Provision in anticipation of any specific litigation confronting Helix, the Exculpation Provision is being proposed on a prospective basis to help mitigate potential future harm to Helix Delaware and its stockholders.

Accordingly, the benefits we believe would accrue to Helix Delaware and its stockholders in the form of an enhanced ability to attract and retain talented officers and addressing rising litigation and insurance costs for stockholders, the Helix Board recommends that our shareholders approve the Officer Exculpation Provision as described herein.

Effect of the Officer Exculpation Provision

If the required merger proposals and this proposal are approved by our shareholders, the Officer Exculpation Provision will affect a change in the liability of Helix's officers consistent with the protections currently afforded to our directors and become effective upon the Conversion Effective Time.

The Officer Exculpation Provision will not be retroactive to any act or omission occurring prior to its effective date. Further, the exculpation would only apply to certain officers, namely a person who (during the course of conduct alleged to be wrongful) (i) is or was president, chief executive officer, chief operating officer, chief financial officer, chief legal officer, controller, treasurer or chief accounting officer; (ii) is or was identified in Helix's public filings with the Securities and Exchange Commission as one of the most highly compensated executive officers of Helix; or (iii) has, by written agreement with Helix, consented to be identified as an officer for purposes of accepting service of process.

Effect of Vote for the Officer Exculpation Provision

A vote in favor of this proposal is a vote in favor of the Officer Exculpation Provision, which will authorize us to adopt the Officer Exculpation Provision in the Delaware Certificate of Incorporation, assuming that the required merger proposals are approved by our shareholders. If this proposal is approved by the Helix shareholders, it will be implemented only if the required merger proposals are also approved at the special meeting, all other conditions to consummation of the mergers have been satisfied or waived and the Conversion is to be effected immediately prior to the consummation of the mergers.

Effect of Not Obtaining Required Vote for Approval of the Officer Exculpation Provision

Assuming that the required merger proposals are approved by our shareholders, if we fail to obtain the requisite vote of shareholders for approval of this proposal, the Officer Exculpation Provision will not be included in the Delaware Certificate of Incorporation.

Required Vote

This proposal requires the affirmative vote of the holders of shares of Helix common stock representing a majority of our outstanding shares of Helix common stock entitled to vote on such proposal.

**THE HELIX BOARD OF DIRECTORS RECOMMENDS THAT YOU VOTE "FOR"
THE OFFICER EXCULPATION PROPOSAL.**

THE REMOVAL OF SUPERMAJORITY APPROVAL REQUIREMENT PROPOSAL

In conjunction with its review and approval of the plan of conversion proposal, the Helix Board has approved and recommends that the Helix shareholders approve a proposal to exclude from the Delaware Certificate of Incorporation the provisions currently included in the Minnesota Articles of Incorporation which require the affirmative vote of the holders of at least eighty percent (80%) in voting power of all the then outstanding shares of stock of Helix entitled to vote thereon, voting together as a single class, to amend, alter, repeal or rescind, in whole or in part, or to adopt any provision inconsistent with the provisions of Helix's organizational documents relating to: (i) the taking of less than unanimous stockholder action without a meeting; (ii) the right of stockholders to call a special meeting; (iii) the number, election and term of Helix's directors; (iv) the procedures for the removal of directors or filling vacancies on the Helix Board; and (v) fixing a quorum for meetings of stockholders (such provisions, collectively, the "80% Supermajority Approval Provisions" and, such required vote, the "80% Supermajority Approval Requirement").

The 80% Supermajority Approval Requirement is included as Section 12.3 in the Delaware Certificate of Incorporation. The description of such requirement and the other amendment provisions in the Delaware Certificate of Incorporation and Delaware Bylaws is not intended to be complete and is qualified in its entirety by reference to the full texts of the Delaware Certificate of Incorporation and Delaware Bylaws, copies of which are attached to this proxy statement/prospectus as *Annex D* and *Annex E*, respectively, and to the Plan of Conversion, which is attached to this proxy statement/prospectus as *Annex C*.

Reasons for Eliminating the 80% Supermajority Approval Requirement

The Helix Board believes that eliminating the requirement for least an 80% supermajority vote to amend, alter, repeal or rescind any of the 80% Supermajority Approval Provisions is in the best interests of shareholders. The Helix Board believes Supermajority approval requirements to amend certain provisions of Helix's organizational documents provide important anti-takeover protection for Helix and encourage shareholders to reach a broader consensus on important governance decisions. However, the Helix Board recognizes that an 80% approval threshold necessitates a significant degree of shareholder consensus that can inadvertently hinder shareholders' ability to affect company matters.

After careful consideration, the Helix Board has determined that a sixty six and two-thirds percent (66 2/3%) supermajority amendment approval standard represents an ideal balance of protecting Helix from unsolicited, hostile take-over attempts on the one hand, and increasing our shareholders' ability to effectively participate in corporate governance matters, on the other hand. Accordingly, the Delaware Certificate of Incorporation will include provisions requiring the affirmative vote of the holders of at least 66 2/3% in voting power of all the then-outstanding shares of stock of Helix Delaware entitled to vote thereon, voting together as a single class, to amend certain Articles of the Delaware Certificate of Incorporation or to amend any provision of the Delaware Bylaws or adopt any provision inconsistent therewith, including the 80% Supermajority Approval Provisions.

If this proposal is not approved, the 80% Supermajority Approval Requirement will be included in the Delaware Certificate of Incorporation and will override the 66 2/3% threshold with respect to all 80% Supermajority Approval Provisions. If this proposal is approved, the 66 2/3% threshold will apply for any future amendments to such provisions. After giving careful consideration to this matter, the Helix Board determined that the benefits of eliminating the 80% Supermajority Approval Requirement outweighed any benefits from retaining such requirement and will increase the Helix Board's accountability to shareholders and shareholder access to corporate governance matters, while the 66 2/3% threshold for amendments in the Delaware Certificate of Incorporation will adequately maintain the important protective effects of supermajority amendment approval standards.

Effect of Eliminating the 80% Supermajority Approval Requirement

If the required merger proposals and this proposal are approved by our shareholders, the 80% Supermajority Approval Requirement will not be included in the Delaware Certificate of Incorporation and the affirmative vote of the holders of at least 66 2/3% in voting power of all the then-outstanding shares of stock of Helix Delaware entitled to vote thereon, voting together as a single class, will be required to amend, alter, repeal or rescind the 80% Supermajority Threshold Provisions, or to adopt provisions of the Delaware Certificate of Incorporation or Delaware Bylaws inconsistent therewith.

Effect of Vote for the Removal of the Supermajority Approval Requirement Proposal

A vote in favor of this proposal is a vote in favor of eliminating the 80% Supermajority Approval Requirement, which will authorize us to exclude the 80% Supermajority Approval Requirement from the Delaware Certificate of

Incorporation, assuming that the required merger proposals are approved by our shareholders. If this proposal is approved by the Helix shareholders, it will be implemented only if the required merger proposals are also approved at the special meeting, all other conditions to consummation of the mergers have been satisfied or waived and the Conversion is to be effected immediately prior to the consummation of the mergers.

Effect of Not Obtaining Required Vote for the Removal of the Supermajority Approval Requirement Proposal

Assuming that the required merger proposals are approved by our shareholders, if we fail to obtain the requisite vote of shareholders for approval of this proposal, the 80% Supermajority Approval Requirement will be included in the Delaware Certificate of Incorporation.

Required Vote

This proposal requires the affirmative vote of the holders of shares of Helix common stock representing **at least eighty percent (80%)** of the outstanding shares of Helix common stock entitled to vote on such proposal. If this proposal is approved by our shareholders, it will be implemented only if the required merger proposals are also approved and the Conversion is effected immediately prior to the consummation of the mergers. Accordingly, even if this proposal is approved by our shareholders, it will not be implemented unless the required merger proposals are also approved at the special meeting, all other conditions to consummation of the mergers have been satisfied or waived and the Conversion is to be effected immediately prior to the consummation of the mergers.

**THE HELIX BOARD OF DIRECTORS RECOMMENDS THAT YOU VOTE “FOR”
THE REMOVAL OF THE SUPERMAJORITY APPROVAL REQUIREMENT PROPOSAL.**

THE CORPORATE OPPORTUNITIES PROPOSAL

In conjunction with its review and approval of the plan of conversion proposal, the Helix Board has approved and recommends that the Helix shareholders approve a proposal to include in the Delaware Certificate of Incorporation provisions which, among other things, provide that (i) the Investors, each of the Investor Directors, and any member of the Investor Group, and any one or more of the respective managers, directors, principals, officers, employees and other representatives of each such person or their respective affiliates (as defined in the Delaware Certificate of Incorporation) (the foregoing persons being referred to, collectively, as “Identified Persons”) will have no duty to refrain from engaging directly or indirectly in the same or similar business activities or lines of business as Helix or its affiliates (any such activity or line of business, an “Opportunity”) or otherwise competing with Helix and its affiliates, and (ii) no Identified Person shall be obligated to offer or refer to Helix or any of its affiliates any Opportunity, except for any Identified Person that is a director of Helix who shall have an obligation to offer or refer to Helix an Opportunity if such Opportunity is expressly first presented in writing to such Identified Person’s capacity as a director of Helix or if knowledge of such Opportunity is first acquired by such Identified Person solely as a result of such Identified Person’s position as a director of Helix (the “Corporate Opportunities Provisions”).

The description of the Corporate Opportunities Provisions is not intended to be complete and is qualified in its entirety by reference to the full text of the Corporate Opportunities Provisions which is included as Article IX in the Delaware Certificate of Incorporation, a copy of which is attached to this proxy statement/prospectus as *Annex D*.

Reasons for the Corporate Opportunities Provisions

The Helix Board believes that these provisions are appropriate because as a result of multiple business affiliations, Investor Directors may have similar legal obligations relating to presenting business opportunities and, given their involvement with a wide range of companies, the Identified Persons should not be restricted from investing in, leading and operating other businesses. Additionally, the Helix Board believes the Corporate Opportunities Provisions are appropriately tailored to exclude certain Opportunities that may become known to Investor Directors as a result of their positions as directors of Helix.

Effect of the Corporate Opportunities Provisions

If the required merger proposals and this proposal are approved by our shareholders, the Corporate Opportunities Provisions will waive the corporate opportunities doctrine with respect to certain directors (subject to certain exceptions) and certain other parties, as described above, and become effective upon the Conversion Effective Time.

Effect of Vote for the Corporate Opportunities Proposal

A vote in favor of this proposal is a vote in favor of the Corporate Opportunities Provisions, which will authorize us to adopt the Corporate Opportunities Provisions in the Delaware Certificate of Incorporation, assuming that the required merger proposals are approved by the Helix shareholders. If this proposal is approved by the Helix shareholders, it will be implemented only if the required merger proposals are also approved at the special meeting, all other conditions to consummation of the mergers have been satisfied or waived and the Conversion is to be effected immediately prior to the consummation of the mergers.

Effect of Not Obtaining Required Vote for Approval of the Corporate Opportunities Proposal

Assuming that the required merger proposals are approved by our shareholders, if we fail to obtain the requisite vote of shareholders for approval of this proposal, the Corporate Opportunities Provisions will not be included in the Delaware Certificate of Incorporation.

Required Vote

This proposal requires the affirmative vote of the holders of shares of Helix common stock representing a majority of the outstanding shares of Helix common stock entitled to vote on such proposal.

THE HELIX BOARD OF DIRECTORS RECOMMENDS THAT YOU VOTE “FOR” THE CORPORATE OPPORTUNITIES PROPOSAL.

THE NON-BINDING COMPENSATION PROPOSAL

Pursuant to Section 14A of the Exchange Act and Rule 14a-21(c) thereunder, Helix is seeking a non-binding advisory approval of the compensation payable to Helix's named executive officers that is based on or otherwise relates to the mergers as disclosed in the section titled "*The Mergers—Interests of Helix's Directors and Officers in the Mergers*." The non-binding compensation proposal gives Helix shareholders the opportunity to express their views on the merger-related compensation of Helix's named executive officers. For more information on the Helix shareholder vote required for approval of the non-binding compensation proposal, see the section titled "*Special Meeting—Vote Required*."

The Helix Board recommends that the Helix shareholders vote "**FOR**" the adoption of the following resolution, on an advisory (non-binding) basis:

"RESOLVED, that Helix shareholders approve, on an advisory (non-binding) basis, the compensation that may be paid or become payable to Helix's named executive officers in connection with the mergers, as disclosed pursuant to Item 402(t) of Regulation S-K under "*The Mergers—Interests of Helix's Directors and Officers in the Mergers*" of the proxy statement/prospectus (which disclosure includes the compensation table and related narrative named executive officer compensation disclosures required pursuant to Item 402(t) of Regulation S-K)."

The vote on the advisory non-binding compensation proposal is a vote separate and apart from the vote to approve the required merger proposals. The approval of the non-binding compensation proposal is not a condition to the completion of the mergers. Accordingly, Helix shareholders may vote for the approval of the required merger proposals and against the approval of the non-binding compensation proposal, and vice versa. If the mergers are completed, the merger-related compensation may be paid to Helix's named executive officers to the extent payable in accordance with the terms of the compensation agreements and arrangements even if Helix shareholders vote against the approval of the advisory vote regarding merger-related compensation.

THE HELIX BOARD OF DIRECTORS RECOMMENDS THAT YOU VOTE "FOR" THE NON-BINDING COMPENSATION PROPOSAL.

THE ADJOURNMENT PROPOSAL

Helix shareholders may be asked, if necessary, at the special meeting to consider and vote upon a proposal to adjourn the special meeting to another time and place to permit solicitation of additional proxies if there are not sufficient votes to approve (i) the share issuance proposal, (ii) the authorized share increase proposal, (iii) the second merger proposal, (iv) the plan of conversion proposal, (v) the Jones Act provisions proposal and (vi) the D&O citizenship matters proposal. The approval of the adjournment proposal is not a condition to the completion of the mergers. For more information on the Helix shareholder vote required for approval of the adjournment proposal, see the section titled “*Special Meeting—Vote Required*.”

**THE HELIX BOARD OF DIRECTORS RECOMMENDS THAT YOU VOTE “FOR”
THE ADJOURNMENT PROPOSAL.**

THE MERGERS

This section of the proxy statement/prospectus describes the material aspects of the proposed mergers. This section may not contain all of the information that is important to you. You should carefully read this entire proxy statement/prospectus and the documents incorporated by reference into this proxy statement/prospectus, including the full text of the merger agreement, a copy of which is attached to this proxy statement/prospectus as Annex A, for a more complete understanding of the proposed mergers and the transactions related thereto. In addition, important business and financial information about Helix is included in or incorporated by reference into this proxy statement/prospectus. Please see “Where You Can Find More Information.”

Background of the Mergers

The terms of the merger agreement are the result of arm’s-length negotiations between representatives of Helix and Hornbeck. The following is a summary of the events leading up to the signing of the merger agreement and key meetings, negotiations, discussions and actions taken among Helix, Hornbeck and their respective advisors that preceded the public announcement of the mergers; it does not purport to catalogue every conversation or interaction among representatives of Helix, Hornbeck and other parties.

The Helix Board and Helix’s management team regularly review Helix’s operating results, capital structure, future growth opportunities and competitive position in the offshore energy industry. These reviews have included consideration by the Helix Board and Helix’s management team and, from time to time, discussions with outside financial advisors and other industry participants of various potential strategic transactions, as well as ongoing initiatives aimed at enhancing stockholder value, strengthening Helix’s financial and liquidity position, increasing its cash flows and growing its business organically, to prepare for and respond to changing market forces and resulting business risks and uncertainties in the offshore energy industry.

In addition, the Hornbeck Board and Hornbeck’s management team have regularly reviewed Hornbeck’s operating results, capital structure, future growth opportunities and competitive position in the marine transportation and services industry. As Hornbeck is a private company, Hornbeck has regularly reviewed strategic alternatives and alternatively pursued access to the public markets as a way to strengthen its financial and liquidity position, expand the size and scope of Hornbeck and its business and provide a path to liquidity for its securityholders. As part of Hornbeck’s consideration of strategic alternatives and access to the public markets, on June 23, 2023, the Hornbeck Board created a strategic alternatives committee. Such committee is chaired by Aaron Rosen, director of Hornbeck and Partner, Co-Head of Opportunistic Credit and Co-Portfolio Manager of Special Opportunities in the Ares Credit Group, and, since May 7, 2024, has been comprised of Mr. Rosen, Todd M. Hornbeck, Chairman, President and Chief Executive Officer of Hornbeck, James McConeghy, director on the Hornbeck Board and Principal, Opportunistic Credit in the Ares Credit Group, and Jacob Mercer, director on the Hornbeck Board and Partner, Head of Special Situations and Restructuring at Whitebox. The strategic alternatives committee was initially formed to manage day-to-day process for and participate in discussions or negotiations with third parties regarding strategic alternatives and assist the Hornbeck Board in considering and evaluating strategic alternatives. In July of 2023, the Hornbeck Board expanded the authority of the strategic alternatives committee to also include assisting in and managing the day-to-day process for an initial public offering, or IPO.

Beginning in mid-2024, the Helix Board began contemplating various potential strategic transactions and various members of Helix management and the Helix Board had discussions with potential counterparties. From June to September 2024, Helix entered into confidentiality and non-disclosure agreements containing customary mutual non-disclosure and non-use provisions, as well as, in certain cases via amendment, a standstill that included a “don’t ask, don’t waive” provision, with three different parties, which we refer to as “Company A”, “Company B” and “Company C”.

In August 2024, the Helix Board engaged Kirkland as legal counsel after confirming that there were no conflicts and Goldman Sachs as its financial advisor, at which time representatives of Goldman Sachs provided a customary material relationship disclosure letter to the Helix Board. At the direction of the Helix Board, on August 26, 2024, Goldman Sachs sent a process letter soliciting bids for a potential strategic transaction to various potential counterparties, including Company A, Company B and Company C.

On August 23, 2024, Helix and Hornbeck executed a confidentiality and nondisclosure agreement in connection with ongoing discussions, which included customary mutual non-disclosure and non-use provisions as well as a standstill that included a “don’t ask, don’t waive” provision.

Later that month, on August 29, 2024, Owen Kratz, President and Chief Executive Officer of Helix and director on the Helix Board, met with Mr. Hornbeck to discuss a possible strategic transaction involving Helix and Hornbeck.

After various rounds of meetings with Company A, Company B and Company C over the next several months, discussions with such parties ceased without reaching an agreement on terms for a strategic transaction. Discussions with Hornbeck also ceased in late 2024. However, Helix continued to evaluate the possibility of strategic alternatives.

On January 2, 2025, members of Helix management and members of management from a party referred to herein as “Company D” met to discuss a potential strategic transaction.

On January 8, 2025, Helix and a party referred to herein as “Company E” executed a confidentiality and nondisclosure agreement in connection with ongoing discussions, which included customary non-disclosure and non-use provisions but, given that such agreement only had unilateral (rather than bi-lateral) non-disclosure and non-use provisions to protect Company E’s confidential information to be shared with Helix, no standstill provision in favor of Helix was included.

On January 16, 2025, Helix and Company D executed a confidentiality and nondisclosure agreement in connection with ongoing discussions, which included customary mutual non-disclosure, non-use and standstill provisions.

On February 18, 2025, Helix engaged Heidrick & Struggles International, Inc., an executive search firm, to assist in its executive succession planning and search for a new chief executive officer.

On April 16, 2025, members of Helix management and members of management from Company E, as well as certain of their respective advisors, gave reciprocal management presentations on their respective businesses.

In May of 2025, representatives of Company A and Company B, respectively, discussed with members of Helix management potentially restarting a dialogue regarding a strategic transaction, but ultimately no agreement or terms were established between the parties.

On May 27, 2025, members of Helix management gave a management presentation on the Helix business to and members of management from Company D, with certain of their respective advisors in attendance.

Between May and September of 2025, members of Helix management and the Helix Board conducted various rounds of negotiations regarding a potential strategic transaction with representatives of Company E, but ultimately no agreement or terms were established between the parties.

On June 10, 2025, Mr. Hornbeck met with John Lovoi, a director of Helix, to discuss a possible business combination with Helix. Later that month, the Hornbeck Board engaged Piper Sandler & Co. (“Piper”) as its financial advisor in connection with a possible strategic transaction with Helix. Following Mr. Hornbeck’s meeting with Mr. Lovoi, Mr. Hornbeck discussed the possibility of a strategic transaction with William Transier, Chairman of the Helix Board, and subsequently Mr. Kratz also shared presentation materials prepared by Piper. However, Helix did not pursue a potential strategic transaction with Hornbeck further at that time.

On November 14, 2025, Hornbeck filed with the SEC a fourth amendment to its registration statement on Form S-1 in contemplation of an IPO, which was initially publicly filed with the SEC on December 7, 2023.

In December of 2025, members of Helix management had various discussions regarding a potential strategic transaction with a party referred to herein as “Company F”, but ultimately no agreement or terms were established between the parties.

On December 17, 2025, following discussions with the Helix Board, Mr. Kratz informed the Helix Board of his intention to retire but agreed to continue to serve until the Helix Board appointed a successor.

On January 5, 2026, Mr. Rosen connected with Mr. Transier to discuss a potential strategic transaction between Helix and Hornbeck.

On January 9, 2026 and January 19, 2026, members of the Helix Board discussed the ongoing status and progress of discussions between Messrs. Rosen and Transier regarding a potential transaction between Helix and Hornbeck, and the Helix Board indicated its support in continuing to advance those conversations.

From January 9, 2026 through February 6, 2026, Messrs. Rosen and Transier exchanged several communications regarding a potential transaction between Helix and Hornbeck, including the possible benefits of such a transaction and potential timeline thereof.

On various occasions in January of 2026, members of Helix’s management team discussed with representatives of Goldman Sachs, the financial advisor to Helix in connection with prior strategic alternative discussions, the proposed business combination with Hornbeck.

On January 13, 2026, Hornbeck filed a fifth amended registration statement on Form S-1 with the SEC.

On January 15, 2026, Mr. Transier met with Mr. Rosen and Mr. McConeghy to discuss a potential strategic transaction between Helix and Hornbeck.

On January 21, 2026, the Hornbeck Board held a special meeting to receive an update from the strategic alternatives committee regarding a possible strategic transaction with Helix. At that meeting, the Hornbeck Board discussed the relative merits of pursuing such a strategic transaction against the alternative of imminently consummating an IPO. Following deliberation, the Hornbeck Board unanimously agreed that Mr. Rosen and Mr. Hornbeck and other representatives of Hornbeck should meet with the Helix Board to continue to evaluate a potential strategic transaction.

Also on January 21, 2026, in preparation for a possible meeting between representatives of Hornbeck and the Helix Board, Ken Neikirk, Executive Vice President, General Counsel and Corporate Secretary of Helix sent a draft mutual confidentiality and nondisclosure agreement to Mr. Rosen in his capacity as a representative of Hornbeck. The draft agreement included customary mutual non-disclosure and non-use provisions, as well as a standstill that included a “don’t ask, don’t waive” provision.

Also on January 21, 2026, Mr. Neikirk contacted Kirkland, legal counsel to Helix in connection with its strategic alternatives review and counsel to Hornbeck in respect of its IPO and other strategic alternatives, to discuss the proposed business combination with Hornbeck. Kirkland advised that they were already engaged as legal counsel to Hornbeck. As such, Kirkland advised that representation of Helix in connection with a strategic transaction involving Hornbeck may constitute a conflict of interest.

On February 2, 2026, following communication with the Helix Board, Helix agreed to waive any conflict that may exist in respect of Kirkland’s representation of Hornbeck in connection with the potential strategic transaction between Helix and Hornbeck (other than with respect to any litigation, mediation or other legal proceeding or dispute among Helix, Hornbeck or their respective directors, officers, employees or representatives arising out of the potential strategic transaction between Helix and Hornbeck). As a condition to the waiver, Kirkland agreed that no attorney or paralegal representing Hornbeck would have access to any of Helix’s privileged or confidential information in possession of Kirkland and that Kirkland would not use or disclose Helix’s privileged or confidential information for the benefit of Hornbeck or any other person to the detriment of Helix. In addition, Kirkland agreed that except with Helix’s prior written consent, no Kirkland attorney or paralegal who had previously represented Helix would work with Hornbeck on the potential strategic transaction with Helix. Kirkland also agreed that it would not represent Hornbeck or Helix in any legal proceeding or dispute between Helix and Hornbeck or their respective directors, officers, employees or representatives commenced with respect to the potential strategic transaction between Helix and Hornbeck.

On February 2, 2026 and effective February 1, 2026, Helix and Hornbeck executed the mutual confidentiality and nondisclosure agreement, which included the standstill and “don’t ask, don’t waive” provision.

Also on February 2, 2026, the Helix Board held a special meeting, with Messrs. Hornbeck, Rosen, McConeghy and Samuel Giberga, Executive Vice President, General Counsel and Corporate Secretary of Hornbeck, each in their capacities as representatives of Hornbeck, in attendance at the invitation of the Helix Board, to discuss the proposed business combination between Helix and Hornbeck. Following the special meeting, the Helix Board directed Helix management to continue to pursue the potential transaction.

On February 3, 2026, Helix engaged Baker Botts L.L.P. (“Baker Botts”) as legal counsel for the proposed business combination with Hornbeck, after confirming the absence of conflicts in connection with the representation.

On February 4, 2026, Hornbeck’s strategic alternatives committee held a telephonic meeting with representatives from Piper, Barclays Capital Inc. (“Barclays”), as an additional financial advisor to Hornbeck, and Kirkland present and determined to recommend to the Hornbeck Board that the Hornbeck Board pursue a business combination with Helix. The strategic alternatives committee instructed Kirkland to draft an indication of interest outlining proposed terms for a potential transaction, including an exchange ratio that would result in a fully diluted equity split in the combined company of 60% for Hornbeck securityholders and 40% for Helix securityholders, proposed for Mr. Hornbeck to lead the combined companies and called for registration rights to be granted to certain Hornbeck

securityholders, which the strategic alternatives committee viewed as important in order to obtain support of such securityholders and consistent with rights they would have received in connection with an IPO. The indication of interest also proposed a post-closing board composition commensurate with the proposed equity split.

On February 6, 2026, the Hornbeck Board held a special meeting to receive an update from its strategic alternatives committee regarding a potential transaction with Helix. Members of Hornbeck management and representatives of Piper, Barclays and Kirkland were in attendance. The strategic alternatives committee discussed its recommendation to pursue a business combination with Helix. The Hornbeck Board also received an update from Piper and Barclays regarding the proposed transaction. Following discussion the Hornbeck Board determined to pursue a business combination with Helix and to postpone the launch of its IPO. The Hornbeck Board instructed the strategic alternatives committee to deliver the indication of interest letter to the Helix Board. During the executive session, which, except for Mr. Giberga, Hornbeck management, including Mr. Hornbeck, did not attend, the Hornbeck Board also discussed, in connection with a possible transaction with Helix, amending the existing trademark license agreement with HFR, an entity related to Mr. Hornbeck, to provide for long term use of the “Hornbeck” name and associated trademarks by the combined company without ongoing periodic payments to an entity related to the lead executive for the combined company, and the need for post-transaction employment terms with Mr. Hornbeck.

Later in the day on February 6, 2026, the Helix Board received an indication of interest letter from Hornbeck outlining proposed terms of a potential transaction, including a tentative timeline for definitive documents and a proposed exchange ratio that would result in a fully diluted equity split in the combined company of 60% and 40% for Hornbeck securityholders and Helix securityholders, respectively, provided for Mr. Hornbeck to lead the combined company and indicated the expectation that the securityholders of Hornbeck would receive registration rights in connection with the transactions. It also proposed post-closing board composition commensurate with the proposed equity split.

On February 9, 2026, the Helix Board received a presentation from Mr. Rosen on behalf of Hornbeck in connection with the indication of interest letter received on February 6, 2026.

Also on February 9, 2026, Helix engaged Alvarez & Marsal Holdings, LLC (“A&M”) as financial and diligence advisor for the proposed business combination with Hornbeck, after confirming the absence of conflicts in connection with the representation.

On February 10, 2026, the Helix Board held a special meeting, with members of Helix management, representatives of Goldman Sachs, and representatives of Baker Botts in attendance, to discuss the proposed business combination with Hornbeck, including a review of the indication of interest letter received from Hornbeck, and preparing workstreams related to the proposed business combination.

Also on February 10, 2026, at the direction of the Helix Board, representatives of Goldman Sachs discussed with representatives of Barclays the potential transaction between Helix and Hornbeck from a financial perspective.

On February 11, 2026, Messrs. Rosen and Transier discussed the status of the potential transaction between Helix and Hornbeck and various business diligence deliverables.

On February 12, 2026, Helix engaged Veriten, LLC (“Veriten”) as strategic advisor for Helix for the proposed business combination with Hornbeck.

Also on February 12, 2026, a representative of Kirkland sought an additional waiver from Helix for five Kirkland attorneys, who had previously represented Helix in a limited specialists capacity, to work with Hornbeck on the potential strategic transaction with Helix.

From February 12, 2026 through April 21, 2026, Helix and Hornbeck conducted reciprocal legal, financial and operational due diligence. During this time Hornbeck’s strategic alternatives committee met regularly to discuss findings and process for the potential transaction with Helix, including for Mr. Rosen to update the strategic alternatives committee on his discussions with representatives from Helix on behalf of Hornbeck.

On February 13, 2026, Mr. Transier discussed a potential transaction between Helix and Company E with a representative at Company E. No agreement or terms were established between the parties.

On February 16, 2026, Helix granted the February 12, 2026 waiver request from Kirkland.

On February 18, 2026, the Helix Board held a meeting and discussed the financial considerations and diligence matters related to the potential transaction between Helix and Hornbeck.

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On February 19, 2026, Baker Botts shared an initial draft of the merger agreement with Kirkland, as legal advisor for Hornbeck. The draft contemplated, among other things, (i) a fixed exchange ratio of merger consideration for each share of Hornbeck's outstanding common stock, warrants and equity awards, (ii) Hornbeck's written stockholder consent approving the merger to be delivered at or shortly following signing of the merger agreement, (iii) largely reciprocal representations and warranties and interim operating covenants, (iv) registration rights for Hornbeck consenting stockholders, (v) no-shop covenants applicable to Helix and Hornbeck, with Helix's covenant subject to customary fiduciary out exceptions, (vi) a termination right applicable to Helix for a superior proposal, (vii) a termination fee and reverse termination fee of approximately 2.5% of equity value of the paying party in the event the merger agreement was terminated in certain situations, (viii) an expense reimbursement amount of approximately 0.5% of the equity value of the paying party, payable in certain situations, and (ix) an undetermined outside date for the transaction, with one automatic extension for an undetermined period, if clearance under the HSR Act and all consents, waivers, approvals, licenses, permits, orders or authorizations, if any, required to be obtained under antitrust laws and foreign investment laws had not been obtained on that date, but all other conditions to the completion of the mergers were then satisfied or waived (or in the case of conditions that were to be satisfied at the closing, were reasonably capable of being satisfied).

Also on February 19, 2026, the parties shared initial drafts of the respective Helix and Hornbeck stand-alone management five-year financial forecast models.

On February 22, 2026, members of the Helix Board interviewed a potential chief executive officer candidate for Helix recommended by the Corporate Governance and Nominating Committee of the Helix Board.

On February 25, 2026, members of Helix and Hornbeck management, as well as representatives of Goldman Sachs, Piper, Barclays and Baker Botts, gave reciprocal management presentations on their respective businesses and discussed matters relating to the potential transaction, including the merger agreement and the respective management financial forecast models.

On February 27, 2026, Messrs. Rosen and Transier discussed the five-year management financial models of Helix and Hornbeck and respective business operations of the parties.

On March 4, 2026, members of Helix and Hornbeck management discussed the proposed business combination and potential synergies.

Also on March 4, 2026, Messrs. Neikirk and Giberga discussed the proposed business combination and legal due diligence matters.

On March 5, 2026, Messrs. Rosen and Transier discussed potential synergies of the proposed business combination between Helix and Hornbeck, as well as diligence matters and Hornbeck's existing trademark license agreement with Mr. Hornbeck.

On March 6, 2026, the Helix Board held a special meeting to discuss updates regarding the potential transaction with Hornbeck. Members of Helix management and representatives of Goldman Sachs and Baker Botts were in attendance. Representatives of Goldman Sachs summarized the exchange of five-year management forecast models, reciprocal management diligence sessions and other considerations. Representatives of Goldman Sachs also reviewed its preliminary financial analyses of the potential transaction. Representatives of Veriten presented an analysis of the potential transaction, as well as information regarding industry outlook and transaction risks. During the meeting, members of Helix management discussed financial and contractual due diligence, potential synergies and the draft merger agreement.

On March 8, 2026, Helix engaged Joele Frank, Wilkinson Brimmer Katcher ("Joele Frank") as public relations advisor for the proposed business combination with Hornbeck.

On March 9, 2026, Messrs. Rosen and Transier discussed the status of the potential transaction and diligence matters.

On March 10, 2026, the Hornbeck Board held a special meeting, which Mr. Hornbeck did not attend, to discuss post-closing employment terms for Mr. Hornbeck and the license agreement with HFR. Representatives of Kirkland were in attendance.

On March 11, 2026, members of Helix and Hornbeck management, as well as representatives of Baker Botts and Kirkland, met to discuss legal and compliance matters relating to the proposed business combination and each party's respective business.

Also on March 11, 2026, Messrs. Transier, Rosen and McConeghy discussed the proposed business combination, including valuation matters, governance matters and the trademark license agreement with HFR. A revised exchange ratio was also discussed that would result in a fully diluted equity split in the combined company of 59% and 41% for Hornbeck securityholders and Helix securityholders, respectively.

On March 12, 2026, the Helix Board held a special meeting to discuss the potential transaction with Hornbeck. Members of Helix management and representatives of Goldman Sachs, Baker Botts and Veriten were in attendance. Representatives of Goldman Sachs summarized the management reciprocal diligence process and the parties' reciprocal five-year management financial forecast models. Members of Helix management provided an update on ongoing diligence work streams, including those relating to accounting, operations and legal and compliance matters.

Also on March 12, representatives of Helix, Hornbeck, Barclays, Piper and Goldman Sachs met to discuss anticipated synergies arising from the potential transaction.

On March 13, 2026, Messrs. Rosen and Transier discussed valuation matters and governance matters related to the potential transaction.

Also on March 13, 2026, Messrs. Rosen and Hornbeck discussed the status of the potential transaction and ongoing diligence efforts.

On March 14, 2026, Mr. Transier and Bobby Jindal, a director on the Hornbeck Board and chair of its compensation committee, discussed the Hornbeck trademark license agreement with HFR.

On March 15, 2026, Messrs. Transier, Rosen, and Hornbeck met to discuss the proposed business combination, including diligence, governance and valuation matters. Representatives of Hornbeck proposed key terms for the merger agreement, including an exchange ratio that would result in a fully diluted equity split in the combined company of 56% and 44% for Hornbeck securityholders and Helix securityholders, respectively, as well as executive officer and board governance proposals.

On March 16, 2026, the Hornbeck Board held a special meeting to receive an update from the strategic alternatives committee regarding the potential transaction, including diligence conducted on Helix to date and status of discussions regarding relative valuations and the proposed equity split. Members of Hornbeck management and representatives of Piper, Barclays and Kirkland were in attendance. Following deliberations, the Hornbeck Board held an executive session, which, except for Mr. Giberga, Hornbeck management, including Mr. Hornbeck, did not attend, to consider a proposal for an amended and restated trademark license agreement with HFR as well as post-closing employment terms for Mr. Hornbeck. Following that meeting, Kirkland contacted counsel to Mr. Hornbeck, Herrick, Feinstein LLP ("Herrick"), to discuss these proposals.

Also on March 16, 2026, the Helix Board held a special meeting to discuss the potential transaction with Hornbeck. Members of Helix management and representatives of Goldman Sachs, Baker Botts and Veriten were in attendance. Mr. Transier provided an update on ongoing discussions with Hornbeck and its representatives, including financial forecasts, valuation, exchange ratio and governance matters. Representatives of Goldman Sachs provided an overview of the management reciprocal diligence process, including regarding potential synergies. Representatives of Veriten presented possible market expectations regarding valuation.

Also on March 16, 2026, Mr. Transier discussed the potential transaction with Mr. Rosen and they discussed an exchange ratio that would result in a fully diluted equity split in the combined company of 55.5% and 44.5% for Hornbeck securityholders and Helix securityholders, respectively, to be reflected in the merger agreement. Additionally, the parties discussed Helix's current chairman remaining on the combined company board for a period of two years and that Helix would have designation rights for the chairpersons of the Audit Committee and Corporate Governance and Nominating Committee of the combined company, noting Hornbeck would have the designation rights for the chairperson of the Compensation Committee of the combined company.

Also on March 16, 2026, members of Helix and Hornbeck management, as well as representatives from Baker Botts, Kirkland and EY, as independent registered public accounting firm for Hornbeck, discussed certain diligence matters.

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On March 17, 2026, Messrs. Transier and Rosen discussed the equity split, the exchange ratio, valuation and governance matters.

On March 18, 2026, members of Helix management discussed various diligence matters with ERM Group, Inc., as environmental and safety consultants for Hornbeck.

On March 20, 2026, Messrs. Transier and Rosen discussed the potential transaction, joint communications, equity splits, synergies and governance matters. Additionally, Messrs. Transier and Rosen discussed the status of the trademark license agreement with Mr. Hornbeck.

On March 23, 2026, Kirkland shared a revised draft of the merger agreement. The revised draft contemplated, among other things, (i) a support agreement from Hornbeck stockholders at signing of the transaction and written consent of the stockholders following the effectiveness of a registration statement on Form S-4, (ii) conversion of Helix from a Minnesota corporation to a Delaware corporation pursuant to a Plan of Conversion, (iii) modifications to the no-shop covenants applicable to Helix and Hornbeck, with both parties' covenants subject to customary fiduciary out exceptions, (iv) removal of Helix's termination right for a superior proposal, (v) an increased termination fee and expense reimbursement fee of approximately 4.0% and approximately 1.0%, respectively, and (vi) a combined company board composition of seven directors, three designated by Helix and four designated by Hornbeck.

Also on March 23, 2026, the Helix Board held a special meeting to discuss the potential transaction with Hornbeck. Members of Helix management and representatives of Goldman Sachs, Baker Botts and Veriten were in attendance. Representatives of Goldman Sachs reviewed its preliminary financial analyses of the potential transaction. Representatives of Goldman Sachs also provided an update regarding ongoing workstreams, including reciprocal management diligence, negotiation of definitive agreements and stakeholder communications planning.

On March 24, 2026, members of Helix and Hornbeck management, as well as representatives from K&L Gates LLP ("K&L Gates"), as antitrust legal advisor to Hornbeck, Baker Botts and Kirkland discussed legal diligence matters.

Also on March 24, 2026, members of Helix management held an interview with a potential chief executive officer candidate for Helix.

On March 25, 2026, the Helix Board held an additional interview with a potential chief executive officer candidate for Helix.

Also on March 25, 2026, Messrs. Transier and Rosen discussed the merger agreement, including the Hornbeck stockholder consent and treatment of indebtedness, as well as the status of ancillary documents.

On March 26, 2026, representatives of Goldman Sachs provided a customary material relationship disclosure letter to the Helix Board.

Also on March 26, 2026, the Helix Board held a special meeting to discuss the potential transaction with Hornbeck. Members of Helix management and representatives of A&M, Goldman Sachs, Veriten and Baker Botts were in attendance.

On March 27, 2026, Messrs. Transier and Lovoi discussed with a party referred to herein as "Company G" a potential transaction between Helix and Company G. The parties discussed entry into a nondisclosure agreement, but no agreement or terms were established between the parties.

On March 28, 2026, Company G informed members of Helix management that it would not be able to proceed with a competitive price with respect to a potential transaction with Helix.

Also on March 28, 2026, Kirkland and Herrick connected to discuss post-closing employment arrangements for Mr. Hornbeck as well as the license agreement with HFR.

On March 30, 2026, Messrs. Transier and Rosen discussed governance matters of the combined company and diligence and valuation matters of the proposed business combination. Also discussed were certain terms of the merger agreement and the trademark license agreement with Mr. Hornbeck.

On March 31, 2026, members of Helix and Hornbeck management, as well as representatives from Baker Botts and Kirkland, discussed the potential transaction, business operations of the parties and Jones Act matters.

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On April 1, 2026, representatives of Baker Botts and Kirkland discussed the draft merger agreement and certain terms thereof.

Also on April 1, 2026, Hornbeck received a counterproposal from Herrick on behalf of Mr. Hornbeck relating to Mr. Hornbeck's post-closing employment arrangements and the trademark license agreement with HFR.

Also on April 1, 2026, the Helix Board held a special meeting to discuss the potential transaction with Hornbeck. Members of Helix management and representatives of A&M, Goldman Sachs, Baker Botts and Veriten were in attendance. Members of Helix management discussed operations matters of Helix and Hornbeck. Representatives of A&M advised of ongoing financial due diligence. Representatives of Baker Botts discussed the merger agreement draft and ancillary documents related thereto. Representatives of Goldman Sachs summarized updated management financial projections and synergies.

Also on April 1, 2026, Mr. Transier and members of Helix management met with members of Hornbeck management to discuss certain diligence matters.

On April 2, 2026, the Hornbeck Board held a special meeting to discuss status of the potential transaction with Helix. Members of Hornbeck management and representatives of Piper, Barclays and Kirkland were in attendance. The Hornbeck Board received updates from the strategic alternatives committee regarding the diligence conducted on Helix and status of discussions regarding relative valuations and the proposed equity split. During executive session, which, except for Mr. Giberga, Hornbeck management, including Mr. Hornbeck, did not attend, the Hornbeck Board discussed the proposal regarding Mr. Hornbeck's post-closing employment arrangements and the trademark license agreement.

On April 4, 2026, Baker Botts shared a revised draft of the merger agreement. The revised draft contemplated, among other things, (i) removal of the Hornbeck support agreement and inclusion of the Hornbeck approval and stockholder consent to be received at or shortly following signing of the merger, (ii) modifications to the combined company director designation rights, (iii) modifications of the scope of representations and warranties and interim operation covenants, (iv) removal of Hornbeck's fiduciary out, (v) proposed treatment of Helix's existing indebtedness, (vi) Helix's ability to terminate for a superior proposal and (vii) a termination fee and reverse termination fee applicable to the parties of approximately 2.5% of the equity value of the paying party and an expense reimbursement amount of approximately 0.5% of the equity value of the paying party. Baker Botts also shared an initial draft of the Helix disclosure letter.

Also on April 4, 2026, Messrs. Transier, Rosen and Jindal discussed the trademark license agreement with Mr. Hornbeck.

From April 6, 2026 through April 9, 2026, Mr. Transier discussed the potential Helix chief executive officer role with a potential candidate.

On April 6, 2026, Kirkland shared an initial draft of the registration rights agreement, which included, among other things, underwritten and coordinated offering demand rights and "piggy-back" registration rights, as well as a 180-day post-closing lock-up on the registrable securities set forth therein, subject to certain customary limitations.

On April 7, 2026, Baker Botts shared a draft of the Plan of Conversion with Kirkland.

Also on April 7, 2026, the Hornbeck Board sent a proposal regarding post-closing employment terms and the trademark license agreement with HFR to Mr. Hornbeck and representatives of Hornbeck subsequently discussed those matters with Mr. Hornbeck and Herrick.

On April 8, 2026, Messrs. Transier and Rosen discussed the draft merger agreement and the trademark license agreement with Mr. Hornbeck, as well as potential timing for announcement of the transaction.

On April 9, 2026, members of Helix and Hornbeck management, as well as representatives from Baker Botts, Kirkland and EY, discussed diligence matters.

Also on April 9, 2026, Kirkland shared with Herrick a revised term sheet proposal for post-closing employment terms for Mr. Hornbeck.

On April 10, 2026, the Hornbeck Board held a special meeting to receive an update regarding the potential transaction with Helix. Members of Hornbeck management and representatives of Piper, Barclays and Kirkland were in attendance. During executive session, which, except for Mr. Giberga, Hornbeck management, including Mr. Hornbeck, did not attend, the Hornbeck Board discussed Mr. Hornbeck's post-closing employment arrangements and the license agreement.

Later in the day on April 10, 2026, Kirkland shared a revised draft of the merger agreement. The revised draft contemplated, among other things, (i) removal of the Helix termination right for a superior proposal, (ii) a termination and reverse termination fee applicable to the parties of approximately 3.6% of the equity value of the paying party and an expense reimbursement amount of approximately 1.0% of the equity value of the paying party, (iii) a requirement for Helix to enter into an employment agreement with, and grant equity awards to, the Chief Executive Officer of the combined company, (iv) modifications to the scope of the representations and warranties, including Hornbeck's qualification of the disclosure schedule by reference to Hornbeck's Registration Statement on Form S-1, (v) payoff of the amounts outstanding under Helix's credit facility, (vi) a classified and staggered board for the combined company and (vii) modifications to the treatment of equity awards and Hornbeck's outstanding creditor warrants. Also, Kirkland shared initial drafts of the certificate of incorporation of the combined company, bylaws of the combined company, director and officer indemnification agreement, amended and restated Jones Act warrant agreement, amendment to the creditor warrant agreement, Hornbeck written consent and Hornbeck termination and lock-up agreement.

On April 13, 2026, the Helix Board held a special meeting to discuss the potential transaction with Hornbeck. Members of Helix management and representatives of Goldman Sachs, Baker Botts, A&M and Veriten were in attendance. Representatives of Goldman Sachs discussed Hornbeck's expectations to provide preliminary first quarter financial information and Helix's announced first quarter earnings call scheduled for April 23, 2026. Representatives of Goldman Sachs reviewed its preliminary financial analyses of the potential transaction. Representatives of Baker Botts discussed the status of the draft merger agreement and other ancillary documents related thereto, as well as the status of discussions with Hornbeck's advisors regarding delivery of its stockholders' approval of the mergers. Representatives of A&M discussed tax diligence matters and their impact on a combined company's go-forward operations. The Helix Board discussed a conversation with a representative of Company E regarding a potential strategic transaction; however, the Helix Board determined that the transaction was not executable in the near term. The Helix Board also discussed the status of discussions with a potential chief executive officer candidate.

On April 15, 2026, representatives of Baker Botts, Kirkland, Cozen O'Connor P.C., Minnesota legal counsel to Hornbeck, and Maslon LLP, Minnesota legal counsel to Helix, discussed the potential transaction, the merger agreement, the Plan of Conversion, shareholder proposals and voting standards.

On April 15, 2026, Kirkland shared an initial draft of the Hornbeck disclosure letter.

Also on April 15, 2026, Baker Botts shared a revised draft of the merger agreement. The revised draft contemplated, among other things, (i) removal of the employment agreement with the Chief Executive Officer of the combined company to be effective as of the Closing Date, (ii) modifications to the representations and warranties and interim operating covenants, (iii) modifications to the treatment of Helix's existing indebtedness, including Helix's credit facility, and (iv) a reduced termination fee and expense reimbursement fee of approximately 2.5% and approximately 0.5%, respectively. Additionally, Baker Botts shared revised drafts of the registration rights agreement, certificate of incorporation of the combined company, bylaws of the combined company, director and officer indemnification agreement, amended and restated Jones Act warrant agreement, amendment to the creditor warrant agreement, Hornbeck written consent and Hornbeck termination and lock-up agreement.

On April 16, 2026, representatives of Baker Botts and Kirkland discussed the merger agreement and ancillary agreements.

Also on April 16, 2026, the Hornbeck Board held a special meeting to discuss status of the potential transaction with Helix. Representatives from Hornbeck management, Piper, Barclays and Kirkland were in attendance. The Hornbeck Board received updates from the strategic alternatives committee, a presentation from Piper and Barclays regarding the economics of the potential transaction, including the exchange ratio, and a presentation from Kirkland summarizing the current drafts of the definitive documentation in respect of the potential transaction with Helix. During executive session, which, except for Mr. Giberga, Hornbeck management, including Mr. Hornbeck, did not attend, the Hornbeck Board discussed the responsive proposal from Mr. Hornbeck regarding his post-closing employment arrangements and the trademark license agreement.

Also on April 16, 2026, Herrick sent Kirkland a revised term sheet regarding post-closing employment terms with Mr. Hornbeck.

On April 17, 2026, members of Helix management and representatives of Baker Botts discussed the potential transaction and treatment of Helix's debt.

Also on April 17, 2026, Kirkland shared an initial draft of the securityholders agreement and revised drafts of the merger agreement, certificate of incorporation of the combined company, bylaws of the combined company, director and officer indemnification agreement, governance policy, amended and restated Jones Act warrant agreement, registration rights agreement, amendment to the creditor warrant agreement, Hornbeck written consent and Hornbeck termination and lock-up agreement. The revised draft of the merger agreement contemplated, among other things, (i) a termination fee of approximately 3.6% equity value, (ii) expense reimbursement of approximately 1.0% and (iii) qualification of Hornbeck's representations and warranties by the registration statement on Form S-1. The draft securityholders agreement provided for the governance rights agreed by the parties, including director nomination rights, information rights and certain standstill and transfer restrictions.

From April 17, 2026 through April 21, 2026, the parties exchanged various revised drafts of the merger agreement and ancillary documents, including revised drafts of the disclosure letters and held several discussions regarding the draft documents. From April 17, 2026 through April 21, 2026, representatives of Hornbeck and Herrick also continued to negotiate the proposed employment term sheet for Mr. Hornbeck and the trademark license agreement.

On April 18, 2026, Helix executed an updated engagement letter with Goldman Sachs, as financial advisor, relating to the proposed business combination with Hornbeck.

On April 20, 2026, representatives of Barclays proposed to representatives of Goldman Sachs Hornbeck's proposed method of calculating the exchange ratio to account for settling of convertible securities with a strike price using the treasury share method and adjusting incentive awards for tax withholding of shares that will be cancelled.

On April 21, 2026, representatives of Goldman Sachs provided a customary material relationship disclosure letter to the Helix Board.

Also on April 21, 2026, the Helix Board held a special meeting to discuss the potential transaction with Hornbeck. Members of Helix management and representatives of Goldman Sachs, Baker Botts, Veriten and Joele Frank were in attendance. Members of Helix management provided an update with respect to reciprocal management diligence efforts. Representatives of Joele Frank provided an overview of the communication materials and matters related to the proposed business combination. Representatives of Goldman Sachs reviewed its preliminary financial analyses of Helix, Hornbeck and the potential transaction and summarized the negotiated exchange ratio that would result in a fully diluted equity split in the combined company of 55% and 45% for Hornbeck securityholders and Helix securityholders, respectively. Representatives of Baker Botts provided an overview of the terms of the merger agreement and negotiation points between the parties in recent weeks and discussed ancillary documentation in connection with the mergers. Representatives of Baker Botts provided a comparison of certain merger agreement terms and advised with respect to the implications of the proposed conversion of Helix from a Minnesota corporation to a Delaware corporation, along with the proposed updates to governance documents that include Jones Act protections limiting the foreign share ownership in Helix.

On April 21, 2026 and April 22, 2026, Baker Botts and Kirkland finalized the terms of the merger agreement, registration rights agreement, securityholders agreement and other ancillary documentation, including the respective disclosure letters.

On April 22, 2026, representatives of Baker Botts, Kirkland, and each of Paul, Weiss, Rifkind, Wharton & Garrison LLP ("Paul, Weiss") and Davis Polk & Wardwell LLP, each as legal counsel for certain of Hornbeck's stockholders to be a party to the securityholders agreement, met to discuss the securityholders agreement. Following such meeting, Paul, Weiss sent an updated draft of the securityholders agreement and Baker Botts returned a further updated draft of the securityholders agreement.

In the morning of April 22, 2026, the Helix Board held a special meeting to discuss the potential transaction with Hornbeck. Members of Helix management and representatives of Goldman Sachs, Baker Botts and Veriten were in

attendance. Mr. Transier discussed Hornbeck's proposed method for calculating the exchange ratio. Representatives of Goldman Sachs reviewed its preliminary analyses of Helix, Hornbeck and the potential transaction. The Helix Board and its advisors also discussed the status of the trademark license agreement with HFR, to be amended, and the name and branding of the combined company.

During the evening of April 22, 2026, the Helix Board held a special meeting to discuss the potential transaction with Hornbeck. Members of Helix management and representatives of Goldman Sachs, Baker Botts and Veriten were in attendance. The Helix Board reviewed the materials prepared by advisors and engaged in final deliberation regarding whether to approve the proposed business combination, including an evaluation of the governance structure, economic terms and strategic rationale. Representatives of Goldman Sachs summarized the negotiated exchange ratio, method for calculation thereof and Helix's ownership in the combined company, as well as the proposed governance structure of the combined company. Representatives of Baker Botts advised the Helix Board with respect to the standards of the duties of care and loyalty under both Minnesota and Delaware law and reiterated the Helix Board's charge to act in the best interests of Helix's shareholders. Representatives of Baker Botts also discussed the final termination fee and reverse termination fee of approximately 3.0% and the final expense reimbursement amount of approximately 1.0% to be included in the merger agreement. Representatives of Goldman Sachs then delivered to the Helix Board its oral opinion, which was subsequently confirmed by delivery of a written opinion, dated April 22, 2026, to the effect that, as of such date and based upon and subject to the various assumptions made, procedures followed, matters considered, and qualifications and limitations on the scope of the review undertaken in preparing such opinion, the exchange ratio pursuant to the merger agreement was fair, from a financial point of view, to Helix. The Helix Board approved the proposed business combination, with Amy H. Nelson abstaining for reasons discussed in more detail below under "*Recommendation of Helix's Board and Reasons for the Mergers—Views of Abstaining Director*".

Also during the evening of April 22, 2026, the Hornbeck Board held a special meeting to discuss the potential transaction with Helix. Members of Hornbeck management and representatives of Piper, Barclays and Kirkland were in attendance. The Hornbeck Board reviewed the materials prepared by advisors and engaged in final deliberation regarding whether to approve the proposed business combination, including the evaluation of governance structure, economic terms and strategic rationale. Representatives of Piper and Barclays discussed the negotiated exchange ratio and method for calculation thereof and Hornbeck's ownership of the combined company. Representatives of Kirkland discussed the definitive documentation, including proposed governance structure, and relevant updates since the meeting of the Hornbeck Board on April 16, 2026, including the final termination fee and reverse termination fee amounts, the final expense reimbursement amounts and the final post-closing arrangements for Hornbeck's securityholders. Representatives from Kirkland then gave an overview of the standards of duties of care and loyalty under Delaware law and considerations for the directors in the discharge of their fiduciary duties. The Hornbeck Board then unanimously determined that the merger agreement and the transactions contemplated thereby were fair to, advisable and in the best interest of Hornbeck and its stockholders, approved and declared advisable the merger agreement and the transactions contemplated thereby, including the mergers, directed that the merger agreement be submitted to Hornbeck's stockholders for approval and recommended that its stockholders vote in favor of the adoption of the merger agreement. The Hornbeck Board also unanimously approved various other matters ancillary thereto, including the entry into the amended license agreement with HFR and a non-binding term sheet relating to certain proposed post-closing employment terms for Mr. Hornbeck.

Later on April 22, 2026, the parties executed the merger agreement, registration rights agreement, securityholders agreement and Hornbeck and certain of its securityholders executed the Hornbeck termination and lock-up agreement. Shortly following the execution of the merger agreement, Hornbeck stockholders holding a majority of the shares of Hornbeck common stock outstanding and entitled to vote on the matter delivered a written consent, executed in accordance with Section 228 of the DGCL, adopting the merger agreement and approving the transactions contemplated by the merger agreement, including the mergers, which written consent was delivered by Hornbeck to Helix.

On April 23, 2026, the parties issued a joint press release announcing the transaction and held a joint investor conference call.

Recommendation of Helix's Board and Reasons for the Mergers

At a meeting held on April 22, 2026, the Helix Board determined that the merger agreement, the plan of conversion and the transactions contemplated by the merger agreement, including the Conversion, were fair to, advisable and in the best interests of, Helix and its shareholders, approved and declared advisable the merger agreement, the plan of

conversion and the transactions contemplated by the merger agreement, including the Conversion, on the terms and subject to the conditions set forth in the merger agreement, directed that the required merger proposals, as well as the optional vote matters, be submitted to Helix shareholders for approval and resolved to recommend that the Helix shareholders vote in favor of the required merger proposals, as well as the optional vote matters. **The Helix Board recommends that Helix shareholders vote “FOR” each of the required merger proposals and the optional vote matters, including specifically “FOR” the share issuance proposal, “FOR” the authorized share increase proposal, “FOR” the second merger proposal, “FOR” the plan of conversion proposal, “FOR” the Jones Act provisions proposal, “FOR” the D&O citizenship matters proposal, “FOR” the exclusive forum proposal, “FOR” the officer exculpation proposal, “FOR” the removal of supermajority approval requirement proposal, “FOR” the corporate opportunities proposal, “FOR” the non-binding compensation proposal and “FOR” the adjournment proposal.**

In evaluating the mergers, the Helix Board consulted with Helix’s management and legal and financial advisors and, in determining to approve the merger agreement and to recommend that Helix shareholders approve the required merger proposals, as well as the optional vote matters, the Helix Board considered a number of factors, many of which support the Helix Board’s determination that the merger agreement and the transactions contemplated by the merger agreement were fair to, advisable and in the best interests of, Helix and its shareholders. The Helix Board considered these factors as a whole without assigning relative weights to each such factor, and overall the Helix Board considered the relevant factors to be favorable to, and in support of, its determinations and recommendations. These factors included:

- the expectation that the mergers will create a combined company with greater scale and growth potential than Helix on a stand-alone basis, including through the combined company’s world-class fleet of high-specification deepwater vessels and expanded presence and revenue-earning potential in the key offshore basins worldwide;
- the belief that the mergers will be accretive to key financial metrics, including revenue, free cash flow and EBITDA, and the belief that the combined company’s increased scale will drive greater efficiencies, growth and opportunities for the combined company;
- the expectation that the combined company would have an enhanced financial position, with a strong balance sheet, lower cost of capital and higher cash generation capable of enabling opportunities for further innovation and financial flexibility;
- the belief that the mergers will provide Helix shareholders with the opportunity to benefit from expected annual revenue and cost synergies of \$75 million or more, expected to be realized within three years of consummating the mergers, resulting from integration of service offerings, expanded offerings portfolio of diversified services to existing customers of Helix and Hornbeck, streamlined marine operations, a reduced reliance on third-party vessel charters and efficiencies across maintenance, procurement and operations;
- the potential of a higher market valuation of the combined company through greater scale and the creation of a company that would deliver strong revenue, EBITDA and free cash flow generations and consistent high return of capital to the combined company’s stockholders;
- the expectation that the mergers will enhance the combined company’s scale and global footprint spanning the key offshore basins worldwide;
- the belief that the businesses and the offerings of Helix and Hornbeck are highly complementary and that the integration of the two companies will be completed in a timely and efficient manner with minimal disruption to customers, employees and other stakeholders;
- the expectation that the combined company will share Helix’s and Hornbeck’s best practices and leverage its combined team and resources to provide even better services for its customers;
- the expectation that the breadth of the combined company will provide cost savings opportunities with its current and potential supplier base;
- the structure of the transaction as a merger of equals with terms negotiated in the merger agreement providing that:
 - the combined company board will include both Helix designees and Hornbeck designees;

- William L. Transier, the current Chairman of the Helix Board and a Helix designee, will serve as the chairman of the combined company board as of the effective time;
- a pre-closing integration team will mutually develop an integration plan for the combined company following the effective time; and
- the audit committee and corporate governance & nominating committee of the combined company board each will be chaired by a Helix designee;
- that the mergers and the all-stock consideration offered in connection therewith will provide Helix shareholders with ownership of approximately 45% of the combined company (based on fully diluted shares outstanding of the combined company) and therefore allow Helix shareholders to participate in the equity value of the combined company, including the combined company's increased scale and future growth and the revenue and cost synergies expected to result from the mergers;
- the expectation that Helix's shareholders generally should not recognize any gain or loss for U.S. federal income tax purposes as a result of the mergers;
- the information from and discussions with Helix's management and outside legal and financial advisors regarding each of Helix's and Hornbeck's businesses, assets, financial condition, results of operations, current business strategy and prospects, including the projected long-term financial results of Helix as a stand-alone company, the size and breadth of the combined company's business, fleet of vessels and expected service offerings and the expected pro forma effect of the mergers on the combined company and its ability to leverage its increased scale to achieve future growth and generate additional returns for Helix shareholders;
- the complementary nature of Helix's and Hornbeck's businesses, and the alignment of complementary cultures and operating philosophies, including, for illustrative purposes, a shared commitment to integrity, operational excellence, teamwork and innovation, reflected in a focus on operational excellence, teamwork and innovation; the unique opportunity for the combined company to capitalize on and strengthen partnerships with an expanded portfolio of blue-chip customers and the combination of Helix's and Hornbeck's fleets, enabling the combined company to offer a comprehensive suite of combined services to existing customers and potential new customers across its global presence;
- the expectation that the combined company will be able to better serve Helix's and Hornbeck's customers with an expanded portfolio of integrated service offerings and a larger footprint in key offshore markets;
- that the exchange ratio provided for pursuant to the merger agreement is fixed, such that the exchange ratio will not fluctuate in the event that the market price for Helix common stock decreases between the date on which the merger agreement was executed and the date of completion of the mergers, consistent with the principles underlying the merger of equals structure for the transaction;
- the opinion of Goldman Sachs, dated April 22, 2026, to the Helix Board to the effect that, as of such date and based upon and subject to the various assumptions made, procedures followed, matters considered, and qualifications and limitations on the scope of the review undertaken in preparing such opinion, the exchange ratio pursuant to the merger agreement was fair, from a financial point of view, to Helix, as more fully described below in the section titled "*—Opinion of Helix's Financial Advisor*" below;
- the belief that, as a result of extensive negotiations with Hornbeck, Helix and its representatives negotiated the highest exchange ratio pursuant to the merger agreement to which Hornbeck was willing to agree;
- the Helix Board's view, after consultation with Helix's management and outside counsel, concerning the likelihood that regulatory approvals and clearances necessary to consummate the mergers would be obtained, without the imposition of conditions sufficiently material to preclude the consummation of the mergers or to materially impede the ability of the combined company to operate in relevant jurisdictions following the consummation of the mergers;
- the terms of certain agreements entered into in connection with the merger agreement, or to be entered into in connection with consummation of the mergers, providing:
 - that certain of the Hornbeck stockholders will be subject to certain standstill and transfer restrictions upon consummation of the mergers;

- that a substantial majority of the Hornbeck stockholders will be subject to a 180-day lock-up upon consummation of the mergers, subject to customary exceptions; and
- for the waiver by a substantial majority of Hornbeck stockholders of statutory appraisal rights and the covenant by such Hornbeck stockholders not to commence legal action challenging the validity of such waiver or alleging that the Hornbeck Board breached its fiduciary duties in connection with such agreement;
- the nature of the closing conditions included in the merger agreement, including the reciprocal exceptions to the events that would constitute a material adverse effect on either Helix or Hornbeck for purposes of the merger agreement, and the likelihood of satisfaction of all conditions to completion of the transactions contemplated by the merger agreement;
- that Helix shareholders will have the opportunity to vote on the required merger proposals, which are conditions precedent to the mergers;
- that the representations and warranties of Helix and Hornbeck in the merger agreement, as well as the interim operating covenants requiring the parties to conduct their respective businesses in the ordinary course prior to completion of the mergers, subject to specific limitations, are customary and generally reciprocal;
- the restrictions in the merger agreement on Hornbeck's ability to respond to and negotiate alternative transaction proposals from third parties, the inability of Hornbeck to terminate the merger agreement to enter into a superior proposal and the receipt of the approval of the Hornbeck stockholders on April 22, 2026;
- Helix's right to participate in discussions or negotiations with, and provide information in response to a request for information from, a third party that makes an unsolicited, written bona fide proposal relating to an alternative proposal, if the Helix Board has determined in good faith, after consultation with Helix's outside legal counsel and its financial advisor, that (i) based on the information then available, such proposal constitutes or could reasonably be expected to result in a transaction that is superior to the mergers with Hornbeck and (ii) failure to consider such proposal would reasonably be expected to be inconsistent with the relevant members of the Helix Board's fiduciary duties under applicable law;
- given Helix's ongoing chief executive officer search and succession planning, the fact that the combined company would be led by Todd Hornbeck, as chief executive officer, who has a long and impressive executive leadership career in the offshore industry, which will be supplemented with the benefit of the competence, experience and integrity of the combined company's management;
- the social and economic effects of such transaction on Helix, its employees, customers and the communities in which Helix does business;
- the results of Helix's prior discussions and negotiations with potential counterparties and prior consideration of other potential strategic alternatives (including continuing operation of Helix's businesses on a stand-alone basis) in connection with its previous strategic review process; and
- the right of the Helix Board to change its recommendation that Helix shareholders vote "FOR" the required merger proposals, as well as "FOR" the optional vote matters, if a superior proposal is available or an intervening event has occurred, subject to certain conditions and fee obligations.

The Helix Board also considered a variety of risks and other potentially negative factors concerning the merger agreement and the related transactions contemplated thereby. These factors included:

- the possibility that the mergers may not be completed or that completion may be unduly delayed for reasons beyond the control of Helix or Hornbeck, including the potential failure of Helix to obtain shareholder approval of the required merger proposals;
- the dilution to Helix shareholders on account of the exchange ratio provided pursuant to the merger agreement, and the fact that Helix shareholders will own a materially smaller percentage of the combined company than Helix shareholders own in Helix currently;

- that there are significant risks inherent to integrating the operations of Hornbeck and Helix, including that the expected revenue and cost synergies may not be realized on the expected timeline or at all, and that successful integration will require the dedication of significant management resources, which will temporarily detract attention from the day-to-day businesses of the combined company;
- that, subject to any adjournment of the special meeting, Helix shareholders must approve the required merger proposals at the special meeting as conditions precedent to consummating the mergers, and the failure of Helix shareholders to approve any of the required merger proposals could result in termination of the merger agreement and an obligation to reimburse up to \$13.5 million of Hornbeck's documented out-of-pocket costs incurred in connection with the mergers;
- the large equity overhang resulting from Helix's adoption of Hornbeck's outstanding warrants pursuant to the terms of the merger agreement, and the potential for substantial dilution to Helix's shareholders as a result of the exercise of such warrants;
- given the anticipated adoption of the Hornbeck name and brand upon consummation of the mergers, the potential for a costly and time-consuming rebrand in the event that Mr. Hornbeck ceases to serve as the chief executive officer of the combined company or the combined company otherwise loses the rights to license the "Hornbeck" trade names and trademarks;
- the substantial costs to be incurred in the mergers, including those that Helix has incurred and will continue to incur regardless of whether the mergers are consummated, and the significant costs that the combined company is expected to incur in connection with integrating the businesses of Helix and Hornbeck;
- that the exchange ratio provided for pursuant to the merger agreement is fixed, and accordingly, the exchange ratio will not fluctuate to compensate for increases in the market price for Helix common stock between the date on which the merger agreement was executed and the date of completion of the mergers;
- that the merger agreement provides that, under specified circumstances, Helix could be required to pay to Hornbeck (x) a termination fee of \$40,500,000 or (y) all of Hornbeck's documented out-of-pocket costs incurred in connection with the mergers up to a maximum amount equal to \$13,500,000;
- that, following the receipt of the approval of the Hornbeck stockholders on April 22, 2026, there are no longer any circumstances in which Helix would be entitled to reimbursement from Hornbeck for its documented out-of-pocket expenses incurred in connection with the mergers, whereas prior to the receipt of such Hornbeck stockholder approval, Helix could have been entitled to reimbursement from Hornbeck for such expenses in a maximum amount equal to \$16,500,000;
- that the mergers might not be completed as a result of a failure to satisfy the conditions contained in the merger agreement, including failure to receive necessary regulatory approvals, and the potential consequences of failure to consummate, or delays in consummating, the mergers;
- the potential for litigation relating to the mergers and the associated costs, burden and inconvenience involved in defending any such proceedings;
- that, following consummation of the mergers, ownership of the combined company's common stock will be subject to certain limitations imposed by the Jones Act, as set forth in the certificate of incorporation of the combined company;
- that the restrictions on the conduct of Helix's business prior to the consummation of the mergers, although believed to be reasonable, customary and not unduly burdensome, may delay or prevent Helix from undertaking business opportunities that may arise or from undertaking other actions Helix would otherwise take in the ordinary course of its operations pending the consummation of the mergers;
- that certain provisions of the merger agreement, although reciprocal, may have the effect of discouraging third parties from pursuing alternative proposals with respect to a merger, business combination or other strategic alternative transaction involving Helix;
- that the merger agreement restricts Helix's ability to entertain other acquisition proposals unless certain conditions are satisfied and to terminate the merger agreement to enter into a superior proposal, and requires that Helix hold the special meeting even if the Helix Board changes its recommendation;

- the possibility that Helix and Hornbeck may be unable to retain key employees and skilled workers as a result of the expected consolidation of Helix's and Hornbeck's personnel when the mergers are completed or otherwise on account of the mergers;
- the loss of, or limitation to, those U.S. federal, state and non-U.S. NOLs of Helix or Hornbeck that are lost or limited as a result of the mergers, including NOLs that Helix or Hornbeck might have utilized had the mergers not occurred;
- that, following the Conversion and the consummation of the mergers, Helix and current Helix shareholders will be subject to the provisions of the DGCL governing Delaware corporations, and that Helix shareholders will hold the rights and be subject to the duties of shareholders of a Delaware corporation under the DGCL, rather than a Minnesota corporation under the MBCA;
- the interests of members of the Helix Board in the mergers that differed from, or were additional to, those of Helix shareholders, which interests of members of the Helix Board are described in further detail in this proxy statement/prospectus under the section titled "*—Interests of Helix's Directors and Officers in the Mergers*"; and
- other risks of the type and nature described in the sections titled "*Risk Factors*" and "*Cautionary Statement Regarding Forward-Looking Statements*."

This discussion of the information and factors considered by the Helix Board in reaching its conclusion and recommendations is intended to include all of the material factors considered by the Helix Board but is not intended to be exhaustive and is not provided in any specific order or ranking. In view of the wide variety of factors considered by the Helix Board in evaluating the merger agreement and the related transactions contemplated thereby, and the complexity of these matters, the Helix Board did not find it practicable to, and did not attempt to, quantify, rank or otherwise assign relative weight to those factors. In addition, different members of the Helix Board may have given different weight to different factors. The Helix Board did not reach any specific conclusion with respect to any of the factors considered and instead conducted an overall analysis of such factors and determined that, in the aggregate, the potential benefits considered outweighed the potential risks or possible negative consequences of approving the merger agreement and the transactions contemplated thereby.

The foregoing explanation of the reasoning of the Helix Board and all other information presented in this section is forward-looking in nature and, therefore, should be read in light of the factors discussed in the section titled "*Cautionary Statement Regarding Forward-Looking Statements*."

Views of Abstaining Director

The Helix Board also considered the views of director Amy H. Nelson, who abstained from voting on the adoption and approval of the merger agreement and the transactions contemplated thereby.

At meetings of the Helix Board at which the potential merger with Hornbeck was discussed, Ms. Nelson stated her concerns that the Fourth A&R License Agreement does not provide for a perpetual license for various Hornbeck trade names and trademarks, and would only continue until the later of the seventh (7th) anniversary of the closing of the mergers and the second (2nd) anniversary of the date that Todd M. Hornbeck is no longer Hornbeck's President and Chief Executive Officer (other than for Todd M. Hornbeck's resignation as President while he remains Chief Executive Officer), regarding the arrangement's effect on corporate governance and future management, relative to the economic benefits of the proposed transactions.

During the course of discussions regarding the proposed mergers, Ms. Nelson expressed her concerns to Helix's management and the other members of the Helix Board. Ms. Nelson also asked detailed questions of Helix's management team, and Helix's management, in turn, provided detailed responses and, ultimately, expressed the belief that, based on Helix's due diligence and the experience and expectations of the Helix management team, concerns related to the Fourth A&R License Agreement could be managed at a minimal cost. In particular, Helix's management noted an expectation that, if necessary, a rebrand away from the Hornbeck name and brand (either a reversion to the Helix brand or to a new brand) would be expected to take no more than two years, while the Fourth A&R License Agreement provided for a seven-year initial term with a two-year period of continued use of the Hornbeck trade names and trademarks in the event that Mr. Hornbeck ceases to be the President and Chief Executive Officer of the combined company. Ms. Nelson stated that she had considered the responses of Helix's management, which she felt were complete, as well as the views of other members of the Helix Board, which she understood and respected. However, those discussions ultimately did not result in Ms. Nelson's willingness to vote in favor of the transaction.

The other members of the Helix Board considered Ms. Nelson's concerns over the course of several meetings. In particular, the Helix Board reviewed: (1) in consultation with its legal advisors, the process undertaken by the Helix Board in considering the various strategic alternatives available to Helix, including the proposed mergers, continuing as a stand-alone company and other potential strategic transactions that had been discussed with Helix's management during the course of the past two years; and (2) in consultation with its financial advisors, the strategic, financial and other considerations and risk factors described above. After weighing these various factors, the other Helix Board members determined to vote in favor of the board approvals and recommendations described above because the Helix Board believed that, taking all relevant factors into account, the merger agreement and the transactions contemplated thereby were in the best interests of Helix and its shareholders.

This discussion of the information and factors considered by the Helix Board in reaching its conclusion and recommendations is intended to include all of the material factors considered by the Helix Board but is not intended to be exhaustive and is not provided in any specific order or ranking. In view of the wide variety of factors considered by the Helix Board in evaluating the merger agreement and the related transactions contemplated thereby, and the complexity of these matters, the Helix Board did not find it practicable to, and did not attempt to, quantify, rank or otherwise assign relative weight to those factors. In addition, different members of the Helix Board may have given different weight to different factors. The Helix Board did not reach any specific conclusion with respect to any of the factors considered and instead conducted an overall analysis of such factors and determined that, in the aggregate, the potential benefits considered outweighed the potential risks or possible negative consequences of approving the merger agreement and the transactions contemplated thereby.

Hornbeck's Reasons for the Mergers

Hornbeck considered a number of key factors in entering into the merger agreement, including, among others:

- Hornbeck's belief that the combined company will be a leader in offshore services through a diversified and expanded high-specification fleet of specialty vessels, supported by subsea robotics, well intervention and technical service capabilities, including trenching subsea pipelines and cables;
- Hornbeck's belief that the combined company will benefit from an expanded global scale and footprint across key offshore markets, including West Africa, Asia Pacific, the North Sea, the United States, Brazil, and Mexico;
- Hornbeck's belief that the combined company will create a scaled, life-of-field business by combining Helix's well intervention assets and subsea robotics with Hornbeck's specialty and ultra-high specification offshore support vessels, forming a complementary, end-to-end service offering that materially expands the combined company's ability to meet a broader share of customers' deepwater needs;
- Hornbeck's expectation that the combined company will generate \$75 million or more in annual revenue and cost synergies within three years following the transaction close, resulting from combined and integrated service offerings, expanding services to existing customers, asset optimization, reducing reliance on third-party vessel charters, and delivering efficiencies across maintenance, procurement, and operations;
- Hornbeck's belief that the combined company will create an attractive earnings profile with low leverage and robust free cash flow generation with a strong balance sheet and significant cash at closing to further the execution of the combined company's value-driven strategy;
- Hornbeck's expectation that the mergers will result in a combined company that is superior operationally due to increased scale and scope and enhanced resources, with a diversified and expanded high-specification fleet of specialty vessels, reducing cyclicalities and through-cycle earnings volatility, and enabling flexible global asset deployment where demand is strongest;
- Hornbeck's belief that, as a publicly traded company, the combined company will have increased access to sources of capital and a broader range of investors to support the development and increased capacity for the combined company's product and service offerings, which could also provide the combined company with an enhanced ability to pursue acquisitions and other synergies-focused consolidation opportunities in the future as compared to Hornbeck continuing as a privately-held company;

- Hornbeck’s belief that the mergers will provide the existing securityholders of Hornbeck with greater liquidity through the exchange of their shares of Hornbeck equity securities for the publicly traded stock of the combined company, and the combined company’s assumption of the outstanding Hornbeck warrants, which will become exercisable for the publicly traded shares of the combined company in connection with the consummation of the first merger;
- Hornbeck’s expectation that the transaction would be structured as an all-stock merger intended to be generally tax-deferred to stockholders;
- The consideration that upon closing, on a fully diluted basis, after accounting for Hornbeck options and Jones Act Warrants that will be assumed by the combined company in connection with the mergers, it is anticipated that securityholders of Hornbeck and Helix immediately prior to the mergers will own, on an as-converted basis, approximately 55% and 45%, respectively, of the combined company, and that Hornbeck’s securityholders will be able to participate in the equity value, including the expected synergies and growth resulting from the transaction;
- The Hornbeck board’s review of the relative advantages, prospects and risks of the mergers over other strategic alternatives, including Hornbeck continuing as a stand-alone company and pursuing an initial public offering of Hornbeck’s common stock, and its judgment that the mergers present a more attractive path to long-term value creation;
- Hornbeck’s belief that the combined company board, which immediately after the closing of the mergers will have seven members, including four directors designated by Hornbeck (including Todd M. Hornbeck), and three directors designated by Helix (including William L. Transier), with Todd M. Hornbeck serving as President and Chief Executive Officer of the combined company and William L. Transier serving as Chairman, will provide continuity as to strategy, operational focus, and financial discipline, reflecting the shared core values of commitment, integrity, excellence and teamwork;
- The likelihood that the mergers would be completed, and completed in a reasonably prompt time frame following the signing of the merger agreement; and
- The results of the due diligence reviews of Helix and its businesses conducted by Hornbeck and its financial, legal and other advisors.

Unaudited Prospective Financial Information

Helix and Hornbeck do not, in the ordinary course, make public long-term forecasts or internal projections as to future performance, revenues, earnings or other results given, among other reasons, the uncertainty of the underlying assumptions and estimates. However, in connection with the evaluation of the mergers and the other transactions contemplated by the merger agreement, Helix’s management prepared and provided to the Helix Board, Hornbeck and Helix’s and Hornbeck’s respective financial advisors certain unaudited prospective financial information with respect to Helix on a stand-alone basis prepared by Helix’s management (the “Helix Stand-Alone Projections”). In addition, in connection with Helix’s evaluation of the mergers and the other transactions contemplated by the merger agreement, Helix’s management prepared and provided to the Helix Board and Goldman Sachs certain unaudited prospective financial information with respect to Hornbeck on a stand-alone basis (the “Helix Projections for Hornbeck”), and with respect to Helix and Hornbeck on a pro forma basis accounting for the mergers and the other transactions contemplated by the merger agreement, including certain cost and revenue synergies projected by Helix’s management to result from the mergers (the “Synergies Estimates”) (together with the Synergies Estimates, the “Helix Pro Forma Projections” and, collectively with the Helix Stand-Alone Projections and the Helix Projections for Hornbeck, the “Projections”).

The Projections were also provided by Helix to Goldman Sachs for its use and reliance in connection with its financial analyses and opinion described in the section titled “—*Opinion of Helix’s Financial Advisor.*” The inclusion of the Projections should not be regarded as an indication that any of Helix, Hornbeck, any of their respective affiliates, officers, directors, advisors or other representatives or any other recipient of the Projections considered or now considers it to be necessarily predictive of actual future performance or events, or that it should be construed as financial guidance, and such Projections set forth below should not be relied upon as such.

The Projections include non-GAAP financial measures, including Adjusted EBITDA, Adjusted Operating Cash Flow, Adjusted Free Cash Flow and Net Change in Cash. Please see the tables below for a description of how Helix defines these non-GAAP financial measures. Helix believes that Adjusted EBITDA provides information useful in

assessing operating and financial performance across periods and that Adjusted Operating Cash Flow, Adjusted Free Cash Flow and Net Change in Cash each provide a useful measure of available cash generated by operating activities for other investing and financing activities. Non-GAAP financial measures should not be considered in isolation from, or as a substitute for, financial information presented in accordance with GAAP, and non-GAAP financial measures used by Helix may not be comparable to similarly titled measures used by other companies.

The Projections were prepared solely for internal use, were prepared based solely upon information available at the time of preparation and are subjective in many respects. While presented with numerical specificity, the Projections reflect numerous estimates and assumptions (including, but not limited to, those related to industry performance and competition and general business, economic, market and financial conditions and additional matters specific to Helix's and Hornbeck's businesses) that were deemed to be reasonable as of the respective dates the estimates and assumptions were made. However, such estimates and assumptions are inherently uncertain and may be beyond the control of Helix's management and include, but are not limited to, estimates and assumptions regarding Helix's and Hornbeck's respective future results, offshore services industry activity and changes in industry market conditions and competitive dynamics, capital availability and deployment, general economic and regulatory conditions and other factors described in the sections titled "*Cautionary Statement Regarding Forward-Looking Statements*" and "*Risk Factors*," as well as the factors described in the documents incorporated by reference in this proxy statement/prospectus as described in the section titled "*Where You Can Find More Information*." The Projections reflect both estimates and assumptions as to certain business decisions that are subject to change and, in many respects, subjective judgment, and thus is susceptible to multiple interpretations and periodic revisions based on actual results and business developments. Helix cannot give any assurance that the Projections and the underlying estimates and assumptions will be realized, either on the timeline anticipated at the time such estimates and assumptions were made or at all.

In addition, because the Projections are inherently forward-looking and cover multiple years, by their nature, such information becomes less predictive with each successive year. Actual results may differ materially from those set forth below, and important factors that may affect actual results and cause the Projections not to be realized include, but are not limited to, risks and uncertainties relating to Helix's and Hornbeck's respective businesses, industry performance, the regulatory environment, general business and economic conditions and other factors described under the sections titled "*Risk Factors*" and "*Cautionary Note Regarding Forward-Looking Statements*," as well as the factors described in the documents incorporated by reference in this proxy statement/prospectus as described in the section titled "*Where You Can Find More Information*."

The Projections were not prepared with a view toward public disclosure, nor were the Projections prepared with a view toward compliance with GAAP, published guidelines of the SEC or the guidelines established by the American Institute of Certified Public Accountants for preparation and presentation of prospective financial information. Neither KPMG, Helix's independent registered public accounting firm, nor EY, Hornbeck's independent certified public accounting firm nor any other independent accountants have compiled, examined or performed any procedures with respect to the unaudited prospective financial information contained in the Projections, nor have they expressed any opinion or any other form of assurance on such information or its achievability and assume no responsibility for, and disclaim any association with, the Projections. The report of Helix's independent registered public accounting firm contained in Helix's Annual Report on Form 10-K for the year ended December 31, 2025, which is incorporated by reference into this proxy statement/prospectus, relates to historical financial information of Helix, and such report does not extend to the Helix Stand-Alone Projections or the Helix Pro Forma Projections included below and should not be read to do so. The report of Hornbeck's independent certified public accounting firm contained in this proxy statement/prospectus relates to historical financial information of Hornbeck, and such report does not extend to the Helix Projections for Hornbeck or the Helix Pro Forma Projections included below and should not be read to do so. The unaudited prospective financial information set forth in this section of this proxy statement/prospectus titled "*Unaudited Prospective Financial Information*" has been prepared by, and is the responsibility of, Helix's management.

Furthermore, the Projections do not take into account any circumstances or events occurring after the date such projections were prepared other than the assumed Alliance Disposal, which was completed on May 1, 2026. Helix cannot give any assurance that, had the Projections been prepared as of the date of this proxy statement/prospectus or any other date, similar estimates and assumptions would be used. Except as required by applicable securities laws, Helix does not intend to, and disclaims any obligation to, make publicly available any update or other revision to the

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Projections to reflect circumstances existing since their preparation or to reflect the occurrence of unanticipated events, even in the event that any or all of the underlying assumptions are shown not to be appropriate, including with respect to the accounting treatment of the mergers under GAAP, or to reflect changes in general economic or industry conditions.

The Projections do not take into account all the possible financial and other effects on Helix or Hornbeck of the mergers, the effect on Helix or Hornbeck of any business or strategic decision or action that has been or will be taken as a result of the merger agreement having been executed, or the effect of any business or strategic decisions or actions which would likely have been taken if the merger agreement had not been executed, but which were instead altered, accelerated, postponed or not taken in anticipation of the mergers. Further, the Projections do not take into account the effect on Helix or Hornbeck of any possible failure of the mergers to occur. None of Helix, nor Hornbeck nor any of their respective affiliates, officers, directors, advisors or other representatives has made, makes or is authorized in the future to make any representation to any Helix shareholder or Hornbeck securityholder or other person regarding Helix's or Hornbeck's ultimate performance compared to the Projections set forth below or that the results contemplated by the Projections will be achieved. The inclusion of the Projections herein should not be deemed an admission or representation by Helix, Hornbeck or their affiliates, officers, directors, advisors or other representatives that it is viewed as material information of Helix or Hornbeck, particularly in light of the inherent risks and uncertainties associated with such forecasts. The summary of the Projections set forth below is not being included in this proxy statement/prospectus in order to influence any Helix shareholder's decision or to induce any Helix shareholder to vote in favor of any of the proposals at the special meeting, but is being provided solely because it was made available to the Helix Board and Goldman Sachs in connection with the mergers.

In light of the foregoing, and considering the uncertainties inherent in any forecasted information, Helix shareholders are cautioned not to place undue reliance on such information, and Helix urges all Helix shareholders to review Helix's most recent SEC filings for a description of Helix's reported financial results and Hornbeck's historical financial information included elsewhere in this proxy statement/prospectus. See the section titled "*Where You Can Find More Information.*"

Helix's Projections

The Projections described below were based on various assumptions, including but not limited to the assumption that Helix would consummate the sale of its Alliance business effective March 31, 2026, for approximately \$135 million in cash proceeds (inclusive of working capital adjustments).

Helix Stand-Alone Projections

The following table presents selected unaudited prospective financial and operating data of Helix for the fiscal years 2026 through 2030 on a stand-alone basis prepared by Helix's management:

	Helix Stand-Alone Projections ⁽¹⁾					
	Nine Months Ending December 31, 2026E	Year Ending December 31,				
		2026E	2027E	2028E	2029E	2030E
		(in millions)				
Total Revenue	\$870	\$1,137	\$1,214	\$1,277	\$1,312	\$1,311
Adjusted EBITDA ⁽²⁾	\$200	\$ 238	\$ 300	\$ 348	\$ 382	\$ 374
Adjusted Operating Cash Flow ⁽³⁾	\$ 98	\$ 166	\$ 200	\$ 249	\$ 288	\$ 293
Adjusted Free Cash Flow ⁽⁴⁾	\$ 69	\$ 134	\$ 190	\$ 239	\$ 278	\$ 283
Net Change in Cash ⁽⁵⁾	\$ 64	\$ 124	\$ 185	\$ 239	\$ 278	\$ 283

(1) The Helix Stand-Alone Projections as set forth in this table do not take into account any circumstances or events occurring after the date they were prepared, other than the assumed Alliance Disposal, which was completed on May 1, 2026. Given that the special meeting will be held several months following the date on which the Helix Stand-Alone Projections were prepared, as well as the uncertainties inherent to any prospective information, Helix shareholders are cautioned not to place undue reliance on such information.

(2) Solely for purposes of the Helix Stand-Alone Projections, Adjusted EBITDA is defined as total revenue less operating expenses and general & administrative costs. Adjusted EBITDA is not a measure of financial performance under GAAP. Accordingly, it should not be considered as a substitute for income (loss) or other measures prepared in accordance with GAAP.

(3) Solely for purposes of the Helix Stand-Alone Projections, Adjusted Operating Cash Flow is defined as Adjusted EBITDA less net interest

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- expense, cash taxes, and dry dock costs, adjusted for change in working capital and stock-based compensation. Adjusted Operating Cash Flow is not a measure of financial performance under GAAP. Accordingly, it should not be considered as a substitute for operating cash flow or other measures prepared in accordance with GAAP.
- (4) Solely for purposes of the Helix Stand-Alone Projections, Adjusted Free Cash Flow is defined as Adjusted Operating Cash Flow less capital expenditures. Adjusted Free Cash Flow is not a measure of financial performance under GAAP. Accordingly, it should not be considered as a substitute for operating cash flow, net income (loss), operating income (loss), or other measures prepared in accordance with GAAP.
- (5) Solely for purposes of the Helix Projections for Hornbeck, Net Change in Cash is defined as Adjusted Free Cash Flow less repayment of debt principal and excludes the net cash received on the assumed Alliance Disposal, which was completed on May 1, 2026. Net Change in Cash is not a measure of financial performance under GAAP. Accordingly, it should not be considered as a substitute for change in cash, net or other measures prepared in accordance with GAAP.

Helix Projections for Hornbeck

The following table presents selected unaudited prospective financial and operating data of Hornbeck for the fiscal years 2026 through 2030 on a stand-alone basis prepared by Helix's management, based on certain internal financial analyses and forecasts for Hornbeck prepared by its management, in order to align with the presentation of the Helix Stand-Alone Projections and the Helix Pro Forma Projections:

	Helix Projections for Hornbeck ⁽¹⁾					
	Nine Months Ending December 31, 2026E	Year Ending December 31,				
		2026E	2027E	2028E	2029E	2030E
		(in millions)				
Total Revenue	\$607	\$780	\$905	\$1,105	\$1,252	\$1,347
Adjusted EBITDA ⁽²⁾	\$233	\$293	\$340	\$ 441	\$ 537	\$ 610
Adjusted Operating Cash Flow ⁽³⁾	\$119	\$176	\$162	\$ 227	\$ 267	\$ 437
Adjusted Free Cash Flow ⁽⁴⁾	\$ 72	\$109	\$102	\$ 206	\$ 246	\$ 416
Net Change in Cash ⁽⁵⁾	\$ 46	\$ 78	\$ 65	\$ 164	\$ 201	\$ 366

- (1) The Helix Projections for Hornbeck as set forth in this table do not take into account any circumstances or events occurring after the date they were prepared. Given that the special meeting will be held several months following the date on which the Helix Projections for Hornbeck were prepared, as well as the uncertainties inherent to any prospective information, Helix shareholders are cautioned not to place undue reliance on such information.
- (2) Solely for purposes of the Helix Projections for Hornbeck, Adjusted EBITDA is defined as total revenue less operating expenses and general & administrative costs. Adjusted EBITDA is not a measure of financial performance under GAAP. Accordingly, it should not be considered as a substitute for income (loss) or other measures prepared in accordance with GAAP.
- (3) Solely for purposes of the Helix Projections for Hornbeck, Adjusted Operating Cash Flow is defined as Adjusted EBITDA less net interest expense, cash taxes, and dry dock costs, adjusted for change in working capital and stock-based compensation. Adjusted Operating Cash Flow is not a measure of financial performance under GAAP. Accordingly, it should not be considered as a substitute for operating cash flow or other measures prepared in accordance with GAAP.
- (4) Solely for purposes of the Helix Projections for Hornbeck, Adjusted Free Cash Flow is defined as Adjusted Operating Cash Flow less capital expenditures. Adjusted Free Cash Flow is not a measure of financial performance under GAAP. Accordingly, it should not be considered as a substitute for operating cash flow, net income (loss), operating income (loss), or other measures prepared in accordance with GAAP.
- (5) Solely for purposes of the Helix Projections for Hornbeck, Net Change in Cash is defined as Adjusted Free Cash Flow less repayment of debt principal. Net Change in Cash is not a measure of financial performance under GAAP. Accordingly, it should not be considered as a substitute for change in cash, net or other measures prepared in accordance with GAAP.

Helix Pro Forma Projections

The following table presents selected unaudited prospective financial and operating data of Helix and Hornbeck on a pro forma basis for the mergers for the fiscal years 2026 through 2030 prepared by Helix's management:

	Helix Pro Forma Projections ⁽¹⁾					
	Nine Months Ending December 31, 2026E	Year Ending December 31,				
		2026E	2027E	2028E	2029E	2030E
		(in millions)				
Revenue ⁽²⁾	\$1,478	\$1,917	\$2,119	\$2,382	\$2,564	\$2,658
Adjusted EBITDA ⁽³⁾	\$ 433	\$ 531	\$ 686	\$ 850	\$ 994	\$1,059
Adjusted Operating Cash Flow ⁽⁴⁾	\$ 281	\$ 342	\$ 413	\$ 519	\$ 644	\$ 792
Adjusted Free Cash Flow ⁽⁵⁾	\$ 100	\$ 139	\$ 344	\$ 488	\$ 613	\$ 761
Net Change in Cash ⁽⁶⁾	\$ 64	\$ 88	\$ 296	\$ 447	\$ 567	\$ 711

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- (1) The Helix Pro Forma Projections as set forth in this table do not take into account any circumstances or events occurring after the date they were prepared, other than the assumed Alliance Disposal, which was completed on May 1, 2026. Given that the special meeting will be held several months following the date on which the Helix Pro Forma Projections were prepared, as well as the uncertainties inherent to any prospective information, Helix shareholders are cautioned not to place undue reliance on such information.
- (2) Solely for the purposes of the Helix Pro Forma Projections, Pro Forma Revenue excludes the Synergies Estimates.
- (3) Solely for purposes of the Helix Pro Forma Projections, Pro Forma Adjusted EBITDA was determined by adding Helix's Adjusted EBITDA from the Helix Stand-Alone Projection, Hornbeck's Adjusted EBITDA from the Helix Projections for Hornbeck and expected net synergies of \$0 million in 2026, \$46 million in 2027, \$61 million in 2028, \$75 million in 2029 and \$75 million in 2030. Pro Forma Adjusted EBITDA is not a measure of financial performance under GAAP. Accordingly, it should not be considered as a substitute for income (loss) or other measures prepared in accordance with GAAP.
- (4) Solely for purposes of the Helix Pro Forma Projections, Pro Forma Adjusted Operating Cash Flow as used in the Helix Pro Forma Projections is defined as Pro Forma Adjusted EBITDA less net interest expense, cash taxes, and dry dock costs, adjusted for change in working capital and stock-based compensation. Pro Forma Adjusted Operating Cash Flow is not a measure of financial performance under GAAP. Accordingly, it should not be considered as a substitute for operating cash flow or other measures prepared in accordance with GAAP.
- (5) Solely for purposes of the Helix Pro Forma Projections, Pro Forma Adjusted Free Cash Flow as used in the Helix Pro Forma Projections is defined as Adjusted Operating Cash Flow less capital expenditures and transaction costs. Pro Forma Adjusted Free Cash Flow is not a measure of financial performance under GAAP. Accordingly, it should not be considered as a substitute for operating cash flow, net income (loss), operating income (loss), or other measures prepared in accordance with GAAP.
- (6) Solely for purposes of the Helix Pro Forma Projections, Pro Forma Net Change in Cash is defined as Pro Forma Adjusted Free Cash Flow less repayment of debt principal and excludes the net cash received on the assumed Alliance Disposal, which was completed on May 1, 2026. Pro Forma Net Change in Cash is not a measure of financial performance under GAAP. Accordingly, it should not be considered as a substitute for operating cash flow or other measures prepared in accordance with GAAP.

Certain of the financial measures included in the Projections were not prepared in accordance with GAAP and, accordingly, are considered non-GAAP financial measures. Such non-GAAP financial measures include, as used in the Projections, Adjusted EBITDA, Adjusted Operating Cash Flow, Adjusted Free Cash Flow and Net Change in Cash. Solely for purposes of the Projections, Adjusted EBITDA is defined as total revenue less operating expenses and general & administrative costs. Solely for purposes of the Projections, Adjusted Operating Cash Flow is defined as Adjusted EBITDA less net interest expense, cash taxes, and dry dock costs, adjusted for change in working capital and stock-based compensation. Solely for purposes of the Projections, Adjusted Free Cash Flow is defined as Adjusted Operating Cash Flow less capital expenditures. Solely for purposes of the Projections, Net Change in Cash is defined as Adjusted Free Cash Flow less repayment of debt principal and excludes the net cash received on the assumed Alliance Disposal, which was completed on May 1, 2026. Reconciliations of these *non-GAAP* financial measures are not included in the furnished presentation due to the inherent difficulty and *impracticability* of quantifying certain amounts that would be required to calculate the most directly comparable GAAP financial measures. Non-GAAP financial measures should not be considered in isolation from, or as a substitute for, financial information prepared and presented in compliance with GAAP, and non-GAAP financial measures as used by Helix are not reported by all of its competitors and may not be comparable to similarly titled amounts used by other companies.

Synergies Estimates

For purposes of the Synergies Estimates, Helix management (i) estimated net revenue synergies of \$0 in 2026, \$14 million in 2027, \$29 million in 2028, \$43 million in 2029 and \$43 million in 2030, (ii) estimated cost synergies of \$0 in 2026 and \$34 million in each of 2027, 2028, 2029 and 2030 and (iii) estimated cost to achieve the aforementioned synergies of \$0 in 2026 and \$2 million in each of 2027, 2028, 2029 and 2030. The Synergies Estimates were based on certain assumptions regarding the types of synergies that may be achieved in connection with the mergers, as well as the timing to achieve such synergies, including but not limited to assumptions with respect to synergies achieved by revenue pull-through, asset optimization, commercial bundling and integrated services, diversified industry exposure, capturing savings through optimized capital and maintenance programs, and streamlined and rationalized support costs.

HELIX AND HORNBECK DO NOT INTEND TO, AND DISCLAIM ANY OBLIGATION TO, UPDATE, CORRECT OR OTHERWISE REVISE THE PROJECTIONS OR SYNERGIES ESTIMATES TO REFLECT CIRCUMSTANCES EXISTING AFTER THE DATE OF THE MERGER AGREEMENT OR TO REFLECT THE OCCURRENCE OF FUTURE EVENTS, EVEN IN THE EVENT THAT ANY OR ALL OF THE ASSUMPTIONS UNDERLYING ANY SUCH PROJECTIONS OR SYNERGIES ARE NO LONGER APPROPRIATE (EVEN IN THE SHORT TERM).

Non-GAAP Financial Information

Certain of the measures included in the Helix Stand-Alone Projections, the Helix Projections for Hornbeck and the Helix Pro Forma Projections are non-GAAP financial measures, including Adjusted EBITDA, Adjusted Operating

Cash Flow, Adjusted Free Cash Flow and Net Change in Cash. Non-GAAP financial measures should not be considered in isolation from, or as a substitute for, financial information presented in compliance with GAAP, and non-GAAP financial measures as used by Helix are not reported by all of its competitors and may not be comparable to similarly titled amounts used by other companies.

The non-GAAP financial measures presented above were used by each of the Helix Board and Hornbeck in connection with their consideration of the mergers and relied upon by Goldman Sachs, at the direction of the Helix Board, in connection with its financial analyses and opinion. Financial measures provided to a financial advisor in connection with a business combination such as the mergers are excluded from the definition of non-GAAP financial measures under applicable SEC financial reporting rules and therefore are not subject to SEC rules regarding disclosures of non-GAAP financial measures, which would otherwise require a reconciliation of a non-GAAP financial measure to the most directly comparable GAAP financial measure. Reconciliations of these non-GAAP financial measures were not provided to or relied upon by the Helix Board or Hornbeck in connection with their respective consideration of the mergers or by Goldman Sachs in connection with its financial analyses or opinion. Accordingly, no reconciliations of the non-GAAP financial measures included in the Projections is provided in this proxy statement/prospectus.

Opinion of Helix's Financial Advisor

Goldman Sachs rendered its opinion to the Helix Board that, as of April 22, 2026 and based upon and subject to the factors and assumptions set forth therein, the exchange ratio pursuant to the merger agreement was fair from a financial point of view to Helix.

The full text of the written opinion of Goldman Sachs, dated April 22, 2026, which sets forth assumptions made, procedures followed, matters considered and limitations on the review undertaken in connection with the opinion, is attached as *Annex B*. Goldman Sachs provided advisory services and its opinion for the information and assistance of the Helix Board in connection with its consideration of the transaction. Goldman Sachs' opinion is not a recommendation as to how any holder of Helix common stock should vote with respect to the required merger proposals, the optional vote matters or any other matter.

In connection with rendering the opinion described above and performing its related financial analyses, Goldman Sachs reviewed, among other things:

- the merger agreement;
- annual reports to shareholders and Annual Reports on Form 10-K of Helix for each of the five years ended December 31, 2025;
- Hornbeck's Registration Statement on Form S-1 including the prospectus contained therein dated January 13, 2026 relating to an initial public offering of Hornbeck common stock;
- certain other communications from Helix to its shareholders;
- audited financial statements for Hornbeck for the three years ended December 31, 2025;
- certain publicly available research analyst reports for Helix;
- certain internal financial analyses and forecasts for Hornbeck prepared by its management;
- certain internal financial analyses and forecasts for Helix stand-alone and pro forma for the transaction and certain financial analyses and forecasts for Hornbeck, in each case, as prepared by Helix's management and approved for Goldman Sachs' use by Helix, which are collectively referred to as the "Projections" (as described in more detail in the sections of this proxy statement/prospectus titled "*The Mergers—Unaudited Prospective Financial Information*"); and
- certain operating synergies projected by Helix's management to result from the transaction, as approved for Goldman Sachs' use by Helix, which are referred to as the "Synergies Estimates" (as described in more detail in the sections of this proxy statement/prospectus titled "*The Mergers—Unaudited Prospective Financial Information*").

Goldman Sachs also held discussions with members of the senior managements of Helix and Hornbeck regarding their assessment of the past and current business operations, financial condition and future prospects of Hornbeck and with the members of the senior management of Helix regarding their assessment of the past and current business

operations, financial condition and future prospects of Helix and the strategic rationale for, and the potential benefits of, the transaction; reviewed the reported price and trading activity for shares of Helix common stock; compared certain financial and stock market information for Helix and certain financial information for Hornbeck with similar financial and stock market information for certain other companies the securities of which are publicly traded; and performed such other studies and analyses, and considered such other factors, as it deemed appropriate.

For purposes of rendering this opinion, Goldman Sachs, with Helix's consent, relied upon and assumed the accuracy and completeness of all of the financial, legal, regulatory, tax, accounting and other information provided to, discussed with or reviewed by, it, without assuming any responsibility for independent verification thereof. In that regard, Goldman Sachs assumed with Helix's consent that the Projections, including the Synergies Estimates, were reasonably prepared on a basis reflecting the best currently available estimates and judgments of Helix's management. Goldman Sachs did not make an independent evaluation or appraisal of the assets and liabilities (including any contingent, derivative or other off-balance-sheet assets and liabilities) of Helix or Hornbeck or any of their respective subsidiaries and it was not furnished with any such evaluation or appraisal. Goldman Sachs assumed that all governmental, regulatory or other consents and approvals necessary for the consummation of the transaction will be obtained without any adverse effect on Helix or Hornbeck or on the expected benefits of the transaction in any way meaningful to its analysis. Goldman Sachs also assumed that the transaction will be consummated on the terms set forth in the merger agreement, without the waiver or modification of any term or condition the effect of which would be in any way meaningful to its analysis.

Goldman Sachs' opinion does not address the underlying business decision of Helix to engage in the transaction or the relative merits of the transaction as compared to any strategic alternatives that may be available to Helix; nor does it address any legal, regulatory, tax or accounting matters. Goldman Sachs' opinion addresses only the fairness from a financial point of view to Helix, as of the date of the opinion, of the exchange ratio pursuant to the merger agreement. Goldman Sachs' opinion does not express any view on, and does not address, any other term or aspect of the merger agreement or the transaction or any term or aspect of any other agreement or instrument contemplated by the merger agreement or entered into or amended in connection with the transaction, including the fairness of the transaction to, or any consideration received in connection therewith by, the holders of any other class of securities, creditors, or other constituencies of Helix; nor as to the fairness of the amount or nature of any compensation to be paid or payable to any of the officers, directors or employees of Helix or Hornbeck, or any class of such persons in connection with the transaction, whether relative to the exchange ratio pursuant to the merger agreement or otherwise. Goldman Sachs' opinion is necessarily based on economic, monetary market and other conditions as in effect on, and the information made available to Goldman Sachs as of, the date of its opinion and Goldman Sachs assumes no responsibility for updating, revising or reaffirming its opinion based on circumstances, developments or events occurring after the date of its opinion. In addition, Goldman Sachs does not express any opinion as to the prices at which shares of Helix common stock will trade at any time, as to the potential effects of volatility in the credit, financial and stock markets on Helix or the transaction, or as to the impact of the transaction on the solvency or viability of Helix or Hornbeck or the ability of Helix or Hornbeck to pay their respective obligations when they come due. Goldman Sachs' opinion was approved by a fairness committee of Goldman Sachs.

The following is a summary of the material financial analyses delivered by Goldman Sachs to the Helix Board in connection with rendering the opinion described above. The following summary, however, does not purport to be a complete description of the financial analyses performed by Goldman Sachs, nor does the order of analyses described represent relative importance or weight given to those analyses by Goldman Sachs. Some of the summaries of the financial analyses include information presented in tabular format. The tables must be read together with the full text of each summary and are alone not a complete description of Goldman Sachs' financial analyses. Except as otherwise noted, the following quantitative information, to the extent that it is based on market data, is based on market data as it existed on or before April 21, 2026, the last trading day before the signing of the merger agreement, and is not necessarily indicative of current market conditions.

For purposes of its analysis, Goldman Sachs calculated an implied equity value paid for Hornbeck of approximately \$1,734 million by multiplying the exchange ratio of 10.27167x pursuant to the merger agreement by \$9.38, the closing price for the shares of Helix common stock as of April 21, 2026, and by the number of fully diluted outstanding shares of Hornbeck, as provided by and approved for Goldman Sachs' use by Helix's management.

Illustrative Discounted Cash Flow Analysis—Helix Stand-Alone. Using the Projections, Goldman Sachs performed an illustrative discounted cash flow analysis on Helix to derive a range of illustrative present values per share of Helix common stock. Using the mid-year convention for discounting cash flows and discount rates ranging from

10.5% to 13.0%, reflecting estimates of Helix’s weighted average cost of capital, Goldman Sachs discounted to present value as of March 31, 2026 (i) estimates of unlevered free cash flow for Helix for the last three quarters of fiscal year 2026 and for fiscal years 2027 through 2030 as reflected in the Projections and (ii) a range of illustrative terminal values for Helix, which were calculated by applying terminal year exit enterprise value (“EV”) to next twelve month (“NTM”) EBITDA (“EV/NTM EBITDA”) multiples ranging from 3.75x to 5.0x, to a terminal year estimate of the EBITDA to be generated by Helix, as reflected in the Projections. The range of terminal year exit EV/NTM EBITDA multiples was estimated by Goldman Sachs utilizing its professional judgment and experience, taking into account historical trading multiples of Helix. Goldman Sachs derived such discount rates by application of the Capital Asset Pricing Model, which requires certain company-specific inputs, including Helix’s target capital structure weightings, the cost of long-term debt, after-tax yield on permanent excess cash, if any, future applicable marginal cash tax rate and a beta for Helix, as well as certain financial metrics for the United States financial markets generally.

Goldman Sachs derived ranges of illustrative enterprise values for Helix by adding the ranges of present values it derived above. Goldman Sachs then subtracted from the range of illustrative enterprise values it derived for Helix the amount of Helix’s estimated renewal capital expenditures, discounted at the midpoint of Helix’s estimated weighted average cost of capital range of 11.75%, and total debt and debt-like items and added the amount of Helix’s cash and cash equivalents, in each case, as provided by and approved for Goldman Sachs’ use by Helix’s management, to derive a range of illustrative equity values for Helix. Goldman Sachs then divided the range of illustrative equity values it derived by the number of fully diluted outstanding shares of Helix common stock, as provided by and approved for Goldman Sachs’ use by Helix’s management, using the treasury stock method, to derive a range of illustrative present values per share of Helix common stock ranging from \$9.48 to \$12.28.

Illustrative Discounted Cash Flow Analysis—Hornbeck Stand-Alone. Using the Projections, Goldman Sachs performed an illustrative discounted cash flow analysis on Hornbeck to derive a range of illustrative present equity values of Hornbeck. Using the mid-year convention for discounting cash flows and discount rates ranging from 10.0% to 12.5%, reflecting estimates of Hornbeck’s weighted average cost of capital, Goldman Sachs discounted to present value as of March 31, 2026 (i) estimates of unlevered free cash flow for Hornbeck for the last three quarters of fiscal year 2026 and for fiscal years 2027 through 2030 as reflected in the Projections and (ii) a range of illustrative terminal values for Hornbeck, which were calculated by applying terminal year EV/NTM EBITDA multiples ranging from 6.0x to 7.0x, to a terminal year estimate of the EBITDA to be generated by Hornbeck, as reflected in the Projections. The range of terminal year exit EV/NTM EBITDA multiples was estimated by Goldman Sachs utilizing its professional judgment and experience, taking into account historical trading multiples for certain publicly traded companies, as described below in the section captioned “Selected Public Company Comparables Analysis.” Goldman Sachs derived such discount rates by application of the Capital Asset Pricing Model, which requires certain company-specific inputs, including Hornbeck’s target capital structure weightings, the cost of long-term debt, after-tax yield on permanent excess cash, if any, future applicable marginal cash tax rate and a beta for Hornbeck, as well as certain financial metrics for the United States financial markets generally.

Goldman Sachs derived ranges of illustrative enterprise values for Hornbeck by adding the ranges of present values it derived above. Goldman Sachs then subtracted from the range of illustrative enterprise values it derived for Hornbeck the amount of Hornbeck’s estimated renewal capital expenditures, discounted at the midpoint of Hornbeck’s estimated weighted average cost of capital range of 11.25%, and total debt and debt-like items and added the amount of Hornbeck’s cash and cash equivalents, in each case, as provided by and approved for Goldman Sachs’ use by Helix’s management, to derive a range of illustrative equity values for Hornbeck ranging from approximately \$1,792 million to \$2,482 million.

Illustrative Discounted Cash Flow Analysis—Pro Forma Combined Company. Using the Projections, and Synergies Estimates, Goldman Sachs performed an illustrative discounted cash flow analysis on the pro forma combined company to derive a range of illustrative present values per share of the pro forma combined company. Using the mid-year convention for discounting cash flows and discount rates ranging from 10.25% to 12.5%, reflecting estimates of the pro forma combined company’s weighted average cost of capital, Goldman Sachs discounted to present value as of March 31, 2026 (i) estimates of unlevered free cash flow for the pro forma combined company for the last three quarters of fiscal year 2026 and for fiscal years 2027 through 2030 as reflected in the Projections, including the Synergies Estimates, and (ii) a range of illustrative terminal values for the pro forma combined company, which were calculated by applying terminal year exit EV/NTM EBITDA multiples ranging from 5.0x to 6.0x, to a terminal year estimate of the EBITDA to be generated by the pro forma combined company, as reflected in the Projections, including the Synergies Estimates. The range of terminal year exit EV/NTM EBITDA multiples was estimated by Goldman Sachs

utilizing its professional judgment and experience, taking into account the Projections and the Synergies Estimates and historical trading multiples of Helix and of certain publicly traded companies, as described below in the section captioned “Selected Public Company Comparables Analysis.” Goldman Sachs derived such discount rates by application of the Capital Asset Pricing Model, which requires certain company-specific inputs, including the pro forma combined company’s target capital structure weightings, the cost of long-term debt, after-tax yield on permanent excess cash, if any, future applicable marginal cash tax rate and a beta for the pro forma combined company, as well as certain financial metrics for the United States financial markets generally.

Goldman Sachs derived ranges of illustrative enterprise values for the pro forma combined company by adding the ranges of present values it derived above. Goldman Sachs then subtracted from the range of illustrative enterprise values it derived for the pro forma combined company the amount of the pro forma combined company’s estimated renewal capital expenditures, discounted at the midpoint of the pro forma combined company’s estimated weighted average cost of capital range of 11.375%, and total debt and debt-like items and added the amount of the pro forma combined company’s cash and cash equivalents, in each case, as provided by and approved for Goldman Sachs’ use by Helix’s management, to derive a range of illustrative equity values for the pro forma combined company. Goldman Sachs then divided the range of illustrative pro forma equity values it derived by the number of fully diluted outstanding shares of the pro forma combined company, as provided by and approved for Goldman Sachs’ use by Helix’s management, using the treasury stock method, to derive a range of illustrative present values per share of Helix common stock, pro forma giving effect to the transaction, ranging from \$10.38 to \$13.52.

Implied Equity Contribution

Goldman Sachs also calculated the relative equity contribution of Helix to the pro forma combined company based on the discounted cash flow analyses described above. Goldman Sachs used discount rates for Helix ranging from 10.5% to 13.0%, reflecting estimates of Helix’s weighted average cost of capital, and terminal year exit EV/NTM EBITDA multiples for Helix ranging from 3.75x to 5.0x, and discount rates for Hornbeck ranging from 10.0% to 12.5%, reflecting Hornbeck’s weighted average cost of capital and terminal year exit EV/NTM EBITDA multiples for Hornbeck ranging from 6.0x to 7.0x.

This analysis resulted in an illustrative equity contribution for Helix to the pro forma combined company of 42.8% to 44.5%.

Illustrative Present Value of Future Share Price Analysis—Helix Stand-Alone. Using the Projections, Goldman Sachs performed an illustrative analysis of the implied present value of an illustrative future value per share of Helix common stock. For this analysis, Goldman Sachs first calculated the implied enterprise value for Helix as of December 31 for each of fiscal years 2026 and 2027, by applying a range multiples of illustrative EV/NTM EBITDA of 3.75x to 5.0x to estimates of Helix’s NTM EBITDA for each of fiscal years 2026 and 2027. This illustrative range of EV/NTM EBITDA multiple estimates was derived by Goldman Sachs utilizing its professional judgment and experience, taking into account current and historical EV/NTM EBITDA multiples for Helix.

Goldman Sachs then subtracted the amount of Helix’s total debt and debt-like items and added the amount of Helix’s cash and cash equivalents for each of fiscal years 2026 and 2027, each as provided by and approved for Goldman Sachs’ use by Helix’s management, from the respective implied enterprise values in order to derive a range of illustrative equity values as of December 31 for Helix for each of fiscal years 2026 and 2027. Goldman Sachs then divided these implied equity values by the projected year-end number of fully diluted outstanding shares of Helix common stock for each of fiscal years 2026 and 2027, calculated using information provided by and approved for Goldman Sachs’ use by Helix’s management, to derive a range of implied future values per share of Helix common stock. Goldman Sachs then discounted these implied future equity values per share of Helix common stock to March 31, 2026, using an illustrative discount rate of 12.0%, reflecting an estimate of Helix’s cost of equity. Goldman Sachs derived such discount rate by application of the Capital Asset Pricing Model, which requires certain company-specific inputs, including a beta for Helix, as well as certain financial metrics for the United States financial markets generally. This analysis resulted in a range of implied present values of \$9.21 to \$12.56 per share of Helix common stock.

Illustrative Present Value of Future Equity Analysis—Hornbeck Stand-Alone. Using the Projections and certain unaudited prospective financial information with respect to Hornbeck on a stand-alone basis prepared by Hornbeck’s management and provided by Hornbeck’s management to the Hornbeck Board, Helix and Helix’s and Hornbeck’s respective financial advisors (the “Hornbeck unaudited prospective financial information”), Goldman Sachs performed an illustrative analysis of the implied present value of an illustrative future equity value of Hornbeck. For this analysis, Goldman Sachs first calculated the implied enterprise value for Hornbeck as of December 31 for each of fiscal

years 2026 and 2027, by applying a range multiples of illustrative EV/NTM EBITDA of 6.0x to 7.0x to estimates of Hornbeck's NTM EBITDA for each of fiscal years 2026 and 2027. This illustrative range of EV/NTM EBITDA multiple estimates was derived by Goldman Sachs utilizing its professional judgment and experience, taking into account current and historical EV/NTM EBITDA multiples for certain publicly traded companies, as described below in the section captioned "Selected Public Company Comparables Analysis."

Goldman Sachs then subtracted the amount of Hornbeck's total debt and debt-like items and added the amount of Hornbeck's cash and cash equivalents for each of fiscal years 2026 and 2027, each as provided by and approved for Goldman Sachs' use by Helix's management, from the respective implied enterprise values in order to derive a range of illustrative equity values as of December 31 for Hornbeck for each of fiscal years 2026 and 2027. Goldman Sachs then discounted these implied future equity values of Hornbeck to March 31, 2026, using an illustrative discount rate of 12.0%, reflecting an estimate of Hornbeck's cost of equity. Goldman Sachs derived such discount rate by application of the Capital Asset Pricing Model, which requires certain company-specific inputs, including a beta for Hornbeck, as well as certain financial metrics for the United States financial markets generally. This analysis resulted in a range of implied present values for Hornbeck ranging from approximately \$1,566 million to \$2,339 million.

Illustrative Present Value of Future Share Price Analysis—Pro Forma Combined Company. Using the Projections, including the Synergies Estimates, and the Hornbeck unaudited prospective financial information, Goldman Sachs performed an illustrative analysis of the implied present value of an illustrative future value per share of the pro forma combined company. For this analysis, Goldman Sachs first calculated the implied enterprise value for the pro forma combined company as of December 31 for each of fiscal years 2026 and 2027, by applying a range multiples of illustrative EV/NTM EBITDA of 5.0x to 6.0x to estimates of the pro forma combined company's NTM EBITDA for each of fiscal years 2026 and 2027. This illustrative range of EV/NTM EBITDA multiple estimates was derived by Goldman Sachs utilizing its professional judgment and experience, taking into account current and historical EV/NTM EBITDA multiples for Helix and current and historical EV/NTM EBITDA multiples for certain publicly traded companies, as described below in the section captioned "Selected Public Company Comparables Analysis."

Goldman Sachs then subtracted the amount of the pro forma combined company's total debt and debt-like items and added the amount of the pro forma combined company's cash and cash equivalents for each of fiscal years 2026 and 2027, each as provided by and approved for Goldman Sachs' use by Helix's management, from the respective implied enterprise values for the pro forma combined company in order to derive a range of illustrative equity values as of December 31 for the pro forma combined company for each of fiscal years 2026 and 2027. Goldman Sachs then divided these implied equity values by the projected year-end number of fully diluted outstanding shares of common stock of the pro forma combined company for each of fiscal years 2026 and 2027, calculated using information provided by and approved for Goldman Sachs' use by Helix's management, to derive a range of implied future values per share of common stock of the pro forma combined company. Goldman Sachs then discounted these implied future equity values per share of common stock of the pro forma combined company to March 31, 2026, using an illustrative discount rate of 12.0%, reflecting an estimate of the pro forma combined company's cost of equity. Goldman Sachs derived such discount rate by application of the Capital Asset Pricing Model, which requires certain company-specific inputs, including a beta for the pro forma combined company, as well as certain financial metrics for the United States financial markets generally. This analysis resulted in a range of illustrative present values per share of Helix common stock, pro forma giving effect to the transaction, ranging from \$9.40 to \$13.18.

Selected Public Company Comparables Analysis

Goldman Sachs reviewed financial information, ratios and public market multiples for Tidewater Inc. and Oceaneering International, Inc., publicly traded corporations in the offshore energy services industry, which we refer to in this section of the proxy statement/prospectus as the "Selected Companies."

Although neither of the Selected Companies is directly comparable to Hornbeck, the Selected Companies included were chosen because they are publicly traded companies in the offshore energy services industry with operations that, for purposes of analysis, may be considered similar to certain operations of Hornbeck.

Goldman Sachs also calculated the EV/NTM EBITDA multiples of the Selected Companies based on financial and trading data for each trading day during the two-year period ended April 21, 2026, information Goldman Sachs obtained from public filings and FactSet median estimates.

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The results of these calculations are summarized as follows:

Average EV / NTM EBITA multiple for period	2 Years ended April 21, 2026	12 Months ended April 21, 2026	6 Months ended April 21, 2026	3 Months ended April 21, 2026	January 1, 2026 to April 21, 2026
Tidewater Inc.	5.6x	5.5x	6.3x	7.4x	7.1x
Oceaneering International, Inc.	6.4x	6.1x	6.8x	7.9x	7.6x

Last 2 Years Percentile	EV / NTM EBITDA		
	25th	50th	75th
Tidewater Inc.	4.5x	5.0x	6.8x
Oceaneering International, Inc.	5.5x	6.4x	7.1x

The preparation of a fairness opinion is a complex process and is not necessarily susceptible to partial analysis or summary description. Selecting portions of the analyses or of the summary set forth above, without considering the analyses as a whole, could create an incomplete view of the processes underlying Goldman Sachs' opinion. In arriving at its fairness determination, Goldman Sachs considered the results of all of its analyses and did not attribute any particular weight to any factor or analysis considered by it. Rather, Goldman Sachs made its determination as to fairness on the basis of its experience and professional judgment after considering the results of all of its analyses.

Goldman Sachs prepared these analyses for purposes of Goldman Sachs' providing its opinion to the Helix Board as to the fairness from a financial point of view to Helix, as of the date of the opinion, of the exchange ratio pursuant to the merger agreement. These analyses do not purport to be appraisals nor do they necessarily reflect the prices at which businesses or securities actually may be sold. Analyses based upon forecasts of future results are not necessarily indicative of actual future results, which may be significantly more or less favorable than suggested by these analyses. Because these analyses are inherently subject to uncertainty, being based upon numerous factors or events beyond the control of the parties or their respective advisors, none of Helix, Hornbeck, Goldman Sachs or any other person assumes responsibility if future results are materially different from those forecasts.

The exchange ratio was determined through arm's-length negotiations between Helix and Hornbeck and was approved by the Helix Board. Goldman Sachs provided advice to Helix during these negotiations. Goldman Sachs did not, however, recommend any specific exchange ratio to Helix or the Helix Board or that any specific exchange ratio constituted the only appropriate exchange ratio for the transaction.

As described above, Goldman Sachs' opinion to the Helix Board was one of many factors taken into consideration by the Helix Board in making its determination to approve the merger agreement. The foregoing summary does not purport to be a complete description of the analyses performed by Goldman Sachs in connection with the fairness opinion and is qualified in its entirety by reference to the written opinion of Goldman Sachs attached as *Annex B*.

Goldman Sachs and its affiliates (collectively, "Goldman Sachs Affiliated Entities") are engaged in advisory, underwriting, lending and financing, principal investing, sales and trading, research, investment management and other financial and non-financial activities and services for various persons and entities. Goldman Sachs and its affiliates and employees, and funds or other entities they manage or in which they invest or have other economic interests or with which they co-invest, may at any time purchase, sell, hold or vote long or short positions and investments in securities, derivatives, loans, commodities, currencies, credit default swaps and other financial instruments of Helix, Hornbeck, any of their respective affiliates and third parties, including Whitebox Advisors LLC ("Whitebox"), Ares Management LLC ("Ares") and Highbridge Capital Management LLC ("Highbridge"), each, a significant shareholder of Hornbeck, and JPMorgan Chase & Co. ("JPMorgan"), a significant shareholder of Highbridge (collectively, the "Relevant Parties") and any of their respective affiliates and, as applicable, portfolio companies, or any currency or commodity that may be involved in the transaction. As of April 22, 2026, Goldman Sachs Investment Banking had an existing lending relationship with Ares and JPMorgan, or majority-owned subsidiaries (excluding, if applicable, portfolio companies) or funds thereof. Goldman Sachs acted as financial advisor to Helix in connection with, and participated in certain of the negotiations leading to, the transaction. During the two-year period ended April 22, 2026, Goldman Sachs Investment Banking has not been engaged by Helix or its affiliates to provide financial advisory or underwriting services for which Goldman Sachs has recognized compensation. During the two-year period ended April 22, 2026, Goldman Sachs Investment Banking has not been engaged by Hornbeck or its affiliates to provide financial advisory or underwriting services for which Goldman Sachs has recognized compensation. As of April 22, 2026, Goldman Sachs Investment Banking was mandated by Hornbeck and/or its Related Entities (as defined below)

to provide financial advisory and/or underwriting services unrelated to the transaction with respect to one or more matters and, if all such matters were to be consummated, Goldman Sachs Investment Banking currently expects that it would recognize compensation in an aggregate amount less than the transaction fee expected in connection with the transaction. One or more members of the Goldman Sachs Investment Banking team working with Helix in connection with the transaction are also involved in one or more of such mandates. As of April 22, 2026, Goldman Sachs Investment Banking was not soliciting Hornbeck and/or its Related Entities (excluding, if applicable, any significant shareholders and their other affiliates) to work on financial advisory and/or underwriting matters for any such persons on which it has not been mandated. Goldman Sachs also has provided certain financial advisory and/or underwriting services to Ares and its affiliates from time to time for which Goldman Sachs Investment Banking has received, and may receive, compensation, including having acted as lead arranger in connection with a bank loan to CHG Healthcare Services Inc., a portfolio company of Ares (“CHG”), in July 2024; as bookrunner in connection with a high yield bond offering by EPIC Crude Services, LP, a portfolio company of Ares, in October 2024; as lead arranger in connection with a bank loan to CHG in December 2024; as Ares’ financial advisor in connection with the acquisition of GLP Capital Partners Limited’s international business (excluding operations in Greater China) in March 2025; as lead arranger in connection with a bank loan to AltaFiber, a portfolio company of Ares, in September 2025; as bookrunner in connection with a high yield bond offering by Asurion, LLC, a portfolio company of Ares (“Asurion”), in December 2025; and as bookrunner in connection with a high yield bond offering by Asurion in January 2026. During the two-year period ended April 22, 2026, Goldman Sachs has recognized compensation for financial advisory and/or underwriting services provided by Goldman Sachs Investment Banking to Ares and/or its affiliates of approximately \$55 million. As of April 22, 2026, Goldman Sachs Investment Banking was mandated by Ares and/or its Related Entities (excluding Hornbeck and its subsidiaries) to provide financial advisory and/or underwriting services unrelated to the transaction with respect to multiple matters and, if all such matters were to be consummated, Goldman Sachs Investment Banking expects that it would recognize compensation in an aggregate amount materially in excess of the transaction fee expected in connection with the transaction. In addition, as is typical for investment banks, as of April 22, 2026, Goldman Sachs Investment Banking was soliciting Ares and/or its Related Entities (excluding Hornbeck and its subsidiaries) to work on financial advisory and/or underwriting matters unrelated to the transaction on which it was not, and may not be, mandated. Goldman Sachs also has provided certain financial advisory and/or underwriting services to JPMorgan and its affiliates from time to time for which Goldman Sachs Investment Banking has received, and may receive, compensation, including having acted as arranger in connection with a stand-alone securitization by J.P. Morgan Asset Management Real Estate, an affiliate of JPMorgan, in September 2025. During the two-year period ended April 22, 2026, Goldman Sachs has recognized compensation for financial advisory and/or underwriting services provided by Goldman Sachs Investment Banking to JPMorgan and/or its affiliates of approximately \$1 million. As of April 22, 2026, Goldman Sachs Investment Banking was not mandated by JPMorgan and/or its affiliates (excluding Hornbeck, Highbridge and their respective subsidiaries) to provide to any such person financial advisory and/or underwriting services. In addition, as is typical for investment banks, as of April 22, 2026, Goldman Sachs Investment Banking was soliciting JPMorgan and/or its Related Entities (excluding Hornbeck, Highbridge and their respective subsidiaries) to work on financial advisory and/or underwriting matters unrelated to the transaction on which it was not, and may not be, mandated. During the two-year period ended April 22, 2026, Goldman Sachs Investment Banking has not been engaged by Whitebox or its affiliates to provide financial advisory or underwriting services for which Goldman Sachs has recognized compensation. As of April 22, 2026, Goldman Sachs Investment Banking was not mandated by Whitebox and/or its Related Entities (excluding Hornbeck and its subsidiaries) to provide to any such person financial advisory and/or underwriting services. As of April 22, 2026, Goldman Sachs Investment Banking was not soliciting Whitebox and/or its Related Entities (excluding Hornbeck and its subsidiaries) to work on financial advisory and/or underwriting matters for any such persons on which it has not been mandated. During the two-year period ended April 22, 2026, Goldman Sachs Investment Banking has not been engaged by Highbridge or its affiliates to provide financial advisory or underwriting services for which Goldman Sachs has recognized compensation. As of April 22, 2026, Goldman Sachs Investment Banking was not mandated by Highbridge and/or its Related Entities (excluding Hornbeck and its subsidiaries) to provide to any such person financial advisory and/or underwriting services. As of April 22, 2026, Goldman Sachs Investment Banking was not soliciting Highbridge and/or its Related Entities (excluding Hornbeck and its subsidiaries) to work on financial advisory and/or underwriting matters for any such persons on which it has not been mandated. Goldman Sachs may also in the future provide financial advisory and/or underwriting services to the Relevant Parties and their respective affiliates and/or as applicable, portfolio companies, for which Goldman Sachs Investment Banking may receive compensation.

As of April 22, 2026, Goldman Sachs Affiliated Entities had (i) no direct GS Principal Investment (as defined below) in Helix and/or its affiliates (excluding any significant shareholder and its other affiliates), (ii) no direct

GS Principal Investment in Hornbeck and/or its affiliates (excluding any significant shareholder and its other affiliates), (iii) no direct GS Principal Investment in Whitebox or its Related Entities (as defined below) (but excluding Hornbeck, Helix or their other respective affiliates), (iv) no direct GS Principal Investment in Highbridge or its Related Entities (but excluding Hornbeck, Helix or their other respective affiliates), (v) direct GS Principal Investments in Ares or its Related Entities (but excluding Hornbeck, Helix or their other respective affiliates) of approximately \$110.68 million, (vi) no direct GS Principal Investment in Ares Special Situations Fund IV, a fund affiliated with Ares that holds a direct equity interest in Hornbeck (vii) no direct GS Principal Investment in Ares Special Opportunities Fund I, a fund affiliated with Ares that holds a direct equity interest in Hornbeck and (viii) direct GS Principal Investments in JPMorgan or its Related Entities (but excluding Hornbeck, Helix or their other respective affiliates) of approximately \$181.2 million. As of April 22, 2026, funds managed by affiliates of Goldman Sachs Investment Banking also were co-invested with Ares and JPMorgan and/or their respective affiliates and were invested in equity interests of funds managed by affiliates of Ares and JPMorgan. Such funds managed by affiliates of Goldman Sachs Investment Banking may co-invest with, and invest in equity interests of, Ares, JPMorgan, Whitebox, Highbridge and/or their respective affiliates or funds managed thereby in the future.

On the public side of Goldman Sachs' informational wall (the "Public Side") and in the ordinary course of its various business activities, Goldman Sachs Affiliated Entities may also own equity securities in the Relevant Parties, and/or their respective affiliates arising from engaging in market making, trade execution, clearing, custody, margin lending and other similar financing transactions, securities lending, and related activities (including by acting as agent for third parties executing their transactions or as principal supplying liquidity to market participants, and any related hedging, other risk management or inventory management) (collectively, "Market Making Activities"), which positions change frequently. Regulatory, informational and operational barriers separate the Public Side from Goldman Sachs Investment Banking.

For purposes of this section of the proxy statement/prospectus, (x) Goldman Sachs relied on its books and records to (i) unless otherwise indicated, calculate all amounts and (ii) determine whether an entity is an affiliate, portfolio company, subsidiary or majority-owned subsidiary of another entity, and (y) the following terms have the definitions set forth below:

"GS Principal Investments" (including any associated commitments) are (i) direct balance sheet investments in equity interests or equity securities held by Goldman Sachs Affiliated Entities for its own account or (ii) direct investments in equity interests held by a fund managed by a Goldman Sachs Affiliated Entity which fund is primarily for the benefit of Goldman Sachs Affiliated Entities and/or its current and former employees and not third party clients. GS Principal Investments do not include equity interests arising from Market Making Activities, equity derivatives, convertible debt instruments, or warrants or equity kickers received in connection with senior secured loans, mezzanine loans, warehouse loans, preferred equity with a fixed rate of return or other similar types of financing transactions (which may also be subject to hedging or other risk-mitigating instruments). GS Principal Investments also do not include investments by funds managed by Goldman Sachs Affiliated Entities which funds are almost entirely for the benefit of third party clients ("GS Client Funds"), which funds can co-invest alongside, and/or make Investments in, the Relevant Parties or their respective Related Entities. As investment managers for GS Client Funds, Goldman Sachs Affiliated Entities are required to fulfill a fiduciary responsibility to GS Client Funds in making decisions to purchase, sell, hold or vote on, or take any other action with respect to, any financial instrument.

"Related Entities" are, as applicable, a person or entity's subsidiaries, affiliates, portfolio companies and/or funds managed thereby.

The Helix Board selected Goldman Sachs as its financial advisor because it is an internationally recognized investment banking firm that has substantial experience in transactions similar to the transaction. Pursuant to a letter agreement dated April 18, 2026, Helix engaged Goldman Sachs to act as its financial advisor in connection with the transaction. The engagement letter between Helix and Goldman Sachs provides for a transaction fee that is estimated, based on the information available as of the date of announcement, at approximately \$23.3 million, \$4.0 million of which became payable at announcement of the transaction, and the remainder of which is contingent upon consummation of the transaction. In addition, Helix has agreed to reimburse Goldman Sachs for certain of its expenses, including attorneys' fees and disbursements, and to indemnify Goldman Sachs and related persons against various liabilities, including certain liabilities under the federal securities laws.

Board of Directors and Management of the Combined Company

The merger agreement contains certain provisions relating to the governance of the combined company following completion of the mergers.

Board of Directors

Following the effective time, the combined company board will consist of seven directors, comprised of:

- three directors designated by Helix; and
- four directors designated by Hornbeck, one of whom will be the President and Chief Executive Officer.

The parties intend that the composition of the combined company board represent, as a whole, diversity in professional background, experience, expertise (including as to financial matters) and perspective (including as to age, gender and ethnicity). All three of the Helix designees and at least one of the Hornbeck designees will meet the independence standards of the NYSE as may be applicable with respect to the combined company as of the effective time.

The individuals designated to serve on the combined company board following the effective time include: (i) William L. Transier, and as Helix designees, (ii) , and as Hornbeck designees and (iii) Todd M. Hornbeck as a Hornbeck designee and as President and Chief Executive Officer of the combined company. The combined company board will consist of the same three-class “staggered” board as the Helix board, such that one Helix designee and two Hornbeck designees will serve as Class III directors, with term first expiring in 2029, one Helix designee and one Hornbeck designee will serve as Class II directors, with term first expiring in 2027, and one Helix designee and one Hornbeck designee will serve as Class I directors, with term first expiring in 2028.

Chairperson of the Combined Company Board

William L. Transier, the Chairperson of the Helix Delaware Board as of immediately prior to the effective time, will serve as Chairperson of the combined company board through the Governance Period.

Committees of the Combined Company Board

In addition, at the effective time, (i) a Helix designee will be appointed and serve through the Governance Period as Chairperson of the Audit Committee of the combined company board, (ii) a Helix designee will be appointed and serve through the Governance Period as Chairperson of the Corporate Governance and Nominating Committee of the combined company board and (iii) will be appointed and serve through the Governance Period as Chairperson of the Compensation Committee of the combined company board.

Management

At the effective time, the following individuals will be appointed as executive officers of the combined company: Todd M. Hornbeck as President and Chief Executive Officer Robert P. Adams as Executive Vice President and Chief Financial Officer; Samuel A. Giberga as Executive Vice President, General Counsel and Corporate Secretary; Scotty Sparks as Executive Vice President and Chief Operating Officer, Subsea Services and Well Intervention; and Ben Todd as Executive Vice President and Chief Operating Officer, Marine Transportation and Specialty. The other executive officers of the combined company will be chosen by Mr. Hornbeck in consultation with a representative of each of the Helix Board and Hornbeck Board on a merit basis, without consideration of whether the persons selected serve as officers or employees of Hornbeck or Helix prior to the effective time. For additional information on executive officers of the combined company, see “*Management Following the Mergers*” and “*Executive Compensation of the Combined Company*.”

Interests of Helix’s Directors and Officers in the Mergers

In considering the recommendation of the Helix Board that Helix shareholders vote to approve the required merger proposals, Helix shareholders should be aware that, aside from their interests as shareholders of Helix, Helix’s directors and executive officers have interests in the mergers that may be different from, or in addition to, the interests of Helix shareholders generally. The Helix Board was aware of and considered these interests, among other matters, when evaluating and negotiating the merger agreement and the transactions contemplated thereby, including the Conversion,

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when determining that the merger agreement and the transactions contemplated by the merger agreement were fair to, advisable and in the best interests of Helix and its shareholders, when approving and declaring advisable the merger agreement, the plan of conversion and the other transactions contemplated by the merger agreement, including the Conversion, when directing that the required merger proposals and the optional vote matters be submitted to Helix shareholders for approval and when recommending that Helix shareholders vote in favor of the required merger proposals and the optional vote matters.

Values of Equity Awards Held by Directors and Executive Officers

The equity awards held by Helix directors and executive officers will be treated as described in the section titled “*The Merger Agreement—Treatment of Equity Awards and Warrants.*”

The estimated values of the Helix restricted stock awards held by our non-employee directors that would accelerate immediately prior to the effective time pursuant to the terms of the merger agreement, assuming the effective time had occurred on June 3, 2026, are set forth in the table below. These estimates assume a value per share of Helix common stock of \$9.94 (which, in accordance with SEC requirements, is the average closing price of the Helix common stock over the first five business days following the first public announcement of the mergers).

Name	Number of Shares Subject to Outstanding Helix Restricted Stock Awards (#)	Value of Outstanding Helix Restricted Stock Awards (\$)
Diana Glassman	20,690	205,659
Paula Harris	23,708	235,658
T. Mitch Little	20,690	205,659
John Lovoi	20,690	205,659
Amy Nelson	20,690	205,659
William Transier	20,690	205,659

For estimates of the values of the awards of performance share units and restricted stock units held by our executive officers that would accelerate immediately prior to the effective time pursuant to the terms of the merger agreement, see below under “*—Golden Parachute Compensation.*”

Potential Payments to Executive Officers upon Termination in Connection with the Mergers

Helix has entered into an employment agreement with each of its executive officers that provides the executive officer with the following payments and benefits if he experiences a qualifying termination, meaning that within the two-year period following a “change in control” (which will occur upon the consummation of the mergers pursuant to terms of the merger agreement), his employment is terminated by Helix without “Cause” or by him for “Good Reason” (as such terms are defined in the employment agreement):

- a lump sum severance payment equal to a specified multiple of his aggregate annual cash compensation (defined as his base salary plus his target short-term annual incentive): the applicable multiple is 2.99x for Mr. Kratz and 2x for each of Messrs. Sparks, Staffeldt and Neikirk;
- immediate vesting of all equity-based awards that he holds; and
- a lump sum payment equal to the cost of continuation of health coverage under COBRA for 18 months.

Under each of the employment agreements, “Cause” generally means embezzlement or theft, breach of a material provision of the employment agreement, any act constituting a felony or otherwise involving theft, fraud, gross dishonesty or moral turpitude, negligence or willful misconduct, any breach of the executive officer’s fiduciary obligations, a material violation of Helix’s policies or procedures or any chemical dependence that adversely affects the performance of the executive officer, and “Good Reason” generally means the material diminution of the executive officer’s base salary, material diminution of the executive officer’s authority, duties or responsibilities, a material change in the executive officer’s reporting relationship, a material change in the geographic location at which the executive officer must perform his duties, or any action that would constitute a material breach of the employment agreement by Helix.

Mr. Kratz’s employment agreement provides that, if the payments that he receives in connection with a change in control are subject to the excise tax under Section 4999 of the Internal Revenue Code, he will receive a “gross-up”

payment intended to place him in the same net after-tax position as he would have been had no excise tax been payable. The employment agreements with Messrs. Sparks, Staffeldt and Neikirk do not contain any excise tax “gross-up” protections.

To receive the payments and benefits described above, each executive officer is required to execute and not revoke a release of claims in a form and substance satisfactory to Helix.

For estimates of the amounts of the payments described above that each executive officer would receive if he experienced a qualifying termination in connection with the mergers, see below under “—*Golden Parachute Compensation*.” As noted above, the equity-based awards held by each executive officer would accelerate immediately prior to the effective time pursuant to the terms of the merger agreement, regardless of whether he experienced a qualifying termination.

Retention Bonuses

The merger agreement provides that Helix and Hornbeck will collaborate in good faith to establish a cash-based retention program, pursuant to which Helix may issue retention bonuses to employees and other service providers in an aggregate amount of up to \$10,000,000, with the recipients, individual amounts and others terms of such bonuses determined by Helix, subject to Hornbeck’s consent (not to be unreasonably conditioned, withheld or delayed). As of June 3, 2026, no such retention bonuses have been granted to the executive officers or directors.

Closing Year Bonuses

The merger agreement provides that each Helix employee who is eligible for an annual bonus for the year in which the closing occurs and who remains employed through the regular payment date for the bonus will be eligible to receive in cash, on the regular payment date, an annual bonus in an amount equal to the greater of “actual” and “target” levels of performance under the Helix annual bonus plan. The “Golden Parachute Compensation” table below assumes that each Helix named executive officer experienced a qualifying termination immediately following the effective time, which is assumed to have occurred on June 3, 2026 and, therefore, the named executive officers will not have remained employed through the regular bonus payment date for the annual bonus for 2026. Accordingly, no amount relating to the potential payment of the annual bonus for 2026 at the target level, to the extent that it may exceed the actual level of performance for 2026, is shown in the “Golden Parachute Compensation” table.

Deferred Compensation Agreement

Helix has entered into a deferred compensation agreement with Mr. Sparks that provides that if Mr. Sparks’s employment is involuntarily terminated without cause within 180 days after a “change in control” (which will occur upon the consummation of the mergers pursuant to terms of the merger agreement), he will be entitled to payment of the amount credited to his deferred compensation account on the first business day that is six months after such termination or, if earlier, within 30 days after the date of Mr. Sparks’s death following such termination.

Golden Parachute Compensation

In accordance with Item 402(t) of Regulation S-K, the table below sets forth the estimated amounts of the payments and benefits that each of Helix’s named executive officers would have received in connection with the mergers, assuming the effective time had occurred on June 3, 2026 and, immediately thereafter, each named executive officer had experienced a qualifying termination. This compensation is subject to an advisory vote of Helix’s shareholders, as described above under the section titled “*The Non-Binding Compensation Proposal*.”

The amounts below have been calculated assuming that (a) the value per share of Helix common stock at the effective time is \$9.94 (which, in accordance with SEC requirements, is the average closing price of Helix common stock over the first five business days following the first public announcement of the mergers), (b) none of the named executive officers receives any additional equity-based awards or increases in base salary or target annual bonus incentive opportunity before the effective time, (c) each named executive officer executes and does not revoke the release of claims necessary to receive the “double trigger” payments below, (d) the Helix performance share units vest based on actual performance as of June 3, 2026, and (e) Mr. Kratz will not be subject to the excise tax under Section 4999 of the Internal Revenue Code as a result of his receipt of the amounts below and, accordingly, no “gross-up” payment will be made to Mr. Kratz in connection with the mergers. As a result of these assumptions, the actual amounts to be received by the named executive officers in connection with the mergers may materially differ from the amounts below.

Name	Cash (\$) ⁽¹⁾	Equity (\$) ⁽²⁾	Pension / NQDC (\$) ⁽³⁾	Perquisites / Benefits (\$) ⁽⁴⁾	Total (\$)
Owen Kratz	5,980,000	13,929,767	—	19,548	19,929,315
Scotty Sparks	1,840,000	5,320,400	238,333	29,081	7,427,814
Erik Staffeldt	1,960,000	5,768,027	—	29,081	7,757,108
Ken Neikirk	1,720,000	3,889,938	—	29,081	5,639,019

- (1) These amounts reflect the “double trigger” severance that would be payable in a lump sum to each named executive officer under his employment agreement on a qualifying termination within two years after the “change in control.”
- (2) These amounts reflect the value of the “single trigger” acceleration immediately prior to the effective time of each named executive officer’s awards of performance share units and restricted stock units pursuant to the terms of the merger agreement. The Helix Board may instead determine prior to the effective time, in its discretion but after consultation with the Hornbeck Board, to settle each such award in cash in an amount equal to the number of units subject to such award multiplied by the closing price of a share of Helix common stock on the NYSE on the trading day immediately prior to the closing date.
- (3) This amount for Mr. Sparks reflects the “double trigger” payment that would be payable in a lump sum under his deferred compensation agreement if his employment is involuntarily terminated without cause within 180 days after the “change in control.”
- (4) These amounts reflect the “double trigger” payment equal to the cost of continuation of health coverage under COBRA for 18 months that would be payable in a lump sum to each named executive officer under his employment agreement on a qualifying termination within two years after the “change in control.”

Indemnification and Insurance

The merger agreement provides that, from and after the effective time, Helix and the surviving company will indemnify and hold harmless to the fullest extent as such individuals would be indemnified as of the date of the merger agreement under applicable law, Hornbeck’s organizational documents and any indemnification agreements in effect as of the date of the merger agreement, each indemnified party against any costs or expenses (including reasonable attorneys’ fees, costs and expenses), judgments, inquiries, fines, losses, claims, damages or liabilities incurred in connection with, arising out of or otherwise related to any proceeding, in connection with, arising out of or otherwise related to matters existing or occurring at or prior to the effective time, whether asserted or claimed prior to, at or after the effective time, including in connection with (i) the merger agreement, the mergers or the other transactions contemplated by the merger agreement, and (ii) actions to enforce this provision or any other indemnification or advancement right of any indemnified party, and Helix and the surviving company will also advance expenses as incurred to the fullest extent that such individual would have been entitled to under applicable law, Hornbeck’s organizational documents and any indemnification agreements in effect as of the date of the merger agreement, except that any person to whom expenses are advanced provides an undertaking to repay such advances if it is ultimately determined by final adjudication that such person is not entitled to indemnification.

Prior to the effective time, Hornbeck will purchase (and pay in full the aggregate premium for) “tail” insurance policies for the extension of (i) the directors’ and officers’ liability coverage of Hornbeck’s existing directors’ and officers’ insurance policies, and (ii) Hornbeck’s existing fiduciary liability insurance policies, in each case for a claims reporting or discovery period of six years from and after the effective time, from one or more insurance carriers with the same or better credit rating as Hornbeck’s insurance carrier as of the date of the merger agreement with respect to directors’ and officers’ liability insurance and fiduciary liability insurance with terms, conditions, retentions and limits of liability that are no less favorable in the aggregate to the insureds as Hornbeck’s existing policies with respect to matters existing or occurring at or prior to the effective time (including in connection with the merger agreement or the mergers and other transactions contemplated by the merger agreement). If Hornbeck fails for any reason to obtain such “tail” insurance policies as of the effective time, Helix will continue to maintain in effect for the tail period such insurance policies in place as of the date of the merger agreement with terms, conditions, retentions and limits of liability that are no less favorable in the aggregate to the insureds as provided in Hornbeck’s existing policies as of the date of the merger agreement, or Helix will purchase comparable insurance policies for the tail period with terms, conditions, retentions and limits of liability that are no less favorable in the aggregate as provided in Hornbeck’s existing policies as of the date of the merger agreement, except that in no event will the aggregate cost of the insurance policy exceed during the tail period 300% of the current aggregate annual premium paid by Hornbeck for such purpose for the 2026 fiscal year, and if the cost of such insurance coverage exceeds such amount, Hornbeck or Helix will obtain a policy with the greatest amount of directors’ and officers’ insurance available for a cost not exceeding such amount.

During the tail period, all rights to indemnification and exculpation from liabilities for acts or omissions occurring at or prior to the effective time and rights to advancement of related expenses existing at the time of the merger

agreement in favor of any indemnified party as provided in the organizational documents of Hornbeck and its subsidiaries or any indemnification agreement between such person and Hornbeck or any of its subsidiaries, in each case, as in effect on the date of the merger agreement, will survive the mergers and other transactions contemplated by the merger agreement unchanged and will not be amended, restated, repealed or otherwise modified in any manner that would adversely affect any right thereunder of any such person.

The indemnification, exculpation and insurance provisions in the merger agreement are intended to be for the benefit of, and from and after the effective time will be enforceable by, each of the persons eligible for indemnification, exculpation or insurance as described in the merger agreement, who will be third-party beneficiaries of such provisions. For additional information, please see the section titled “*The Merger Agreement—Covenants—Indemnification; Directors’ and Officers’ Insurance.*”

Material U.S. Federal Income Tax Consequences of the Mergers

The following general discussion sets forth the material U.S. federal income tax consequences of the integrated mergers to U.S. holders (as defined below) of Hornbeck common stock that exchange their shares of Hornbeck common stock for Converted Helix Common Stock in the first merger. This discussion does not address any tax consequences arising under the laws of any U.S. state or local or non-U.S. jurisdiction, or under any U.S. federal laws other than those pertaining to income tax. In addition, it does not address any alternative minimum tax consequences of the integrated mergers or the potential application of the Medicare contribution tax on net investment income. This discussion is based upon the regulations promulgated under the Code and court and administrative rulings and decisions, all as in effect on the date hereof. These laws may change, possibly retroactively, and any such change could affect the accuracy of the statements and conclusions set forth in this discussion.

This discussion addresses only consequences to those U.S. holders that hold their shares of Hornbeck common stock as a “capital asset” within the meaning of Section 1221 of the Code (generally, property held for investment). Further, this discussion does not address all aspects of U.S. federal income taxation that may be relevant to U.S. holders in light of their particular circumstances or that may be applicable to U.S. holders that are subject to special treatment under the U.S. federal income tax laws, such as:

- a financial institution;
- a tax-exempt organization;
- an S corporation or other pass-through entity (or an investor in an S corporation or other pass-through entity);
- an insurance company;
- a mutual fund;
- a dealer or broker in stocks and securities, or currencies;
- a trader in securities elects mark-to-market treatment;
- a holder of Hornbeck common stock or Hornbeck equity awards that received Hornbeck common stock or Hornbeck equity awards through a tax-qualified retirement plan or otherwise as compensation;
- a person that is not a U.S. holder;
- a person that has a functional currency other than the U.S. dollar;
- a holder of Hornbeck common stock that holds Hornbeck common stock as part of a hedge, straddle, constructive sale, conversion or other integrated transaction; or
- a person who holds any Creditor Warrant or Jones Act Warrant;

For purposes of this discussion, a “U.S. holder” is a beneficial owner of Hornbeck common stock that, for U.S. federal income tax purposes, is:

- an individual who is a citizen or resident of the United States;
- a corporation (or other entity treated as a corporation for U.S. federal income tax purposes) created or organized in or under the laws of the United States, any state thereof or the District of Columbia;
- an estate the income of which is subject to U.S. federal income tax regardless of its source; or

- a trust which (i) is subject to the primary supervision of a U.S. court and which has one or more “United States persons” (within the meaning of Section 7701(a)(30) of the Code) who have the authority to control all substantial decisions of the trust or (ii) has made a valid election under applicable U.S. Treasury regulations to be treated as a United States person.

If a partnership (including an entity or arrangement treated as a partnership for U.S. federal income tax purposes) holds Hornbeck common stock, the tax treatment of a partner in the partnership generally will depend upon the status of the partner, the activities of the partnership and certain determinations made at the partner level. Accordingly, if you are a partner in a partnership (including an entity or arrangement treated as a partnership for U.S. federal income tax purposes) that holds Hornbeck common stock, you should consult your tax advisor regarding the tax consequences to you of the integrated mergers.

Determining the tax consequences of the integrated mergers may be complex. U.S. holders of Hornbeck common stock should consult with their own tax advisors as to the tax consequences of the integrated mergers in light of their particular circumstances, including the applicability and effect of the alternative minimum tax and any U.S. state or local, non-U.S. or other tax laws and of changes in those laws.

The obligation of Hornbeck to complete the integrated mergers is conditioned upon the receipt of an opinion from Kirkland, counsel to Hornbeck, in form and substance reasonably satisfactory to Hornbeck, to the effect that the integrated mergers, taken together, will qualify as a “reorganization” within the meaning of Section 368(a) of the Code based upon facts, representations, and assumptions set forth or referred to in such opinion. This opinion is not binding on the IRS or the courts and Helix and Hornbeck have not sought, and do not intend to seek, any ruling from the IRS regarding the qualification of the integrated mergers as a “reorganization” within the meaning of Section 368(a) of the Code. As a result, there can be no assurance that the IRS would not assert, or that a court would not sustain, a position contrary to the treatment of the integrated mergers as a “reorganization” within the meaning of Section 368(a) of the Code. If a court determines that the integrated mergers are not treated as a “reorganization” within the meaning of Section 368(a) of the Code, a U.S. holder generally would recognize taxable gain or loss in the mergers on the exchange of Hornbeck common stock for consideration in the mergers, regardless of the type of consideration received.

Assuming that, in accordance with the opinion described above, the integrated mergers qualify as a “reorganization” within the meaning of Section 368(a) of the Code, the material U.S. federal income tax consequences of the integrated mergers to U.S. holders of Hornbeck common stock will be as follows:

- a U.S. holder generally will not recognize gain or loss except with respect to cash paid in lieu of fractional shares of Converted Helix Common Stock (as discussed below).
- the aggregate tax basis in the shares of Converted Helix Common Stock that a U.S. holder receives in the first merger (including any fractional share interests deemed received and sold, as described below) will equal the U.S. holder’s aggregate adjusted tax basis in the Hornbeck common stock exchanged for such Converted Helix Common Stock in the first merger.
- a U.S. holder’s holding period for the shares of Converted Helix Common Stock received in exchange for shares of Hornbeck common stock in the first merger (including a fractional share interest deemed received and sold, as described below) will include the holding period for the shares of the Hornbeck common stock exchanged for such Converted Helix Common Stock in the first merger.

If a U.S. holder of Hornbeck common stock acquired different blocks of Hornbeck common stock at different times or at different prices, such U.S. holder’s tax basis and holding period in its shares of Converted Helix Common Stock may be determined separately with reference to each block of Hornbeck common stock. Any such U.S. holder should consult its tax advisor regarding the tax bases and holding periods of the particular shares of Converted Helix Common Stock received in the first merger.

A U.S. holder who receives cash in lieu of a fractional share of Converted Helix Common Stock generally will be treated as having received the fractional share of Converted Helix Common Stock pursuant to the first merger and then as having sold such fractional share of Converted Helix Common Stock for cash. As a result, a U.S. holder generally will recognize gain or loss equal to the difference, if any, between (i) the amount of cash received and (ii) the portion of the U.S. holder’s aggregate adjusted tax basis of its Hornbeck common stock exchanged in the first merger that is allocable to the fractional share of Converted Helix Common Stock that is sold. This gain or loss generally will be capital gain or

loss, and will be long-term capital gain or loss if, as of the closing date of the first merger, the U.S. holder's holding period for the fractional shares of Converted Helix Common Stock deemed to be received is greater than one year. Long-term capital gains of individuals are generally eligible for reduced rates of taxation. The deductibility of capital losses is subject to certain limitations.

A U.S. holder may be required to retain records related to such holder's Hornbeck common stock and file with its U.S. federal income tax return for the taxable year that includes the mergers a statement setting forth certain facts relating to the mergers.

HORNBECK STOCKHOLDERS ARE STRONGLY URGED TO CONSULT WITH THEIR OWN TAX ADVISORS ABOUT THE SPECIFIC TAX CONSEQUENCES OF THE INTEGRATED MERGERS TO THEM IN THEIR PARTICULAR CIRCUMSTANCES, INCLUDING THE APPLICABILITY AND EFFECT OF ANY U.S. FEDERAL, U.S. STATE OR LOCAL NON-U.S. OR OTHER TAX LAWS AND OF POTENTIAL CHANGES IN SUCH LAWS.

Information Reporting and Backup Withholding

Information returns may be required to be filed with the IRS in connection with the integrated mergers. Further, the consideration payable to U.S. holders in connection with the integrated mergers may be subject to deduction or withholding as required under applicable law. A U.S. holder may be subject to U.S. backup withholding on any cash payments (e.g., payments of cash in lieu of fractional shares) made pursuant to the integrated mergers unless such holder provides proof of an applicable exemption or a correct taxpayer identification number and otherwise complies with the applicable requirements of the backup withholding rules. Any amounts withheld under the U.S. backup withholding rules or otherwise is not an additional tax and will generally be allowed as a refund or credit against the U.S. holder's U.S. federal income tax liability, if any, provided that the U.S. holder timely furnishes the required information to the IRS.

THE PRECEDING DISCUSSION IS INTENDED ONLY AS A SUMMARY OF THE MATERIAL U.S. FEDERAL INCOME TAX CONSEQUENCES OF THE INTEGRATED MERGERS. IT IS NOT A COMPLETE ANALYSIS OR DISCUSSION OF ALL POTENTIAL TAX EFFECTS THAT MAY BE IMPORTANT TO A PARTICULAR U.S. HOLDER. ALL HORNBECK STOCKHOLDERS ARE STRONGLY ENCOURAGED TO CONSULT THEIR TAX ADVISORS AS TO THE SPECIFIC TAX CONSEQUENCES OF THE INTEGRATED MERGERS TO THEM, INCLUDING TAX REPORTING REQUIREMENTS AND THE APPLICABILITY AND EFFECT OF ANY U.S. FEDERAL, U.S. STATE OR LOCAL, NON-U.S. OR OTHER TAX LAWS AND OF POTENTIAL CHANGES IN SUCH LAWS.

Accounting Treatment of the Mergers

Helix prepares its financial statements in accordance with GAAP. The mergers will be accounted for as a business combination and as a reverse acquisition pursuant to ASC 805, where Hornbeck, the legal acquirer, is determined to be the accounting acquirer of Helix. Under the reverse acquisition method of accounting, the assets and liabilities of Helix as of the closing date will be consolidated by Hornbeck at their respective fair values, and the excess or shortfall of the purchase price consideration over the fair value of Helix's net assets will be recognized as goodwill or gain on bargain purchase, respectively.

As part of the mergers, Helix management has determined Hornbeck to be the accounting acquirer of Helix for the following reasons:

- On a fully diluted basis, accounting for Hornbeck options and Jones Act Warrants that will be assumed by the combined company in connection with the mergers, it is anticipated that securityholders of Helix and Hornbeck immediately prior to the mergers will own, on an as-converted basis, approximately 45% and 55%, respectively, of the combined company.
- The Ares Investor Group, the largest pre-combination stockholder of Hornbeck, is expected to hold the largest minority voting interest of approximately 11% in the combined company when the mergers are consummated (assuming all of the Ares Investor Group's Creditor Warrants will be converted into Jones Act Warrants and will not be settled into shares of Converted Helix Common Stock), whereas Helix's pre-combination ownership is widely dispersed among stockholders.
- It is expected that the combined company board will consist of seven directors, four of whom will be designated by Hornbeck, including the Chief Executive Officer and President of the combined company, and three of whom will be designated by Helix.

- Hornbeck's existing senior management team will comprise the majority of the senior management of the combined company, including the positions already announced for President and Chief Executive Officer, Executive Vice President and Chief Financial Officer, Executive Vice President, General Counsel and Secretary, and Executive Vice President and Chief Operating Officer, Marine Transportation and Specialty.
- The combined company's name will be Hornbeck Offshore Services, Inc., and the ticker symbol of the combined company will be "HOS."

Regulatory Approvals

Antitrust Clearance

To complete the mergers, Helix and Hornbeck must make filings with and obtain authorizations, approvals or consents from a number of regulatory authorities in accordance with applicable antitrust and foreign investment laws. The completion of the mergers is subject to antitrust review in the United States. Under the HSR Act, and the rules and regulations promulgated thereunder, the mergers cannot be completed until the parties to the merger agreement have given notification and furnished information to the FTC and the DOJ, and until the applicable waiting period has expired or has been terminated. Helix and Hornbeck each filed an HSR Act notification with the FTC and the DOJ on May 20, 2026.

Helix and Hornbeck derive revenues in other jurisdictions where antitrust/foreign investment clearances are or may be required, including Brazil, Poland and the United Kingdom. On May 20, 2026, filings were submitted with each of the Brazilian Administrative Council for Economic Defense, the Polish Office of Competition and Consumer Protection and the United Kingdom's Investment Security Unit, in order to obtain necessary approvals from such authorities.

Helix and Hornbeck cannot assure you that all of the regulatory approvals described above will be obtained, and, if obtained, Helix and Hornbeck cannot assure you as to the date of any approvals (or conditions placed thereon) or the absence of any litigation challenging such approvals. At any time before or after consummation of the mergers, the FTC, the DOJ or any state could take such action under antitrust laws as it deems necessary or desirable in the public interest, including seeking to enjoin the completion of the mergers or seeking the divestiture of substantial assets of Helix or Hornbeck or their respective subsidiaries. Private parties may also seek to take legal action under antitrust laws under certain circumstances.

Helix and Hornbeck are not currently aware of any material governmental approvals or actions that are required for completion of the transaction other than those described above. It is presently contemplated that if any such additional governmental approvals or actions are required, those approvals or actions will be sought. There can be no assurance, however, that any additional approvals or actions will be obtained.

Securities and Exchange Commission

Helix has filed a registration statement on Form S-4 with the SEC under the Securities Act, of which this proxy statement/prospectus forms a part, that must be declared effective by the SEC and pursuant to which the issuance of shares of Converted Helix Common Stock issuable upon the effective time, other than such shares of Converted Helix Common Stock being issued to or underlying assumed Jones Act Warrants and assumed Creditor Warrants of certain consenting holders, will be registered with the SEC.

New York Stock Exchange

In addition, the completion of the mergers is subject to approval for listing on the NYSE of the shares of Converted Helix Common Stock to be issued to Hornbeck stockholders and other securityholders in the mergers, subject to official notice of issuance.

Listing of Converted Helix Common Stock

It is a condition to the consummation of the mergers that the shares of Converted Helix Common Stock issuable to Hornbeck stockholders and other securityholders in the mergers be approved for listing on the NYSE, subject to official notice of issuance. Following the completion of the mergers, it is expected that Converted Helix Common Stock will continue to trade on the NYSE under the combined company's new name, "Hornbeck Offshore Services, Inc.," and under the new ticker symbol, "HOS."

Appraisal Rights and Dissenters' Rights

Under Minnesota law, Helix shareholders are not entitled to dissenters' rights in connection with the Conversion or any of the required merger proposals as contemplated by the merger agreement. Under Section 302A.471, Subdivision 3(c)(1) of the Minnesota Business Corporation Act, the right to obtain payment of the fair value of shares is not available for the holders of shares of any class or series of shares that is listed on any national securities exchange. Because the shares of Helix common stock are listed on the New York Stock Exchange, and because Helix shareholders will receive shares of Converted Helix Common Stock, which will also be listed on the New York Stock Exchange, Helix shareholders do not have dissenters' rights in connection with the Conversion or the mergers.

Hornbeck stockholders are entitled to appraisal rights in connection with the mergers under Section 262 of the DGCL. The following summary does not purport to be a complete statement of the law and is qualified in its entirety by reference to the full text of Section 262 of the DGCL, as amended.

Any record Hornbeck stockholder who does not vote in favor of or consent to the mergers and otherwise complies strictly with all the provisions of the DGCL concerning the right of such stockholder to demand appraisal of such stockholder's shares in connection with the mergers (a "Dissenting Stockholder") may, under certain circumstances be entitled to an appraisal by the Delaware Court of Chancery of the "fair value" of such holder's shares, exclusive of any value arising from the accomplishment or expectation of the merger, together with interest, if any, as determined by the Delaware Court of Chancery.

In connection with the termination of the existing securityholders agreement, holders of approximately 84% of Hornbeck's common stock outstanding and entitled to vote on the matter agreed to waive any dissenters' rights, appraisal rights or similar rights in connection with the mergers, including pursuant to the DGCL.

THE MERGER AGREEMENT

The following description sets forth the principal terms of the merger agreement, a composite copy of which is attached as Annex A and incorporated by reference into this proxy statement/prospectus. The rights and obligations of the parties are governed by the express terms and conditions of the merger agreement and not by this description, which is summary by nature. This description does not purport to be complete and is qualified in its entirety by reference to the complete text of the merger agreement. You are encouraged to read the merger agreement carefully and in its entirety, as well as this proxy statement/prospectus and the documents incorporated by reference herein, before making any decisions regarding any of the proposals described in this proxy statement/prospectus. This section is only intended to provide you with information regarding the terms of the merger agreement. Neither Helix nor Hornbeck intends that the merger agreement be a source of business or operational information about Helix or Hornbeck. Accordingly, the representations, warranties, covenants and other agreements in the merger agreement should not be read alone, and you should read the information provided elsewhere in this proxy statement/prospectus and in the public filings Helix makes with the SEC, as described in “Where You Can Find More Information.”

Explanatory Note Regarding the Merger Agreement

The merger agreement and this summary of terms are included to provide you with information regarding the terms of the merger agreement. Factual disclosures about Helix and Hornbeck contained in this proxy statement/prospectus or in the public reports of Helix filed with the SEC may supplement, update or modify the factual disclosures about Helix and Hornbeck contained in the merger agreement. The representations, warranties and covenants made in the merger agreement by Helix and Hornbeck were qualified and subject to important limitations agreed to by Helix and Hornbeck in connection with negotiating the terms of the merger agreement. In particular, in your review of the representations and warranties contained in the merger agreement and described in this summary, it is important to bear in mind that the representations and warranties were negotiated with the principal purpose of establishing circumstances in which a party to the merger agreement may have the right not to consummate the mergers if the representations and warranties of the other party prove to be untrue due to a change in circumstance or otherwise, and allocating risk between the parties to the merger agreement, and were not intended by the parties to the merger agreement to be a characterization of the actual state of facts or condition of Helix or Hornbeck, except as expressly stated in the merger agreement. The representations and warranties also may be subject to a contractual standard of materiality different from that generally applicable to shareholders and reports and documents filed with the SEC and in some cases were qualified by the matters contained in the confidential disclosures that Helix and Hornbeck each delivered in connection with the merger agreement, which disclosures were not reflected in the merger agreement itself. Moreover, information concerning the subject matter of the representations and warranties, which do not purport to be accurate as of the date of this proxy statement/prospectus, may have changed since the date of the merger agreement and subsequent developments or new information qualifying a representation or warranty may have been included in this proxy statement/prospectus or in the public filings made by Helix with the SEC.

Additional information about Helix and Hornbeck may be found elsewhere in this proxy statement/prospectus and in the public filings Helix makes with the SEC. Please see “Where You Can Find More Information.”

Structure of the Mergers

The merger agreement provides that Hornbeck, through a series of mergers, will become a wholly owned subsidiary of Helix and that thereafter, Helix will be renamed Hornbeck. Under the terms of, and subject to the conditions set forth in, the merger agreement, (i) Parent Sub will merge with and into Hornbeck, with Hornbeck continuing as the surviving corporation (the “first merger”), and (ii) immediately following the first merger, the surviving corporation will merge with and into LLC Sub, with LLC Sub continuing as the surviving entity (the “second merger”).

Completion and Effectiveness of the Mergers

The closing of the mergers is expected to take place on the third business day following the day on which the last to be satisfied or (to the extent permissible) waived of the conditions for completion of the mergers set forth in the merger agreement (other than those conditions that by their nature must be satisfied by actions taken at the closing, but subject to such conditions being capable of being satisfied at the closing or, to the extent permissible, waived in advance) is satisfied or waived (to the extent permissible) in accordance with the merger agreement or on such other date as Helix and Hornbeck may mutually agree in writing.

Upon the terms and subject to the provisions of the merger agreement and in accordance with the DGCL and the DLLCA, as applicable, as soon as practicable on the closing date, the applicable parties will (i) file a certificate of merger with the Secretary of State of the State of Delaware, executed in accordance with the relevant provisions of the DGCL, to effect the first merger, and (ii) file a certificate of merger, executed in accordance with the relevant provisions of the DGCL and DLLCA, to effect the second merger, effective one minute after the effectiveness of the first merger.

Helix and Hornbeck are working to complete the merger prior to the outside date of December 31, 2026 (subject to extension in certain circumstances to June 29, 2027 pursuant to the terms of the merger agreement). It is possible that factors outside the control of both companies could result in the mergers being completed at a different time, or not at all.

Merger Consideration

At the effective time, by virtue of the first merger and without any action on the part of the parties or any holder thereof, subject to certain exceptions, each share of Hornbeck common stock issued and outstanding immediately prior to the effective time (excluding excluded shares and dissenting shares) will be converted into the right to receive 10.27167 shares of Converted Helix Common Stock. At the effective time, all excluded shares will be cancelled and will cease to exist, and no consideration will be paid or delivered in exchange therefor. At the effective time, dissenting shares will be cancelled, extinguished and cease to exist and will be treated in accordance with Section 262 of the DGCL.

Helix will not issue any shares representing fractional shares of Converted Helix Common Stock in the mergers. All fractional shares of Converted Helix Common Stock that a Hornbeck stockholder would be entitled to receive pursuant to the merger agreement will be aggregated and such holder will be entitled to receive a cash payment, without interest, in lieu of any such fractional shares, equal to the product (rounded to the nearest whole cent) of (i) the amount of such fractional share interest in a share of Converted Helix Common Stock to which such holder would be entitled pursuant to the merger agreement and (ii) an amount equal to the average daily volume weighted average price per share of Converted Helix Common Stock on the NYSE calculated for the ten consecutive trading days ending on the second full trading day immediately prior to the closing date.

Treatment of Equity Awards and Warrants

The merger agreement provides for the treatment set forth below with respect to the Hornbeck equity awards and warrants and Helix equity awards:

Hornbeck Performance Restricted Stock Unit Awards: Each Hornbeck performance restricted stock unit award that is outstanding immediately prior to the effective time (whether vested or unvested as of such time) will, at the effective time, be canceled and the holder thereof will become entitled to receive a number of shares of Converted Helix Common Stock (rounded up or down to the nearest whole share) equal to the product of (a) the number of shares of Hornbeck common stock subject to such award (with such number deemed to be the number of shares that would be earned based on the greater of target and actual performance through immediately prior to the effective time) and (b) the exchange ratio.

Hornbeck Restricted Stock Unit Awards: Each Hornbeck restricted stock unit award that is outstanding immediately prior to the effective time (whether vested or unvested as of such time) will, at the effective time, be canceled and the holder thereof will become entitled to receive a number of shares of Converted Helix Common Stock (rounded down to the nearest whole share) equal to the product of (a) the number of shares of Hornbeck common stock subject to such award and (b) the exchange ratio. For non-employee directors of Hornbeck, all or a portion of such amount may be settled in cash in accordance with the applicable award agreement.

Hornbeck Stock Options: Each Hornbeck stock option award that is outstanding immediately prior to the effective time (whether vested or unvested as of such time) will, at the effective time, be fully vested and assumed by the combined company and converted into an option to purchase a number of shares of Converted Helix Common Stock (rounded down to the nearest whole share) equal to the product of (a) the number of shares of Hornbeck common stock subject to such award immediately prior to the effective time (to the extent applicable, with such number deemed to be the number of shares that would be earned based on the greater of target and actual performance through immediately prior to the effective time) and (b) the exchange ratio, at an exercise price per share of Converted Helix Common Stock (rounded up to the nearest whole cent) equal to (1) the exercise price per share of Hornbeck common stock of such award, *divided by* (2) the exchange ratio.

Hornbeck Creditor Warrants: Each Creditor Warrant that is outstanding immediately prior to the effective time will, except as otherwise set forth in Amendment No. 2 to the Creditor Warrant Agreement, be converted into the right to receive a number of shares of Converted Helix Common Stock (or, in accordance with applicable Jones Act restrictions in the certificate of incorporation of the combined company, new Jones Act Warrants to acquire such Converted Helix Common Stock) equal to the quotient of (x) the product of (a) the number of shares of Hornbeck common stock subject to such Creditor Warrant immediately prior to the effective time *multiplied by* the exchange ratio and (b) (i) the average closing price per share of Helix common stock over the ten trading days immediately preceding the second business day prior to the closing of the mergers *minus* (ii) the exercise price per share of Hornbeck common stock issuable upon exercise of such Creditor Warrant immediately prior to the effective time *divided by* the exchange ratio and (y) the average closing price per share of Helix common stock over the ten trading days immediately preceding the second business day prior to the closing of the mergers; *provided that*, if such formula would result in a number of shares of Converted Helix Common Stock equal to or less than zero, then no Creditor Warrant will be converted as of immediately prior to the effective time without the prior written consent of the holder thereof.

Hornbeck Jones Act Warrants: Each Jones Act Warrant that is outstanding immediately prior to the effective time will be assumed by the combined company and, subject to the applicable Jones Act restrictions in the certificate of incorporation of the combined company, will be exercisable into a number of shares of Converted Helix Common Stock equal to the product of (a) the number of shares of Hornbeck common stock subject to such assumed Jones Act Warrant immediately prior to the effective time and (b) the exchange ratio, at an exercise price per share of Converted Helix Common Stock equal to the exercise price per share of Hornbeck common stock issuable upon exercise of such Jones Act Warrant immediately prior to the effective time.

Helix Equity Awards: Each Helix restricted stock award granted to a non-employee director of Helix that is outstanding immediately prior to the effective time will, at the effective time, be in respect of Converted Helix Common Stock and be fully vested. Each Helix performance share unit award and Helix restricted stock unit award that is outstanding immediately prior to the effective time (whether vested or unvested as of such time) will, at the effective time, be canceled and the holder thereof will become entitled to receive a number of shares of Converted Helix Common Stock (rounded up or down to the nearest whole share for each performance share unit award, and rounded down to the nearest whole share for each restricted stock unit award) equal to the number of shares of Helix common stock subject to such award (for each performance share unit award, with the number of such shares deemed to be the number of shares that would be earned based on the greater of target and actual performance through immediately prior to the effective time). In the case of the Helix performance share unit awards and restricted stock unit awards, the Helix Board may instead determine prior to the effective time, in its discretion but after consultation with the Hornbeck Board, to settle such awards in cash in an amount equal to the number of units subject to each such award multiplied by the closing price of a share of Helix common stock on the NYSE on the trading day immediately prior to the closing date.

Governance

Prior to the effective time, Helix will take all actions necessary to cause, effective as of the effective time, the number of directors constituting the combined company board to be seven members, comprised of three Helix designees (all of whom will be independent under NYSE rules and the Exchange Act), and four Hornbeck designees (at least one of whom will be independent under NYSE rules), one of whom will be Todd Hornbeck, as the President and Chief Executive Officer of the combined company.

William L. Transier will serve as Chairperson of the combined company board as of the effective time through combined company's 2028 annual stockholders meeting (the "Governance Period"). _____ will serve as Chairperson of the compensation committee of the combined company as of the effective time through the Governance Period.

At the effective time, Todd Hornbeck will be appointed to serve as the President and Chief Executive Officer of the combined company and the other executive officers of the combined company will be those chosen by Mr. Hornbeck.

In addition, the merger agreement provides that, as of the effective time, the principal executive offices and headquarters of the combined company will be the existing principal executive offices and headquarters of Hornbeck and Helix in Covington, Louisiana and Houston, Texas, respectively, and that the name of the combined company will be the name of Hornbeck as of the date of the merger agreement and the ticker symbol will be "HOS."

Exchange of Shares

Exchange Agent

Helix will deposit or cause to be deposited with an exchange agent selected by Helix and reasonably acceptable to Hornbeck, for the benefit of the holders of Hornbeck common stock or Creditor Warrants, as applicable, (i) at or prior to the effective time aggregate number of shares of Converted Helix Common Stock (or new Jones Act Warrants, as the case may be) to be issued in non-certificated book-entry form sufficient to deliver the number of shares of Converted Helix Common Stock (or new Jones Act Warrants, as the case may be) required to be delivered pursuant to the terms of the merger agreement and (ii) as promptly as reasonably practicable following the effective time, an aggregate amount of cash in U.S. dollars sufficient for the exchange agent to deliver the amounts required to be delivered in lieu of fractional shares pursuant to the terms of the merger agreement.

Exchange Procedures

As promptly as reasonably practicable (but in any event within five business days) after the effective time, Helix will cause the exchange agent to mail to each holder of record of a book-entry shares of Hornbeck common stock or Creditor Warrants, if applicable (i) a letter of transmittal in customary form, and (ii) instructions for transferring the book-entry shares of Hornbeck common stock or Creditor Warrants in exchange for the aggregate Converted Helix Common Stock merger consideration or Converted Helix Common Stock and new Jones Act Warrants, as applicable.

Upon surrender to the exchange agent of book-entry shares of Hornbeck common stock or Creditor Warrants in accordance with the terms of the letter of transmittal and accompanying instructions, Helix will cause the exchange agent to pay and deliver to each holder of such shares, as promptly as reasonably practicable (but in any event within five business days) after the effective time a cash amount in immediately available funds (after giving effect to any required tax withholdings as provided in the merger agreement) that such holder has the right to receive pursuant to the merger agreement.

No interest will be paid or accrued on any amount payable for shares of Hornbeck common stock eligible to receive merger consideration (“Eligible Shares”) pursuant to the merger agreement.

From and after the effective time, there will be no transfers on the stock transfer books of Hornbeck of the shares of Hornbeck common stock that were outstanding immediately prior to the effective time. From and after the effective time, the holders of book-entry shares of Hornbeck common stock will cease to have any rights with respect to such shares of Hornbeck common stock except as otherwise provided in the merger agreement or by applicable law.

Termination of the Exchange Fund

Any portion of the exchange fund that remains unclaimed as of the date that is 12 months after the effective time will be delivered to the combined company. Any holder of Eligible Shares or Creditor Warrants who has not by that point complied with the terms of the exchange procedures in the merger agreement may thereafter look only to the combined company for delivery of the merger consideration that such holder has the right to receive pursuant to the merger agreement.

None of Hornbeck, Helix, Parent Sub, LLC Sub or the exchange agent will be liable to any person in respect of any portion of the merger consideration or any share of Converted Helix Common Stock or new Jones Act Warrants delivered to a public official pursuant to any applicable abandoned property, escheat or similar law. If any book-entry shares of Hornbeck common stock or Creditor Warrants has not been surrendered prior to two years after the effective time, or immediately prior to such earlier date on which any merger consideration would otherwise escheat to or become property of any governmental entity, any such cash will, to the extent permitted by applicable law, become the property of the combined company, free and clear of all claims or interests of any person previously entitled thereto.

Withholding Rights

Each of Helix, Hornbeck, Parent Sub, LLC Sub and the exchange agent, and any other withholding agent will be entitled to deduct and withhold from the consideration otherwise payable pursuant to the merger agreement to any holder of Eligible Shares or Helix equity awards, Hornbeck equity awards or Hornbeck warrants such amounts as it is required to deduct and withhold with respect to the making of such payment under the Code, or any other applicable state, local or non-U.S. tax law.

Adjustments to Prevent Dilution

If, from the date of the merger agreement to the effective time, the issued and outstanding shares of Hornbeck common stock or securities convertible or exchangeable into or exercisable for shares of Hornbeck common stock or the issued and outstanding shares of Helix common stock or Converted Helix Common Stock or securities convertible or exchangeable into or exercisable for shares of Helix common stock or Converted Helix Common Stock have been changed into a different number of shares or securities or a different class by reason of any reclassification, stock split (including a reverse stock split), stock dividend or distribution, recapitalization, merger, issuer tender or exchange offer, or other similar transaction, or a stock dividend or rights offering with a record date within such period has been declared, then the merger consideration will be equitably adjusted to provide the holders of shares of Hornbeck common stock, Creditor Warrants, Helix common stock or Converted Helix Common Stock, as the case may be, the same economic effect as contemplated by the merger agreement prior to such event.

Representations and Warranties

The merger agreement contains representations and warranties made by Helix to Hornbeck and by Hornbeck to Helix. Certain of the representations and warranties in the merger agreement are subject to materiality or material adverse effect qualifications (that is, they will not be deemed to be inaccurate or incorrect unless their failure to be true or correct is material or would result in a material adverse effect on the party making such representation or warranty). In addition, certain of the representations and warranties in the merger agreement are subject to knowledge qualifications, which means that those representations and warranties would not be deemed untrue, inaccurate or incorrect as a result of matters of which certain officers of the party making the representation did not have actual knowledge after reasonable inquiry. Furthermore, each of the representations and warranties is subject to the qualifications set forth on the disclosure letter delivered to Helix by Hornbeck, in the case of representations and warranties made by Hornbeck, or to Hornbeck by Helix, in the case of representations and warranties made by Helix, as well as, in the case of those representations and warranties made by Helix, the reports of Helix filed with or furnished to the SEC since January 1, 2024 (excluding any disclosures set forth or referenced in any risk factor section or in any other section to the extent they are forward-looking statements or cautionary, predictive or forward-looking in nature) and, in the case of those representations and warranties made by Hornbeck, the registration statement on Form S-1 publicly filed by Hornbeck with the SEC (excluding any disclosures set forth or referenced in any risk factor section or in any other section to the extent they are forward-looking statements or cautionary, predictive or forward-looking in nature).

In the merger agreement, each of Helix and Hornbeck have, respectively, made representations and warranties to the other party regarding:

- organization, good standing and qualification to do business;
- subsidiaries and minority investments;
- corporate authority and power with respect to the execution, delivery and performance of the merger agreement;
- the filings with governmental entities needed in connection with the execution, delivery and performance of the merger agreement or the consummation of the mergers and the other transactions contemplated by the merger agreement;
- the absence of violations of, or conflicts with, such party or its subsidiaries' organizational documents, applicable law and certain contracts as a result of the execution, delivery and performance of the merger agreement and the consummation of the mergers and the other transactions contemplated by the merger agreement;
- conduct of business in the ordinary course from December 31, 2025 through April 22, 2026 (the date of the merger agreement);
- the absence of any effect that would reasonably be expected to have a material adverse effect on such party since December 31, 2025;
- the absence of certain litigation and governmental orders;
- the absence of certain undisclosed liabilities;
- employee benefit plan matters;

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- labor matters;
- compliance with certain laws and regulations and such party's licenses;
- environmental matters;
- tax matters;
- intellectual property;
- insurance;
- certain material contracts;
- title to and interests in, and the operating condition of, such party's assets and the condition and sufficiency of tangible assets;
- real property;
- rights of way;
- certain Jones Act matters;
- the absence of affiliate transactions;
- the absence of preferential rights;
- the information supplied in connection with this proxy statement/prospectus or the Helix registration statement;
- financial assurance obligations; and
- decommissioning obligations.

In the merger agreement, Helix has additionally made representations and warranties to Hornbeck regarding:

- capital structure;
- the recommendation of the Helix Board to holders of Helix common stock to vote in favor of the adoption of the merger agreement and the various shareholder proposals set forth in this proxy statement/prospectus, and the receipt of the fairness opinion;
- the Requisite Helix Vote;
- corporate authority and power with respect to the execution, delivery and performance of the merger agreement of Parent Sub and LLC Sub;
- no activities or liabilities of Parent Sub and LLC Sub;
- Helix vessels;
- the compliance with GAAP and SEC accounting rules and regulations with respect to financial statements included in or incorporated by reference in its SEC filings;
- the proper filing of reports with the SEC since January 1, 2024, the accuracy of the information contained in those reports, compliance with the requirements of certain laws and the design of its internal disclosure controls and procedures;
- inapplicability to the mergers of state takeover statutes and anti-takeover and poison pill provisions in such party's organizational documents;
- absence of issuance of a cash dividend since January 1, 2016; and
- absence of certain Helix arrangements.
- In the merger agreement, Hornbeck has additionally made representations and warranties to Helix regarding:
- capital structure;

- the recommendation of the Hornbeck Board to holders of Hornbeck common stock to vote in favor of the adoption of the merger agreement;
- brokers and finders fees;
- the Requisite Hornbeck Approval;
- Hornbeck vessels;
- compliance with GAAP with respect to Hornbeck's audited financial statements;
- compliance with the National Industrial Security Program Operating Manual and applicable personnel or facility clearances regulations;
- inapplicability to the mergers of state takeover statutes and anti-takeover and poison pill provisions in such party's organizational documents; and
- absence of certain Hornbeck arrangements.

For purposes of the merger agreement, a "material adverse effect" means any effect that (i) is materially adverse to the business, financial condition or results of operations of a party and its subsidiaries, taken as a whole, or (ii) prevents or materially impairs the ability of a party to consummate the transactions contemplated by the merger agreement; except that for purposes of the foregoing clause (i) only, none of the following, alone or in combination, will be deemed to constitute a material adverse effect, or be taken into account in determining whether a material adverse effect has occurred or would reasonably be expected to occur:

- effects generally affecting the economy, credit, capital, securities or financial markets in the United States or elsewhere in the world, including changes to interest rates and exchange rates, or political, regulatory or business conditions in any jurisdiction in which such party or any of its subsidiaries has material operations or where any of such party's or any of its subsidiaries' products or services are sold;
- effects that are the result of factors generally affecting the oil and gas services industry, including changes in or effects generally affecting the prices or supply and demand of oil, gas, natural gas, natural gas liquids or other commodities, or any industry, markets or geographical areas in which such party and its subsidiaries operate;
- any loss of, or adverse effect in, the relationship of such party or any of its subsidiaries, contractual or otherwise, with customers, suppliers, financing sources, partners or similar relationship to the extent caused by the entry into, announcement or consummation of the transactions contemplated by the merger agreement (except that this exception does not apply to the representations and warranties regarding the execution of the merger agreement violating organizational documents, contracts or laws);
- the performance by such party of its obligations to the extent expressly required under the merger agreement (except that this exception does not apply to the representations and warranties regarding the execution of the merger agreement violating organizational documents, contracts, laws or governmental filings or obligations set forth under the interim operating covenants);
- any action taken (or not taken) by such party or any of its subsidiaries at the written request of the other party, which action taken (or not taken) is not required under the terms of the merger agreement;
- changes or modifications, and prospective changes or modifications, in GAAP or in any law of general applicability, including the repeal thereof, or in the interpretation or enforcement thereof, after the date of the merger agreement;
- any failure, in and of itself, by such party to meet any internal or public projections or forecasts or estimates of revenues or earnings for any period; except that this exception will not prevent or otherwise affect a determination that any effect underlying such failure has resulted in, or contributed to, or would reasonably be expected to result in, or contribute to, a material adverse effect (if not otherwise falling within any other exception described in the merger agreement);

- any effect resulting from acts of war (whether or not declared), civil disobedience, cyberattack, hostilities, sabotage, terrorism, geopolitical conditions, military actions or the escalation or worsening of any of the foregoing, any hurricane, flood, tornado, earthquake or other weather or natural disaster, or any outbreak or worsening of illness, pandemic or other public health event or any other force majeure event, whether or not caused by any person; or
- a decline in the market price, or change in trading volume, in and of itself, of the shares of common stock of such party on the NYSE, if applicable, or any ratings downgrade or change in ratings outlook for any party or any of its subsidiaries; except that this exception will not prevent or otherwise affect a determination that any effect underlying such decline or change has resulted in, or contributed to, or would reasonably be expected to result in, or contribute to, a material adverse effect (if not otherwise falling within any other exceptions described in the merger agreement).

Notwithstanding the exceptions listed above, with respect to the first, second, fifth and eighth exceptions listed, such effect will be taken into account in determining whether a material adverse effect has occurred to the extent such effect disproportionately adversely affects such party and its subsidiaries, taken as a whole, compared to other companies and their respective subsidiaries, taken as a whole, of comparable size, operating in the industries in which such party and its subsidiaries operate, but, in such event, only the incremental disproportionate impact of any such effect will be taken into account in determining whether a material adverse effect has occurred.

Covenants

Conduct of Business Prior to the Effective Time

Each of Helix and Hornbeck has agreed as to itself and its subsidiaries that, after the date of the merger agreement and prior to the effective time (except as approved in writing by the other party (which approval may not be unreasonably withheld, conditioned or delayed)), except: (a) as may be required by applicable law, (b) as otherwise expressly contemplated by the merger agreement or the plan of conversion or (c) as set forth in such party's disclosure letter, such party and its subsidiaries will use their commercially reasonable efforts to conduct its business in all material respects in the ordinary course and, to the extent consistent therewith, each party and its subsidiaries will use their respective commercially reasonable efforts to preserve their business organizations intact and maintain existing relations and goodwill with governmental entities, customers, suppliers, licensors, licensees, creditors, lessors, service providers and business associates and keep available the services of its and its subsidiaries' present service providers and agents.

From the date of the merger agreement until the effective time, subject to certain exceptions and except as expressly contemplated by the merger agreement, commercially reasonable in response to an emergency, required by applicable law, approved in writing by the other party (which approval may not be unreasonably withheld, conditioned or delayed) or set forth in a party's disclosure letter, each party has agreed not to and to cause its subsidiaries not to:

- make or propose any change to its organizational documents or, except for amendments that would both not materially restrict the operations of its businesses and not reasonably be expected to prevent, materially delay or materially impair the ability of such party to consummate the transactions contemplated by the merger agreement, the organizational documents of any of its subsidiaries;
- except for any such transactions among its direct or indirect wholly owned subsidiaries, (i) merge or consolidate itself or any of its subsidiaries with any other person, or (ii) restructure, reorganize or completely or partially liquidate;
- acquire assets from any other person (i) with a fair market value or purchase price in excess of \$10 million in the aggregate in any transaction or series of related transactions (including incurring any indebtedness related thereto), in each case, including any amounts or value reasonably expected to be paid in connection with a future earn-out, purchase price adjustment, release of "holdback" or similar contingent payment obligation, or (ii) that would reasonably be expected to prevent, materially delay or materially impair the ability of such party to consummate the mergers or other transactions contemplated by the merger agreement, other than, in the case of the foregoing clause (i), acquisitions in the ordinary course of inventory and other parts and accessories necessary for the ongoing operation of the business of such party and its subsidiaries, acquisitions in order to maintain and sustain such party's and its subsidiaries' vessels, assets and equipment in the ordinary

course, including upgrades required by law, customers or class societies, acquisitions pursuant to material contracts as in effect on the date of the merger agreement and transactions among such party and its direct or indirect wholly owned subsidiaries or among such party's direct or indirect wholly owned subsidiaries;

- issue, sell, pledge, dispose of, grant, transfer, encumber, or authorize the issuance, sale, pledge, disposition, grant, transfer, lease, license, guarantee or encumbrance of, or otherwise enter into any contract or understanding with respect to the voting of: (A) any shares of its capital stock or of any of its subsidiaries or other ownership interest in Hornbeck or any subsidiaries (other than (I) encumbrances that are required by or automatically effected by the Hornbeck credit agreements or Helix ABL credit agreement; or (II) the issuance of shares: (x) by its direct or indirect wholly owned subsidiary to it or another of its direct or indirect wholly owned subsidiaries; (y) pursuant to the exercise or settlement of equity-based awards or warrants outstanding as of (and on the terms in effect on) the date of the merger agreement or granted after the date of the merger agreement in accordance with the terms of the merger agreement; or (z) granted in accordance with the terms of the merger agreement with respect to employee compensation and benefits and in accordance with their terms and, as applicable, the plan documents as in effect on the date of the merger agreement); (B) any rights issued by Hornbeck or any of its subsidiaries that are linked in any way to the price of any class of its capital stock or of any class of capital stock of any of its subsidiaries, their value, the value of any of their respective subsidiaries or any part of its or their assets, business or subsidiaries or any dividends or other distributions declared or paid on any shares of its capital stock or the capital stock of any of its subsidiaries; or (C) securities or instruments convertible or exchangeable into or exercisable for any shares of such capital stock or ownership interests, or any options, warrants or other rights of any kind to acquire any shares of such capital stock or ownership interests or such convertible or exchangeable securities or instruments;
- create or incur any encumbrance (other than any permitted encumbrances) over any material portion of such party's and its subsidiaries' consolidated properties and assets that is not incurred in the ordinary course on any of its assets or any of its subsidiaries, except for encumbrances: (A) that are required by or automatically effected by contracts in place as of the date of the merger agreement; (B) that do not materially detract from the value of such assets; or (C) that do not materially impair the operations of such party or any of its subsidiaries;
- make any loans, advances, guarantees or capital contributions to or investments in any person (other than to or from such party and any of its direct or indirect wholly owned subsidiaries, as applicable, or in accordance with the merger agreement in excess of \$250,000 individually or \$1 million in the aggregate);
- declare, set aside, make or pay any dividend or other distribution, payable in cash, stock, property or otherwise, with respect to any of its capital stock (except for dividends paid by any direct or indirect wholly owned subsidiary to it or to any other direct or indirect wholly owned subsidiary) or modify in any material respect its dividend policy; *provided that*, the foregoing shall not prohibit Helix from making any dividend or other distribution to the extent such distribution or other dividend is made in the ordinary course;
- reclassify, split, combine, subdivide or redeem, purchase (through such party's share repurchase program or otherwise) or otherwise acquire, directly or indirectly, any of its capital stock or securities convertible or exchangeable into or exercisable for any shares of its capital stock, other than with respect to: (A) the capital stock or other equity interests of a direct or indirect wholly owned subsidiary of such party; or (B) the acquisition of shares of Hornbeck common stock or Helix common stock in order to pay the exercise price or taxes in connection with the exercise, vesting or settlement of equity awards outstanding as of the date of the merger agreement or granted in accordance with the terms of the merger agreement with respect to employee compensation and benefits, pursuant to the terms of such party's stock plan and the applicable award agreement, in the ordinary course; *provided that*, Helix is not prohibited from undertaking any such action to the extent such action is made in the ordinary course;
- make or authorize any payment of, or accrual or commitment for, any capital expenditures or any regulatory dry dock and related expenses deferred in accordance with such party's current accounting policies, except any such expenditures or expenses: (A) not in excess of \$15 million in the aggregate during any consecutive 12 month period (other than capital expenditures or dry dock and related expenses within the thresholds set forth in such party's disclosure letter); (B) not in excess of \$5 million (net of insurance proceeds) in the aggregate that such party reasonably determines are necessary to avoid a material business interruption or maintain the safety and integrity of any asset or property; or (C) paid by any direct or indirect wholly owned

subsidiary to such party or to any other direct or indirect wholly owned subsidiary of such party, in each case in response to any unanticipated and subsequently discovered events, occurrences or developments (*provided that*, such party will use its reasonable best efforts to consult with the other party prior to making or agreeing to any such capital expenditure);

- other than in the ordinary course, enter into any contract that would have been a material contract had it been entered into prior to the merger agreement, adversely amend, modify or supplement in any material respect, or waive, terminate, assign, convey, encumber or otherwise transfer, in whole or in part, any material right or interest pursuant to or in, any material contract other than: (A) expirations and renewals of any such contract in the ordinary course in accordance with the terms of such contract; (B) non-exclusive licenses under intellectual property owned by such party or any of its subsidiaries, as applicable, in each case, granted to customers in the ordinary course; or (C) any agreement among such party and its direct or indirect wholly owned subsidiaries or among such party's direct or indirect wholly owned subsidiaries;
- other than in the ordinary course or with respect to amounts that are not material to such party and its subsidiaries, taken as a whole, cancel, modify or waive any debts or claims held by it or any of its subsidiaries or waive any rights held by it or any of its subsidiaries except debts or claims among such party and its direct or indirect wholly owned subsidiaries or among such party's direct or indirect wholly owned subsidiaries;
- settle or compromise, or offer or propose to settle or compromise, any material proceeding (other than any material proceeding relating to taxes), including before a governmental entity, except: (A) for amounts recoverable from insurance in effect for such party (or deductibles under such policy); (B) for uninsured amounts not in excess of \$5 million in any one instance; or (C) in accordance with the parameters set forth in such party's disclosure letter, *provided that*, no such settlement or compromise, or offer in respect thereof, may involve any injunctive or other non-monetary relief (other than customary confidentiality and release obligations) which, in either case: (x) imposes any material restrictions on the business operations of such party and its subsidiaries or affiliates or (y) includes an admission of fault or criminal culpability;
- amend any material financial accounting policies or procedures, except as required by changes to GAAP;
- (A) make (outside of the ordinary course), change or revoke any material election with respect to taxes or tax matters if such action would result in a material net increase in the tax liability of such party or its subsidiaries; (B) change any material tax accounting method or period; (C) enter into any material closing agreement with respect to taxes; (D) enter into any material tax sharing, allocation or indemnification agreement or arrangement (other than (1) such an agreement or arrangement exclusively between or among such party and its subsidiaries or (2) a commercial agreement or arrangement the primary purpose of which is not taxes); (E) settle, compromise or otherwise finally resolve any material tax claim, audit, assessment or dispute for an amount materially in excess of amounts reserved therefor in accordance with GAAP; (F) surrender any right to claim a refund of a material amount of taxes; (G) change its tax residency; or (H) take any action that could, or could reasonably be expected to, prevent the transactions contemplated by the merger agreement from qualifying as a "reorganization" within the meaning of Section 368(a) of the Code and this Agreement be, and hereby is adopted as, a "plan of reorganization" within the meaning of Treasury Regulations Section 1.368-2(g) and 1.368-3(a) (the "Intended Tax Treatment");
- transfer, sell, lease, divest, cancel, abandon, allow to lapse or expire or otherwise dispose of, or permit or suffer to exist the creation of any encumbrance (other than certain permitted encumbrances) upon, any assets (tangible or intangible), product lines or businesses material to it and its subsidiaries, taken as a whole, including capital stock of any of its subsidiaries, or any owned real property, except in connection with: (A) sales of or non-exclusive licenses of the foregoing provided in the ordinary course; (B) sales of obsolete assets; (C) sales, leases, licenses or other dispositions of assets (not including services or sales of inventory in the ordinary course) with a fair market value not in excess of \$5 million in any transaction or series of related transactions in the aggregate other than pursuant to material contracts in effect prior to the date of the merger agreement, or entered into after the date of the merger agreement in accordance with the merger agreement; (D) sales among such party and its direct or indirect wholly owned subsidiaries or among such party's direct or indirect wholly owned subsidiaries; and (E) the expiration of registered intellectual property at the end of its maximum statutory term;
- except as required by the terms of any benefit plan as in effect on the date of the merger agreement (or as established or amended after the date of the merger agreement in accordance with the merger agreement), as

expressly permitted under the merger agreement or as required by applicable law, increase or change the compensation or benefits payable to any service provider other than in the ordinary course; *provided that*, notwithstanding the foregoing, except as expressly disclosed in such party's disclosure letter or required pursuant to a benefit plan in effect as of the date of the merger agreement (or as established or amended after the date of the merger agreement in accordance with the merger agreement), the parties shall not: (A) grant any new long-term incentive or equity-based awards or amend or modify the terms of any outstanding awards under any benefit plan; (B) grant any retention or transaction bonuses, (C) increase or change the compensation or benefits payable to any service provider with annual base salary greater than or equal to \$300,000 (other than changes in health and welfare benefits (other than severance plans) that do not materially increase benefits or result in a material increase in administrative costs, and are generally applicable to all salaried service providers in the ordinary course); (D) terminate, enter into, amend or modify or renew any material benefit plan, other than: (1) routine amendments to health and welfare plans (other than severance plans) that do not materially increase benefits or result in a material increase in administrative costs, or adopt any compensation or benefit plan, program, policy, agreement or arrangement that would be a material benefit plan if it were in existence as of the date of the merger agreement; and (2) offer letters for individuals hired as permitted by clause (I) below that are provided in the ordinary course and follow in all material respects the applicable form of offer letter made available to the other party and do not provide for any severance, transaction, retention or change-in-control entitlements; (E) accelerate the vesting of any compensation for the benefit of any service provider; (F) increase or change the severance terms applicable to any service provider; (G) take any action to fund or secure the payment of any amounts under any benefit plan; (H) other than as required by GAAP, change any assumptions required by GAAP used to calculate funding or contribution obligations under any benefit plan, or increase or accelerate the funding or contribution obligations under any benefit plan, or increase or accelerate the funding rate in respect of any benefit plan; or (I) terminate the employment of any executive officer (other than for cause) or hire any new executive officer (other than as a replacement hire receiving substantially similar terms of employment); *provided that*, to the extent that a party intends to hire an individual to replace an executive officer of such party, such party will first consult in good faith with the other party prior to, and with respect to, the hiring of such individual;

- recognize any labor union, works council, or other labor organization as the bargaining representative of any of the employees of such party or its subsidiaries, or become a party to, establish, adopt, amend, commence negotiations for or terminate any collective bargaining agreement or other contract with any labor union, works council, or other labor organization;
- implement or announce any reductions-in-force, office or plant closings, layoffs, or similar personnel actions that would trigger the notice requirements of the Worker Adjustment and Retraining Notification Act of 1988, as amended, or any similar law;
- other than in the ordinary course, waive or release any noncompetition, nonsolicitation, nondisclosure or other restrictive covenant obligation of any service provider of the party or any of the party's subsidiaries;
- create, incur or assume any indebtedness (including the issuance of any debt securities, warrants or other rights to acquire any debt security) or guarantee or otherwise become liable for any such indebtedness, in each case, following the date of the merger agreement; except for (A) indebtedness incurred under (x) the Hornbeck credit agreements in an aggregate principal amount outstanding at any time not to exceed \$10 million (together with any interest, fees or similar amounts accrued with respect to indebtedness under the Hornbeck credit agreements) and (y) the Helix ABL credit agreement in an aggregate principal amount outstanding at any time not to exceed \$10 million (together with any interest, fees or similar amounts accrued with respect to indebtedness under the Helix ABL credit agreement); (B) guarantees by Hornbeck or any direct or indirect wholly owned subsidiary of Hornbeck of indebtedness of Hornbeck or any other direct or indirect wholly owned subsidiary of Hornbeck pursuant to the Hornbeck credit agreements (as in effect on the date of the merger agreement (or after giving effect to such amendments and/or supplements thereto as may be expressly consented to by Helix pursuant to the merger agreement)); (C) guarantees by Helix or any direct or indirect wholly owned subsidiary of Helix of indebtedness of Helix or any other direct or indirect wholly owned subsidiary of Helix pursuant to the Helix credit agreement and the indenture governing Helix's outstanding 9.750% Senior Notes due 2029 (the "Helix Senior Notes Indenture") (each as in effect on the date of the merger agreement (or after giving effect to such amendments and/or supplements thereto as may

be expressly consented to by Hornbeck pursuant to the merger agreement, as applicable)); (D) indebtedness incurred pursuant to (x) letters of credit issued under the Helix ABL credit agreement in the ordinary course and (y) letters of credit, performance bonds or other similar arrangements which do not, in the aggregate, under this clause (y) exceed a face amount of \$10 million at any time outstanding; (E) swaps or other similar contracts or arrangements entered into in the ordinary course and in compliance with its risk management and hedging policies or practices in effect on the date of the merger agreement; (F) indebtedness for capitalized leases or to pay the deferred and unpaid purchase price of property, equipment, goods or services (including the maximum amount payable of any “earn-out” or similar payment, whether or not contingent) which does not, in the aggregate, exceed a face amount of \$5 million at any time outstanding; (G) unsecured indebtedness incurred solely among such party and its direct or indirect wholly owned subsidiaries or solely among such party’s direct or indirect wholly owned subsidiaries, (H) indebtedness to pay accrued and unpaid interest, prepayment penalties, premiums, breakage costs, late charges, penalties, make-whole payments, collection fees, termination fees, and other similar fees relating to any indebtedness that relates to interest and fees on indebtedness existing on the date of the merger agreement or otherwise permitted by the merger agreement and (I) indebtedness (other than any indebtedness under the Helix ABL credit agreement) in an aggregate principal amount outstanding at any time not to exceed \$10 million;

- with respect to Helix, convene any special meeting (or any adjournment or postponement thereof) of Helix’s shareholders other than the special meeting described in this proxy statement/prospectus;
- fail to maintain existing material insurance policies or comparable replacement policies to the extent such policies are typically maintained by other similarly situated offshore service providers and to the extent available for a reasonable cost; or
- agree or commit to do any of the foregoing.

No Solicitation of Acquisition Proposals

Except as expressly permitted by the merger agreement, each of Helix and Hornbeck will not, and will cause its subsidiaries and its and its subsidiaries’ officers and directors not to, and will use its reasonable best efforts to cause its and its subsidiaries’ employees, financial advisors, attorneys, accountants and other advisors, agents or representatives (collectively, “representatives”) not to, directly or indirectly:

- initiate, solicit, propose, knowingly encourage or knowingly facilitate (including by way of furnishing nonpublic information) any inquiry regarding, or the making of any inquiry, proposal or offer that constitutes or would reasonably be expected to lead to, an acquisition proposal;
- engage in, continue or otherwise participate in any discussions with or negotiations relating to, or otherwise cooperate with any acquisition proposal or any inquiry, proposal or offer that would reasonably be expected to lead to an acquisition proposal (other than to refer the inquiring person to the terms of the merger agreement that prohibit such discussions or negotiations and to limit its conversation or other communication exclusively to such referral);
- provide any nonpublic information or afford access to its properties, assets, personnel, books or records to any person in connection with any acquisition proposal or any inquiry, proposal or offer that constitutes or could reasonably be expected to lead to an acquisition proposal;
- otherwise knowingly facilitate any effort or attempt to make an acquisition proposal or any inquiry, proposal or offer that constitutes or would reasonably be expected to lead to an acquisition proposal;
- waive or release any person from, forbear in the enforcement of, or amend or terminate any standstill agreement or any standstill provisions of any other contract, *provided that*, if Helix (acting at the direction of the Helix Board) as applicable, determines in good faith after consultation with its outside legal counsel that the failure to waive a particular standstill provision would reasonably be expected to be inconsistent with the relevant directors’ fiduciary duties under applicable law, then Helix may waive such standstill provision, solely to the extent necessary to permit a third party to make and pursue an acquisition proposal; or
- resolve, agree or publicly propose to, or permit the relevant party, any of its subsidiaries or any of its or their representatives to agree or publicly propose to take any of the actions referred to above.

An “acquisition proposal” means:

- any proposal, offer or indication of interest relating to a merger, joint venture, partnership, consolidation, dissolution, liquidation, tender offer, recapitalization, reorganization, spin-off, share exchange, business combination or similar transaction involving a party or any of its subsidiaries and involving, directly or indirectly, 20% or more of the consolidated net revenues, net income or total assets (it being understood that total assets include equity securities of subsidiaries of such party); or
- any acquisition by any person or group (as defined under Section 13 of the Exchange Act) resulting in, or any proposal, offer, inquiry or indication of interest that if consummated would result in, any person or group (as defined under Section 13 of the Exchange Act) becoming the beneficial owner of, directly or indirectly, in one or a series of related transactions, 20% or more of the total voting power or of any class of equity securities of a party or 20% or more of the consolidated net revenues, net income or total assets (it being understood that total assets include equity securities of subsidiaries) of such party in each case of this bullet and the preceding bullet, other than the mergers and the other transactions contemplated by the merger agreement, except that any proposal or offer to the extent related to the sale of assets required to be divested or held separate (including by trust or otherwise) pursuant to a regulatory remedy, in accordance with the merger agreement will not be deemed an acquisition proposal.

Notwithstanding the restrictions described above, prior to, but not after, the time the Requisite Helix Vote is obtained, in response to an unsolicited, bona fide written acquisition proposal received after the date of the merger agreement that did not result from a breach of the above obligations, Helix and its representatives (acting at the direction of the Helix Board), as applicable, may:

- provide information in response to a request therefor (including nonpublic information regarding it or any of its subsidiaries) to the person who made such acquisition proposal and its representatives only if such information has previously been made available to, or is made available to Hornbeck prior to or substantially concurrently with the time such information is made available (and in any event within 24 hours) to the person who made such acquisition proposal and, prior to furnishing any such information, such party receives from the person making such acquisition proposal an executed confidentiality agreement containing terms that are substantially similar to, and generally not less restrictive to the person who made such acquisition proposal than the terms in a confidentiality agreement with Helix (provided that such confidentiality agreement need not include any “standstill” terms), and which confidentiality agreement does not prohibit compliance by Helix with this bullet point and will be provided to Hornbeck promptly following its execution; and
- participate in any discussions or negotiations with any such person regarding such acquisition proposal,

in each case if, and only if, prior to taking any such action, the Helix Board (or relevant committee thereof) determines in good faith after consultation with its outside legal counsel that based on the information then available and after consultation with its financial advisor (i) such acquisition proposal either constitutes a superior proposal or could reasonably be expected to result in a superior proposal and (ii) failure to engage in such activities would reasonably be expected to be inconsistent with its directors’ fiduciary duties under applicable law. Notwithstanding the foregoing, Helix shall not provide (and shall not permit any of its representatives to provide) any commercially or competitively sensitive non-public information in connection with the actions permitted by the merger agreement except in accordance with a “clean room” or other similar procedures designed to limit any adverse effect of the sharing of such information of Helix or its subsidiaries, which procedures shall be consistent in all material respects with Helix’s practices in dealing with the disclosures of such information to Hornbeck or its representatives prior to the date of the merger agreement.

A “superior proposal” means an unsolicited, bona fide written acquisition proposal (except that the references in the definition thereof to “20% or more” will be deemed to be references to “50% or more”) made after the date of the merger agreement that the Helix Board has determined in good faith, after consultation with its outside legal counsel and its financial advisor:

- would result in a transaction more favorable from a financial point of view to such party’s shareholders than the mergers and the other transactions contemplated by the merger agreement; and
- is reasonably likely to be consummated on the terms proposed,

in each case of the preceding two bullets, taking into account any legal, financial, regulatory and shareholder approval requirements, the sources, availability and terms of any financing, financing market conditions and the existence of a financing contingency, the likelihood of termination, the timing of closing, the identity of the person or persons making the proposal and any other aspects considered relevant by the Helix Board, including any revisions to the terms of the merger agreement proposed by Hornbeck pursuant to the terms of the merger agreement.

Notice Regarding Acquisition Proposals

Each of Helix and Hornbeck must promptly (and, in any event, within 48 hours) give written notice to the other party if (i) any inquiries, proposals or offers with respect to an acquisition proposal are received by, (ii) any information is requested in connection with any acquisition proposal from, or (iii) any discussions or negotiations with respect to an acquisition proposal are sought to be initiated or continued with, it, its subsidiaries or any of its representatives, setting forth in such notice the name of such person and the material terms and conditions of any proposals or offers (including, if applicable, complete copies of any written requests, proposals or offers, including proposed agreements) and must then keep the other party reasonably informed, on a current basis (and, in any event, within 24 hours), of the status and material terms of any such proposals or offers (including any material amendments or modifications, which, for the avoidance of doubt, will include (among other things) any changes to the form or amount of consideration) and the status of any such discussions or negotiations, including any change in its intentions as previously notified.

No Change of Recommendation

Helix has agreed that, except as otherwise set forth in the merger agreement, the Helix Board, including any committee thereof, will not:

- withhold, withdraw, amend, qualify or modify (or publicly propose or resolve to withhold, withdraw, amend, qualify or modify) the recommendation to the holders of shares of such party's common stock to vote in favor of the adoption of the merger agreement or the approval of the required merger proposals and the various shareholder proposals set forth in this proxy statement/prospectus pursuant to the merger agreement in a manner adverse to Hornbeck;
- fail to include the Helix recommendation in this proxy statement/prospectus;
- fail to recommend against (x) acceptance of a tender or exchange offer by its shareholders pursuant to Rule 14d-2 under the Exchange Act for outstanding shares of Helix common stock, or (y) any acquisition proposal that is publicly announced, in each case, within ten business days after the commencement of such tender or exchange offer or public announcement of such acquisition proposal (or, if earlier, prior to the Helix special meeting) (for the avoidance of doubt, the taking of no position or a neutral position by the Helix Board in respect of the acceptance of any such tender offer or exchange offer or acquisition proposal as of the end of such period will constitute a failure to recommend against acceptance of any such offer or acquisition proposal);
- approve or recommend, or publicly declare advisable or publicly propose to approve or recommend, or publicly propose to enter into, any acquisition proposal or letter of intent, memorandum of understanding, agreement in principle, acquisition agreement, merger agreement, option agreement, joint venture agreement, partnership agreement or other agreement (other than a confidentiality agreement permitted as discussed above in "—Covenants—No Solicitation of Acquisition Proposals") constituting or relating to any acquisition proposal (an "alternative acquisition agreement" and any action described in this bullet or the preceding three bullets, a "change of recommendation"); or
- cause or permit Helix or any of its subsidiaries to enter into an alternative acquisition agreement.

Permitted Change of Recommendation—Superior Proposal

Prior to, but not after, the time the Requisite Helix Vote is obtained, the Helix Board, may effect a change of recommendation if an unsolicited, *bona fide* written acquisition proposal received after the date of the merger agreement that did not result from a breach of the obligations set forth in the merger agreement is received by Helix and is not withdrawn, and the Helix Board determines in good faith, after consultation with its outside legal counsel and its financial advisor that (i) such acquisition proposal constitutes a superior proposal and (ii) failure to consider such acquisition proposal would reasonably be expected to be inconsistent with the relevant directors' fiduciary duties under applicable law, and:

- Helix has given Hornbeck written notice of such action at least five business days in advance, which notice sets forth in writing that the Helix Board received a bona fide acquisition proposal that has not been withdrawn, concluded in good faith that such acquisition proposal constitutes a superior proposal and intends to effect a change of recommendation and complies in form, substance and delivery with the terms of the merger agreement (a "board recommendation notice");
- after giving such board recommendation notice and prior to making a change of recommendation, Helix negotiates in good faith and uses its reasonable best efforts to cause its representatives to negotiate in good faith with Hornbeck (to the extent Hornbeck wishes to negotiate), to make such revisions to the terms of the merger agreement as would cause such acquisition proposal to cease to be a superior proposal; and
- at the end of the five business day period, prior to and as a condition to making a change of recommendation, the Helix Board takes into account any adjustments or revisions to the terms of the merger agreement irrevocably offered in writing by Hornbeck and any other information offered by Hornbeck in response to the board recommendation notice, and has determined in good faith after consultation with its outside legal counsel and its financial advisor that (i) such superior proposal would continue to constitute a superior proposal, if such changes irrevocably offered in writing by Hornbeck were to be given effect and (ii) failure to pursue such superior proposal would reasonably be expected to be inconsistent with the relevant directors' fiduciary duties under applicable law.

Each and any amendment to the financial terms and any other material amendment to any acquisition proposal will be deemed to be a new acquisition proposal for the purposes of the obligations described above except that references to "five business days" will be deemed to be references to "three business days" and such three business day period will expire at 11:59 p.m. Eastern time on the third business day immediately following the day on which such new board recommendation notice is delivered.

Permitted Change of Recommendation—Intervening Event

Prior to, but not after, the time the Requisite Helix Vote is obtained, the Helix Board may effect a change of recommendation if an intervening event has occurred, and prior to taking such action, the Helix Board determines in good faith, after consultation with its outside legal counsel and its financial advisor, that failure to take such action in response to such intervening event would reasonably be expected to be inconsistent with the directors' fiduciary duties under applicable law, and:

- Helix has given Hornbeck a board recommendation notice five business days in advance, which notice includes a reasonably detailed description of such intervening event;
- after giving such board recommendation notice and prior to making a change of recommendation, Helix negotiates in good faith and uses reasonable efforts to cause its representatives to negotiate in good faith with Hornbeck (to the extent Hornbeck wishes to negotiate), to make such revisions to the terms of the merger agreement as would cause such effect to cease to be an intervening event; and
- at the end of the five business day period, prior to and as a condition to effecting a change of recommendation, the Helix Board will take into account any changes to the terms of the merger agreement irrevocably offered in writing by Hornbeck and any other information offered by Hornbeck in response to the board recommendation notice, and has determined in good faith after consultation with its outside legal counsel and its financial advisor that (i) such intervening event remains in effect and (ii) the failure to effect a change of recommendation in response to such intervening event would reasonably be expected to be inconsistent with the directors' fiduciary duties under applicable law if such adjustments or revisions irrevocably offered in writing by Hornbeck were to be given effect.

An “intervening event” means any material effect that was not known or reasonably foreseeable by the Helix Board on the date of the merger agreement (or, if known or reasonably foreseeable, the consequences of which were not known or reasonably foreseeable by such board of directors as of the date of the merger agreement), which effect or consequences, as applicable, become known by such board of directors prior to the time Helix receives the Requisite Helix Vote, except that:

- in no event will the receipt, existence or terms of an acquisition proposal or a superior proposal or any inquiry or communications relating thereto, or any matter relating thereto or consequence thereof, be taken into account for purposes of determining whether an intervening event has occurred;
- in no event will any changes in the market price or trading volume of Helix’s common stock or the fact that Helix meets, exceeds or fails to meet internal or published projections, forecasts or revenue or earnings predictions for any period constitute an intervening event, except that the underlying cause or causes of such change or fact may be taken into account for purposes of determining whether an intervening event has occurred;
- in no event will any effect resulting from any action taken or omitted by Helix or Hornbeck, as applicable, that is required to be taken or omitted by Helix or Hornbeck, as applicable, pursuant to the merger agreement be taken into account for purposes of determining whether an intervening event has occurred; or
- in no event will any effect resulting from changes after the date of the merger agreement in general economic or business conditions in the United States or elsewhere in the world (including the prices of oil, gas, natural gas, condensates or natural gas liquids, refined liquids or other commodities) be taken into account for purposes of determining whether an intervening event has occurred.

Notwithstanding the foregoing or anything to the contrary contained in the merger agreement, Helix and its subsidiaries will not be permitted to enter into an alternative acquisition proposal unless and until the merger agreement has first been terminated in accordance with its terms and, if applicable, the Helix termination fee has been paid to Hornbeck.

Nothing contained in the merger agreement will prevent Helix or Hornbeck from complying with its disclosure obligations under applicable United States federal or state law with regard to an acquisition proposal or making any “stop, look and listen” or similar communication of the type contemplated by Rule 14d-9(f) under the Exchange Act pending disclosure of its position thereunder or making any disclosure if the Helix Board determines in good faith after consultation with Helix’s outside counsel that failure to make such disclosure would reasonably be expected to be inconsistent with the relevant directors’ fiduciary duties under applicable law, except that Helix may not effect a change of recommendation other than in accordance with the procedures described above, except that any such disclosure (other than a “stop, look and listen” or similar communication) shall be deemed to be a change of recommendation unless the Helix Board or Hornbeck Board, as applicable, expressly reaffirms its recommendation in such disclosure and expressly rejects any applicable acquisition proposal.

Existing Discussions

Each of Helix and Hornbeck must, and must cause its subsidiaries to, use its reasonable best efforts to cause its representatives to, immediately cease and cause to be terminated any existing activities, discussions or negotiations with any person within two years prior to the date of the merger agreement with respect to any acquisition proposal, or proposal that would reasonably be expected to lead to an acquisition proposal. Each of Helix and Hornbeck must promptly, and in any event within 24 hours of the date of the merger agreement, deliver a written notice to each such person providing only that such party is ending all discussions and negotiations with such person with respect to any acquisition proposal, or proposal or transaction that would reasonably be expected to lead to an acquisition proposal, which notice must also request the prompt return or destruction of all confidential information concerning such party and any of its subsidiaries, as applicable, that has been furnished to such person by or on behalf of such party or any of its subsidiaries. Each of Helix and Hornbeck will promptly terminate all physical and electronic data access previously granted to such persons.

Helix Special Meeting

Helix will, as promptly as practicable after the date of the merger agreement and in consultation with Hornbeck, set a preliminary record date for the special meeting and commence a broker search in accordance with Rule 14a-13 under the Exchange Act in connection therewith. In accordance with the merger agreement, applicable law and its

organizational documents, Helix must take all action necessary to duly call, give notice of, convene and hold the special meeting as promptly as practicable after this proxy statement/prospectus is declared effective, with a record date and meeting date to be selected after reasonable consultation with Hornbeck, to consider and vote upon the approval of the required merger proposals and the various shareholder proposals set forth in this proxy statement/prospectus and must not postpone or adjourn such meeting except to the extent required by law, in accordance with the terms of the merger agreement, or, if there are insufficient shares of Helix common stock represented (either in person or by proxy) to constitute a quorum at the originally scheduled special meeting. Subject to the right of the Helix Board to effect a change of recommendation in accordance with the terms of the merger agreement, Helix must include the recommendation of the required merger proposals and the various shareholder proposals set forth in this proxy statement/prospectus and use reasonable best efforts to solicit from its shareholders proxies in favor of the required merger proposals and the various shareholder proposals set forth in this proxy statement/prospectus.

Helix agrees to provide Hornbeck reasonably detailed periodic updates concerning proxy solicitation on a timely basis and to give written notice to Hornbeck one day prior to the special meeting indicating whether as of such date sufficient proxies representing the Requisite Helix Vote have been obtained. The special meeting may be adjourned, including at Hornbeck's request, if it is necessary to ensure that any supplement or amendment to this proxy statement/prospectus is delivered or if Helix has not received sufficient proxies to obtain the Requisite Helix Vote as of two business days before the special meeting. Such adjournment must not be more than ten days in connection with any one postponement or adjournment or to a date that is no later than two business days prior to the outside date.

Unless the merger agreement has been terminated in accordance with its terms, as described in “*Termination of the Merger Agreement*,” the obligation of Helix to call, give notice of, convene and hold the special meeting to consider and vote upon the adoption of the merger agreement, will not be limited or otherwise affected by the making, commencement, disclosure, announcement or submission of any acquisition proposal or superior proposal, or by any change of recommendation.

Cooperation; Efforts to Consummate

Upon the terms and subject to the conditions set forth in the merger agreement, Helix and Hornbeck are required to cooperate with each other and use, and will cause their respective subsidiaries to use, their respective reasonable best efforts to take or cause to be taken all actions, and to do or cause to be done all things, reasonably necessary, proper or advisable on its part under the merger agreement and applicable law to cause the conditions to closing to be satisfied as promptly as reasonably practicable and advisable (and in any event no later than the outside date) and to consummate and make effective the mergers and the other transactions contemplated by the merger agreement as soon as reasonably practicable, including preparing and filing as promptly as reasonably practicable and advisable all documentation to effect all necessary notices, reports and other filings and to obtain as promptly as reasonably practicable (and in any event no later than the outside date) all consents necessary or advisable to be obtained from any third party or any governmental entity in order to consummate the mergers and the other transactions contemplated by the merger agreement, executing and delivering any additional instruments necessary to consummate the mergers and the other transactions contemplated by the merger agreement and refraining from taking any action that would reasonably be expected to impede, interfere with, prevent or materially delay the consummation of the mergers and the other transactions contemplated by the merger agreement.

Helix and Hornbeck will jointly develop and consult and cooperate in all respects with one another, and consider in good faith the views of one another, in connection with the form and content of any analyses, appearances, presentations, memoranda, briefs, arguments, opinions, proposals, notices, reports or filings made with, or submitted to, any third party or any governmental entity in connection with the mergers and the other transactions contemplated by the merger agreement. Neither Helix nor Hornbeck will permit any of its officers or other representatives to participate in any substantive meeting, telephone call or conference with any governmental entity in respect of any filing, investigation or otherwise relating to the mergers and the other transactions contemplated by the merger agreement unless, to the extent reasonably practicable, it consults with the other party in advance and, to the extent permitted by such governmental entity, gives the other party the opportunity to attend and participate therein.

Each of the parties will use reasonable best efforts to furnish to each other all information required for any filing, other than confidential or proprietary information not directly related to the mergers and the other transactions contemplated by the merger agreement, and to give the other party reasonable prior notice of any such filing and, to the extent practicable, keep the other party reasonably informed with respect to the status of each consent sought from a governmental entity in connection with the mergers and the other transactions contemplated by the merger agreement.

and the material communications between such party and such governmental entity, and, to the extent practicable, permit the other party to review and discuss in advance, and consider in good faith the views of the other in connection with any such filing or communication. Prior to submitting any such filing (except for the parties' submissions in relation to the Hart-Scott-Rodino Antitrust Improvement Act of 1976, as amended and the rules and regulations promulgated thereunder (the "HSR Act")) or communication to any governmental entity in relation to any applicable antitrust law or foreign investment law, each party shall consult in good faith with the other party and consider in good faith the views of the other party with respect to the form and content of such filing or communication.

Each of the parties will promptly furnish the other with copies of all correspondence, filings (except for the parties' initial HSR Act notification filings) and material communications between them and their affiliates and representatives, on one hand, and any such governmental entity or its respective staff on the other hand, with respect to the mergers and the other transactions contemplated by the merger agreement in order for such other party to meaningfully consult and participate in accordance with the merger agreement, except that materials furnished may be redacted as necessary to address reasonable attorney-client or other privilege or confidentiality concerns.

Subject to applicable law, each party and its subsidiaries will not agree to any actions, restrictions or conditions with respect to obtaining any consent in connection with the mergers and the other transactions contemplated by the merger agreement, and neither party will directly or indirectly agree to any contractual timing agreement with a governmental entity related to the merger agreement or the mergers or the other transactions contemplated by the merger agreement, in each case, without the prior written consent of the other party. In exercising the foregoing rights, each of Helix and Hornbeck will act reasonably and as promptly as reasonably practicable.

Subject to certain exceptions, neither Helix nor Hornbeck will, and each of them will cause their respective subsidiaries not to, take any action, including acquiring any asset, property, business or person (by way of merger, consolidation, share exchange, investment, other business combination, asset, stock or equity purchase, or otherwise), in each case, that could reasonably be expected to materially impair, materially adversely affect or materially delay obtaining any consent or making any filing contemplated by the merger agreement or the timely receipt thereof.

On the terms and subject to the conditions set forth in the merger agreement, each of Helix and Hornbeck agrees to:

- promptly provide or make an appropriate response to any request by a governmental entity pursuant to antitrust law or foreign investment law for information or documentary material with respect to the transaction; and
- promptly use its reasonable best efforts to take all reasonably necessary, proper or advisable steps to (i) avoid the entry of, and (ii) resist, vacate, modify, reverse, suspend, prevent, eliminate or remove any actual, anticipated or threatened temporary, preliminary or permanent injunction or other order, decree, decision, determination or judgment entered or issued, or that becomes reasonably foreseeable to be entered or issued, in any proceeding or inquiry of any kind, in the case of each of the foregoing clauses (i) and (ii), that would reasonably be expected to delay, restrain, prevent, enjoin or otherwise prohibit or make unlawful the consummation of the transactions contemplated by the merger agreement, including, if necessary, proper or advisable so as to permit the consummation of the transactions on a schedule as close as possible to that contemplated by the merger agreement:
 - defending through litigation (excluding any appeals) on the merits of any claim asserted in any court, agency or other proceeding by any person or entity seeking to delay, restrain, prevent, enjoin or otherwise prohibit consummation of the transactions contemplated by the merger agreement; and
 - (i) proposing, negotiating, committing to and agreeing to sell, lease, license, divest or otherwise dispose of, or hold separate pending such disposition, assets, operations, rights, product lines, licenses, businesses or interests therein of Hornbeck or Helix or any of their respective subsidiaries, and promptly effecting such sale, lease, license, divestiture, disposal or holding separate, (ii) agreeing to restrictions or actions that after the effective time would limit the combined company's or its subsidiaries' freedom of action or operation with respect to, or its ability to retain, one or more of its or its subsidiaries' businesses, product lines or assets or (iii) agreeing to enter into, modify or terminate existing contractual

relationships, contractual rights or contractual obligations of Helix or Hornbeck or either of their respective subsidiaries, and in each case entering into agreements with, and submitting to orders of, the relevant governmental entity as needed to effect the foregoing (any such action in this bullet point, a “regulatory remedy”).

Neither the covenants described in this section nor the “reasonable best efforts” standard in the merger agreement will require, or be construed to require, Helix or Hornbeck or any of their respective subsidiaries or other affiliates to (i) waive any of the conditions to the closing of the merger or (ii) take, effect or agree to any regulatory remedies unless such regulatory remedy is conditioned upon the occurrence of the closing or is effective on or after the closing and relates only to Helix, Hornbeck and their respective subsidiaries.

Helix and Hornbeck will use reasonable best efforts to cooperate with each other and work in good faith in formulating any such regulatory remedy described above.

Status and Notifications

Subject to applicable law and except as otherwise required by any governmental entity, Helix and Hornbeck each will keep the other apprised of the status of material matters relating to completion of the mergers and the other transactions contemplated by the merger agreement, including promptly furnishing the other with copies of notices or other substantive communications received by Helix or Hornbeck, as applicable, or any of its subsidiaries from any third party and/or any governmental entity with respect to the mergers and the other transactions contemplated by the merger agreement.

Treatment of Indebtedness

Prior to the closing, Helix will: (a) deliver (or cause to be delivered) notices of the payoff, prepayment, discharge and termination of any outstanding indebtedness and other obligations of Helix and each applicable subsidiary of Helix as required under the Helix ABL credit agreement (the amounts outstanding under the Helix credit facility, the “Helix Indebtedness Payoff Amount”); (b) take all other actions within its reasonable control and reasonably required to facilitate the repayment of the Helix Indebtedness Payoff Amount, including the termination of the commitments under Helix ABL credit agreement, in each case, prior to or substantially concurrently with the effective time; and (c) procure, obtain and deliver customary payoff letter(s) and lien releases, in each case, in form and substance reasonably satisfactory to Hornbeck, with respect to the Helix ABL credit agreement in sufficient form to terminate all encumbrances, all guaranties and other obligations thereunder (other than contingent obligations for which no claim has been made and which expressly survive the termination thereof), drafts of which shall have been provided to Hornbeck and its counsel at least ten business days prior to the closing (or such shorter time as Hornbeck may agree in its discretion) (with executed, as applicable, copies thereof to be provided as soon as available, and in no case later than one business day prior to the closing). Helix shall irrevocably pay off, or cause to be paid off, prior to or substantially contemporaneously with the effective time, the Helix Indebtedness Payoff Amount.

Prior to the closing, without Hornbeck’s prior written consent, Helix will not, and will cause its directors, officers and representatives not to, amend or supplement any Helix credit agreement except to terminate the Helix ABL credit agreement in accordance with the merger agreement or to comply with the terms of the Helix ABL credit agreement to add any subsidiary of Helix as a guarantor thereunder in accordance with the terms of the Helix ABL credit agreement (as in effect on the date of the merger agreement (or after giving effect to such amendments and/or supplements thereto as may be expressly consented to by Hornbeck pursuant to the merger agreement)). Prior to the closing, without Helix’s prior written consent, Hornbeck will not, and will cause its directors, officers and Representatives not to, amend or supplement any of Hornbeck’s credit agreements except as provided below and except to comply with the terms of each Hornbeck credit agreement (as in effect on the date of the merger agreement (or after giving effect to such amendments and/or supplements thereto as may be expressly consented to by Helix pursuant to the merger agreement)).

Prior to the closing, without Hornbeck’s prior written consent, Helix will not, and will cause its directors, officers, representatives and subsidiaries not to, amend or supplement the Helix Senior Notes Indenture except to comply with the terms of the Helix Senior Notes Indenture to add any subsidiary of Helix as a guarantor thereunder in accordance with the terms of the Helix Senior Notes Indenture (as in effect on the date of the merger agreement (or after giving effect to such amendments and/or supplements thereto as may be expressly consented to by Hornbeck pursuant to the merger agreement)).

Hornbeck shall timely provide or cause to be provided to Helix, on or prior to the effective time, a waiver, amendment or consent to each Hornbeck credit agreement as required to permit the Second Merger to occur as of the Second Merger effective time pursuant to the terms of each Hornbeck credit agreement.

Access to Information

Subject to applicable law and certain exceptions and conditions, Helix and Hornbeck each must, upon reasonable advance written notice by the other, use reasonable best efforts to furnish the other with all information concerning itself, its subsidiaries, directors, officers and shareholders and such other matters as may be reasonably necessary or advisable in connection with the preparation of any statement, filing, notice or application made by or on behalf of Helix, Hornbeck or any of their respective subsidiaries to any third party or any governmental entity in connection with the mergers and other transactions contemplated by the merger agreement and each of Helix and Hornbeck must, upon giving of reasonable advance written notice by Helix or Hornbeck, as applicable, use reasonable best efforts to afford Helix's or Hornbeck's officers and other authorized representatives, as applicable, reasonable access, during normal business hours to its service providers, agents, contracts, books and records, as well as properties, offices and other facilities, and each party must (and must cause its subsidiaries to) use reasonable best efforts to furnish promptly to the other party all information concerning its business, properties and personnel as may reasonably be requested, including in connection with the preparation of this proxy statement/prospectus, or any other statement, filing, notice or application made by or on behalf of Helix, Hornbeck or any of their respective subsidiaries to any third party or any governmental entity in connection with the mergers and the other transactions contemplated by the merger agreement.

Listing

Helix will use its reasonable best efforts to cause the shares of Converted Helix Common Stock, including the Converted Helix Common Stock to be issued in the mergers to be approved for listing on the NYSE prior to the closing date, subject to official notice of issuance.

Publicity

Helix and Hornbeck are required to consult with each other before issuing any press release or making any public statement with respect to the merger agreement, the mergers or the other transactions contemplated by the merger agreement and may not issue any such press release or make any such public statement without the prior consent of the other, such consent not to be unreasonably withheld, conditioned or delayed, except that (i) any such press release or public statement as may be required by applicable law or any listing agreement with any national securities exchange may be issued prior to such consultation if the party making the release or statement has used its reasonable best efforts to consult with the other party on a timely basis and (ii) each party may issue public announcements or make other public disclosures regarding the merger agreement or the mergers or the other transactions contemplated by the merger agreement that is consistent with those previously disclosed in press releases or public statements previously approved by either party or made by either party in compliance with the merger agreement. The immediately preceding sentence does not apply to any disclosure of information concerning the merger agreement in connection with any dispute between the parties regarding the merger agreement or in respect of internal announcements to employees which are not made public, and, subject to certain exceptions, neither party is required to consult with or obtain approval from the other party with respect to a public announcement or press release issued in connection with the receipt and existence of an acquisition proposal and matters relating thereto or a change of recommendation. Prior to making any written communications to any employees of Helix, Hornbeck or their respective subsidiaries pertaining to the treatment of compensation or benefits in connection with the transactions contemplated by the merger agreement or employment following the effective time, each of Hornbeck and Helix shall provide the other party with a copy of the intended communication, the receiving party shall have a reasonable period of time to review and comment on such communication and the providing party shall give reasonable and good faith consideration to any comments made by the receiving party with respect thereto.

Employee Benefits Matters

The merger agreement provides that, for at least 12 months following the effective time (or, if earlier, the date of termination of employment of a continuing employee), Helix will cause the surviving company to provide each individual employed by (i) Helix or its subsidiaries and (ii) Hornbeck and its subsidiaries, in each case, as of immediately prior to the effective time and who continues employment with the surviving company or its subsidiaries as of the closing date (any such individual being referred to as a "continuing employee") with (1) an annual base salary

or wage rate that is no less favorable than the annual base salary or wage rate in effect for such continuing employee immediately prior to the effective time, (2) target annual cash incentive compensation opportunities and target long-term incentive (cash-based and equity-based) compensation opportunities that are no less favorable in the aggregate than those in effect for such continuing employee as of immediately prior to the effective time and (3) other employee benefits that are no less favorable in the aggregate than those in effect for such continuing employee as of immediately prior to the effective time (excluding defined benefit pension or post-employment welfare benefits and retention, transaction, sale bonus or similar one-time or special bonus and equity-based compensation). Additionally, for at least 12 months following the effective time, Helix shall cause each continuing employee to be provided with severance and termination benefits that are no less favorable than those benefits set forth in the Helix disclosure letter.

For purposes of each benefit plan in which any continuing employee first becomes eligible to participate on or after the effective time, Helix will (i) use commercially reasonable efforts to (A) cause each continuing employee to be immediately eligible to participate, without any waiting time, in any and all such new benefit plans to the extent coverage under such new benefit plan replaces coverage under a comparable benefit plan in which such continuing employee participated immediately prior to the effective time, (B) cause all pre-existing condition exclusions and actively-at-work requirements to be waived for such continuing employee and his or her covered dependents, to the extent such conditions would have been waived or satisfied under the analogous benefit plan in which such continuing employee participated immediately prior to the effective time, and (C) during the plan year in which the effective time occurs, cause any eligible expenses paid by such continuing employee and his or her covered dependents under a benefit plan that is a group health plan during the portion of the plan year prior to the change to the new benefit plan that is a group health plan to be taken into account under such new benefit plan that is a group health plan for purposes of satisfying the corresponding deductible, co-insurance and maximum out-of-pocket requirements applicable to such continuing employee and his or her covered dependents for the applicable plan year as if such amounts had been paid in accordance with such new plan, and (iii) recognize service time of such continuing employee with Hornbeck and Helix and their respective affiliates and predecessors, for purposes of eligibility to participate, vesting credit, entitlement to benefits, the level of vacation benefits and for purposes of determining severance in any new benefit plan in which such continuing employee may be eligible to participate after the effective time, to the extent such service is taken into account under the corresponding benefit plan in which such continuing employee participated immediately before the effective time (except where such service credit would result in a duplication of compensation or benefits for the same period of service).

The merger agreement provides that the transactions contemplated by the merger agreement will constitute a “change in control” or “change of control” for purposes of all Helix benefit plans and all Hornbeck benefit plans that provide for payments, accelerated vesting or benefits, either on a “single trigger” basis immediately on a “change of control” or “change in control” or on a “double trigger” basis on a qualifying termination of employment during a specified period following a “change of control” or “change in control.”

Each continuing employee who as of immediately prior to the effective time participates in a Hornbeck benefit plan or Helix benefit plan that provides for an annual bonus for the year in which the closing occurs and who remains employed with the surviving company or its subsidiaries through the regular payment date for such bonus, will be eligible to receive in cash, on such regular payment date, an annual bonus payment in respect of the applicable performance period in an amount determined based on the greater of (i) the level of attainment of the applicable performance measures under such Hornbeck benefit plan or Helix benefit plan or (ii) the attainment of the target level of performance under such Hornbeck benefit plan or Helix benefit plan.

The merger agreement provides that nothing contained in the merger agreement is intended to be treated as an amendment to any of Hornbeck’s benefit plans or Helix’s benefit plans or other benefit or any other compensation plan, program, agreement, policy or arrangement or prevent Helix or Hornbeck from amending, establishing, modifying or terminating any of their respective benefit or compensation plans, programs, agreements, policies or arrangements or prevent Hornbeck or Helix or their affiliates, after the effective time, from terminating the employment of any service provider. In addition, the merger agreement provides that nothing in the merger agreement is intended to create any third-party beneficiary rights in any employee or other service provider to Helix or Hornbeck or any of their subsidiaries or any beneficiary or dependent thereof. In addition, the terms and conditions of employment for any continuing employee covered by a labor agreement will be governed by that labor agreement.

Expenses

Except as otherwise provided in certain provisions related to the effect of termination of the merger agreement, whether or not the first merger is completed, all costs and expenses incurred in connection with the preparation,

negotiation, execution and performance of the merger agreement and the mergers and other transactions contemplated by the merger agreement will be paid by the party incurring such expense, except that expenses incurred in connection with (a) any filing fees in connection with the HSR Act, any other antitrust law, foreign investment law, (b) the filing of this proxy statement/prospectus and (c) the filing, printing and mailing of this proxy statement/prospectus will be shared equally by Helix and Hornbeck.

Indemnification; Directors' and Officers' Insurance

The merger agreement provides that, from and after the effective time, Helix and the surviving company will indemnify and hold harmless to the fullest extent as such individuals would be indemnified as of the date of the merger agreement under applicable law, Hornbeck's organizational documents and any indemnification agreements in effect as of the date of the merger agreement, each indemnified party against any costs or expenses (including reasonable attorneys' fees, costs and expenses), judgments, inquiries, fines, losses, claims, damages or liabilities incurred in connection with, arising out of or otherwise related to any proceeding, in connection with, arising out of or otherwise related to matters existing or occurring at or prior to the effective time, whether asserted or claimed prior to, at or after the effective time, including in connection with (i) the merger agreement, the mergers or the other transactions contemplated by the merger agreement, and (ii) actions to enforce this provision or any other indemnification or advancement right of any indemnified party, and Helix and the surviving company will also advance expenses as incurred to the fullest extent that such individual would have been entitled to under applicable law, Hornbeck's organizational documents and any indemnification agreements in effect as of the date of the merger agreement, except that any person to whom expenses are advanced provides an undertaking to repay such advances if it is ultimately determined by final adjudication that such person is not entitled to indemnification.

Prior to the effective time, Hornbeck will purchase (and pay in full the aggregate premium for) "tail" insurance policies for the extension of (i) the directors' and officers' liability coverage of Hornbeck's existing directors' and officers' insurance policies, and (ii) Hornbeck's existing fiduciary liability insurance policies, in each case for a claims reporting or discovery period of six years from and after the effective time, from one or more insurance carriers with the same or better credit rating as Hornbeck's insurance carrier as of the date of the merger agreement with respect to directors' and officers' liability insurance and fiduciary liability insurance with terms, conditions, retentions and limits of liability that are no less favorable in the aggregate to the insureds as Hornbeck's existing policies with respect to matters existing or occurring at or prior to the effective time (including in connection with the merger agreement or the mergers and other transactions contemplated by the merger agreement). If Hornbeck fails for any reason to obtain such "tail" insurance policies as of the effective time, Helix will continue to maintain in effect for the tail period such insurance policies in place as of the date of the merger agreement with terms, conditions, retentions and limits of liability that are no less favorable in the aggregate to the insureds as provided in Hornbeck's existing policies as of the date of the merger agreement, or Helix will purchase comparable insurance policies for the tail period with terms, conditions, retentions and limits of liability that are no less favorable in the aggregate as provided in Hornbeck's existing policies as of the date of the merger agreement, except that in no event will the aggregate cost of the insurance policy exceed during the tail period 300% of the current aggregate annual premium paid by Hornbeck for such purpose for the 2026 fiscal year, and if the cost of such insurance coverage exceeds such amount, Hornbeck or Helix will obtain a policy with the greatest amount of directors' and officers' insurance available for a cost not exceeding such amount.

During the tail period, all rights to indemnification and exculpation from liabilities for acts or omissions occurring at or prior to the effective time and rights to advancement of related expenses existing at the time of the merger agreement in favor of any indemnified party as provided in the organizational documents of Hornbeck and its subsidiaries or any indemnification agreement between such person and Hornbeck or any of its subsidiaries, in each case, as in effect on the date of the merger agreement, will survive the mergers and other transactions contemplated by the merger agreement unchanged and will not be amended, restated, repealed or otherwise modified in any manner that would adversely affect any right thereunder of any such person.

The indemnification, exculpation and insurance provisions in the merger agreement are intended to be for the benefit of, and from and after the effective time will be enforceable by, each of the persons eligible for indemnification, exculpation or insurance as described in the merger agreement, who will be third-party beneficiaries of such provisions.

Takeover Statutes

If any "fair price," "moratorium," "control share acquisition" or other similar anti-takeover statute or regulation is or may become applicable to the mergers or the other transactions contemplated by the merger agreement, each of Helix and Hornbeck shall grant such approvals and take such actions as are necessary and legally permissible so that the

transactions contemplated by the merger agreement may be consummated as promptly as practicable on the terms contemplated by the merger agreement and otherwise act to eliminate or minimize the effects of such statute or regulation on the transactions contemplated by the merger agreement.

Litigation

Helix and Hornbeck, as applicable, have agreed to promptly advise the other party of any litigation commenced after the date of the merger agreement against Helix, Hornbeck or any of their respective directors (in their capacity as such) relating to the merger agreement or the mergers or other transactions contemplated by the merger agreement, and to keep the other party reasonably informed regarding any such litigation. Helix and Hornbeck, as applicable, have agreed to give the other party the opportunity to participate in the defense or settlement of any such litigation, and that no such settlement will be agreed to without the other party's prior written consent (which consent must not be unreasonably withheld, conditioned or delayed).

A&R Jones Act Warrant Agreement

Prior to the effective time, Helix will enter into the Jones Act Warrant Agreement, in the form attached to the merger agreement.

Hornbeck Registration Statement

From the date of the merger agreement until the effective time, Hornbeck will not take any action (including without limitation any preparation in connection therewith and any filing in furtherance thereof) to amend the Hornbeck registration statement on Form S-1, seek effectiveness of such registration statement or otherwise register itself or any securities under the Securities Act or Exchange Act.

DTC SEG-100 Program

Upon consummation of the Conversion of Helix to a Delaware corporation in accordance with the plan of conversion, Helix will, in consultation with Hornbeck, take all action necessary to cause the Converted Helix Common Stock to be placed into the Depository Trust & Clearing Corporation's SEG-100 Program, to limit the ownership of Converted Helix Common Stock by non-U.S. citizens in a manner consistent with the provisions of the certificate of incorporation of the combined company.

Conditions to the Completion of the Mergers

Each party's obligation to effect the mergers is subject to the satisfaction at closing or waiver at or prior to closing of each of the following conditions:

- receipt of the Requisite Hornbeck Approval, which Requisite Hornbeck Approval was delivered by written consent in accordance with Section 228 of the DGCL shortly following the execution and delivery of the merger agreement;
- receipt of the Requisite Helix Vote;
- the shares of Converted Helix Common Stock issuable in accordance with the merger agreement being approved for listing on the NYSE, subject to official notice of the issuance;
- expiration or earlier termination of any waiting period (and any extension of such period) under the HSR Act applicable to the mergers, all consents, and all expiration of waiting periods, required under the applicable antitrust laws and foreign investment laws of certain other applicable jurisdictions and no written agreement being in effect with any governmental entity not to consummate the mergers;
- no law or governmental order being in effect that restrains, enjoins, makes illegal or otherwise prohibits the consummation of the mergers; and
- the Helix registration statement on Form S-4, of which this proxy statement/prospectus forms a part, becoming effective, no stop order suspending the effectiveness of such registration statement being issued and remaining in effect, and no proceedings for that purpose having been commenced or threatened in writing by the SEC (unless withdrawn).

Helix's obligation to effect the mergers is subject to the satisfaction at closing or waiver at or prior to closing of each of the following conditions:

- the accuracy of the representations and warranties of Hornbeck as follows:
 - the representations and warranties of Hornbeck regarding organization, good standing and qualification, corporate authority and approval, absence of certain changes, certain representations and warranties relating to the Jones Act, certain aspects of its capital structure, the recommendation of the mergers, brokers and finders, voting requirements and certain representations and warranties relating to takeover statutes and rights plans must have been true and correct in all respects as of the date of the merger agreement and must be true and correct in all respects as of the closing date as if made on and as of the closing date (except to the extent that any such representation and warranty expressly speaks as of a particular date or period of time, in which case such representation and warranty must be so true and correct in all respects as of such particular date or period of time);
 - the representation of Hornbeck regarding certain other aspects of its capital structure must have been true and correct in all material respects or all but de minimis respects, as applicable, as of the date of the merger agreement and must be so true and correct as of the closing date as if made on and as of the closing date (except to the extent that any such representation or warranty expressly speaks as of a particular date or period of time, in which case such representation and warranty must be so true and correct in all respects as of such particular date or period of time); and
 - each other representation and warranty of Hornbeck set forth in the merger agreement must be true and correct in all respects (without giving effect to any qualification by materiality or material adverse effect contained in the merger agreement) as of the date of the merger agreement and as of the closing date (except to the extent that any such representation and warranty expressly speaks as of a particular date or period of time, in which case such representation and warranty must be so true and correct in all respects as of such particular date or period of time), except for any failure of any such representation and warranty to be so true and correct that would not, individually or in the aggregate, reasonably be expected to have a material adverse effect with respect to Hornbeck;
- Hornbeck's performance of, in all material respects, its obligations under the merger agreement required to be performed at or prior to the closing;
- the absence of a material adverse effect with respect to Hornbeck; and
- the receipt by Helix of a certificate of the chief executive officer or chief financial officer of Hornbeck certifying that the conditions in the immediately preceding bullets with respect to representations and warranties, performance of obligations and absence of a material adverse effect with respect to Hornbeck have been satisfied.

Hornbeck's obligation to effect the mergers is subject to the satisfaction at closing or waiver at or prior to closing of each of the following conditions:

- the accuracy of the representations and warranties of Helix as follows:
 - the representations and warranties of Helix regarding organization, good standing and qualification, corporate authority and approval, absence of certain changes, certain representations and warranties relating to the Jones Act, certain aspects of its capital structure, the recommendation and fairness of the mergers, voting requirements, the authority of LLC Sub and Parent Sub, brokers and finders and certain representations and warranties relating to takeover statutes and rights plans and certain Helix actions must have been true and correct in all respects as of the date of the merger agreement and must be true and correct in all respects as of the closing date as if made on and as of the closing date (except to the extent that any such representation and warranty expressly speaks as of a particular date or period of time, in which case such representation and warranty must be so true and correct in all respects as of such particular date or period of time);
 - the representation of Helix regarding certain other aspects of its capital structure must have been true and correct in all material respects or all but de minimis respects, as applicable, as of the date of the merger

agreement and must be so true and correct as of the closing date as if made on and as of the closing date (except to the extent that any such representation and warranty expressly speaks as of a particular date or period of time, in which case such representation or warranty must be so true and correct in all respects as of such particular date or period of time); and

- each other representation and warranty of Helix set forth in the merger agreement must be true and correct in all respects (without giving effect to any qualification by materiality or material adverse effect contained in the merger agreement) as of the date of the merger agreement and as of the closing date as if made on and as of the closing date (except to the extent that any such representation and warranty expressly speaks as of a particular date or period of time, in which case such representation and warranty must be so true and correct in all respects as of such particular date or period of time), except for any failure of any such representation and warranty to be so true and correct that would not, individually or in the aggregate, reasonably be expected to have a material adverse effect with respect to Helix;
- Helix's, Parent Sub's and LLC Sub's performance of, in all material respects, their obligations under the merger agreement required to be performed at or prior to the closing date;
- Helix having taken the actions necessary regarding governance matters as provided in the merger agreement effective as of the effective time;
- the receipt by Hornbeck of a written opinion from Hornbeck's outside legal counsel (or if Hornbeck's outside legal counsel is unable to deliver such opinion, Helix's outside legal counsel), dated as of the closing date, to the effect that the mergers, taken together, will qualify for the Intended Tax Treatment, which opinion will be subject to customary exceptions, assumptions and qualifications;
- the absence of a material adverse effect with respect to Helix;
- the receipt by Hornbeck of a certificate of the chief executive officer or chief financial officer of Helix certifying that the conditions in the immediately preceding bullets with respect to representations and warranties, performance of obligations, actions in respect of governance matters, written tax opinion and the absence of a material adverse effect with respect to Helix have been satisfied;
- execution of the Jones Act Warrant Agreement, in the form attached to the merger agreement;
- the consummation of the Conversion of Helix to a Delaware corporation in accordance with the plan of conversion, including by filing the certificate of incorporation of the combined company with the Secretary of State of the State of Delaware and adopting the bylaws of the combined company; and
- Helix having delivered the Helix ABL credit agreement payoff letters to Hornbeck.

Termination of the Merger Agreement

Termination by Mutual Consent

The merger agreement may be terminated prior to the effective time by mutual written consent of Helix and Hornbeck.

Termination by Either Helix or Hornbeck

Either Helix or Hornbeck may terminate the merger agreement prior to the effective time if:

- the closing have not been completed by 5:00 p.m. (Eastern time) on December 31, 2026, which date will be automatically extended to no later than June 29, 2027 (as applicable, the "outside date"), if the conditions to closing other than those described in the fourth or fifth bullet pertaining to antitrust or foreign direct investment approvals and the absence of stop orders (solely to the extent relating to any antitrust law or foreign investment law) above in "*Conditions to the Completion of the Mergers*" have been satisfied or are capable of being satisfied at that time (or to the extent permitted by applicable law, have been waived), although such right to terminate will not be available to any party whose action or failure to act has been the primary cause of, or primarily resulted in, the failure of the closing to occur on or before such date and such action or failure to act constitutes a material breach of the merger agreement by such party, which event is referred to as an "outside date termination event" and such termination is referred to as an "outside date termination";

- a governmental order permanently restraining, enjoining or otherwise prohibiting consummation of the mergers has become final and non-appealable, although such right to terminate will not be available to any party whose action or failure to act has been the primary cause of, or primarily resulted in, the failure of the closing to occur on or before such date and such action or failure to act constitute a material breach of the merger agreement by such party, which event is referred to as a “regulatory restraint termination event”; or
- the Requisite Hornbeck Approval has not been obtained by 11:59 p.m. (Eastern Time) on the first business day following the date of the merger agreement (the “Consent Time”) or the special meeting has been duly convened at which a vote on the required merger proposals and the other shareholder proposals set forth in this proxy statement/prospectus was taken and concluded and the Requisite Helix Vote has not been obtained, although such right to terminate will not be available to the terminating party where the failure to obtain the Requisite Hornbeck Approval or Requisite Helix Vote, as applicable, was caused by the action or failure to act of such party and such action or failure constitutes a material breach of the merger agreement by such party and the right of either party to terminate will not be available following the time that the Requisite Hornbeck Approval has been obtained (regardless of whether the Requisite Hornbeck Approval has been obtained before or after the Consent Time) (such termination, as applicable, a “Helix no vote termination” or “Hornbeck no vote termination”).

Termination by Helix

Helix may terminate the merger agreement prior to the effective time:

- if at any time prior to the effective time, Hornbeck has breached any of its representations, warranties, covenants or agreements set forth in the merger agreement (other than a breach of the non-solicitation covenant) such that the conditions to closing relating to accuracy of representations and warranties and performance of covenants would not be satisfied (a “terminable breach”) (and such breach is not cured by the earlier of 30 days of receipt by Hornbeck of written notice of such breach by Helix and three business days prior to the outside date), except that this right to terminate the merger agreement is not available if Helix is then in terminable breach of its representations, warranties, covenants or agreements set forth in the merger agreement; or
- if at any time prior to the effective time, there has been a material breach by Hornbeck of its non-solicitation covenant in a manner that materially impedes, interferes with or prevents the consummation of the transactions contemplated by the merger agreement on or before the outside date.

Termination by Hornbeck

Hornbeck may terminate the merger agreement prior to the effective time:

- prior to, but not after, the receipt of the Requisite Helix Vote, if the Helix Board has made a change of recommendation (whether or not such change or recommendation is permitted by the merger agreement);
- if at any time prior to the effective time, Helix, Parent Sub or LLC Sub has breached any of its respective representations, warranties, covenants or agreements set forth in the merger agreement (other than a breach of the non-solicitation covenant) (and such breach is not cured by the earlier of 30 days of receipt by Helix of written notice of such breach by Hornbeck and three business days prior to the outside date), except that this right to terminate the merger agreement is not available if Hornbeck is then in terminable breach of its representations, warranties, covenants or agreements set forth in the merger agreement;
- if at any time prior to the effective time, there has been a material breach by Helix of its non-solicitation covenant in a manner that materially impedes, interferes with or prevents the consummation of the transactions contemplated by the merger agreement on or before the outside date; or
- if at any time prior to the effective time, without the prior written consent of Hornbeck, Helix or its subsidiaries undertakes, or announces any intention to undertake, any of the following actions, subject to certain exceptions: (A) declaring, setting aside, making or paying any dividend or other distribution, payable in cash, stock, property or otherwise, with respect to any of its capital stock (except for dividends paid by any direct or indirect wholly owned subsidiary to it or to any other direct or indirect wholly owned subsidiary) or modifies in any material respect its dividend policy; (B) reclassifying, splitting, combining, subdividing or redeeming, purchasing (through Helix’s share repurchase program or otherwise) or otherwise acquiring,

directly or indirectly, any of Helix's or its subsidiaries' capital stock or securities convertible or exchangeable into or exercisable for any shares of its capital stock, other than with respect to: (x) the capital stock or other equity interests of a direct or indirect wholly owned subsidiary of Helix; or (y) the acquisition of shares of Helix common stock in order to pay the exercise price or taxes in connection with the exercise, vesting or settlement of Helix equity awards outstanding as of the signing date or granted in accordance with the merger agreement, pursuant to the terms of the Helix stock plans and the applicable award agreement, in the ordinary course; (C) creating, incurring or assuming any indebtedness (including the issuance of any debt securities, warrants or other rights to acquire any debt security) or guarantee or otherwise become liable for any such indebtedness, in each case, following the date of the merger agreement, except for (x) indebtedness incurred in an aggregate principal amount outstanding at any time not to exceed \$10 million (together with any interest, fees or similar amounts accrued with respect to indebtedness under the Helix ABL credit agreement) and (y) indebtedness incurred pursuant to letters of credit issued under the Helix ABL credit agreement which do not, in the aggregate, exceed a face amount of \$10 million at any time outstanding (such termination, as applicable, a "Helix undertaking termination").

Termination Fees

Hornbeck will be required to pay to Helix a termination fee of \$49.5 million if the merger agreement is terminated:

- by either party pursuant to an outside date termination or a Hornbeck no vote termination, or by Helix pursuant to a Hornbeck terminable breach, and, in either case:
 - a bona fide acquisition proposal with respect to Hornbeck has been publicly announced or otherwise received by the Hornbeck Board after the date of the merger agreement and prior to the Consent Time (in the case of a Hornbeck no vote termination) or the date of termination (in the case of an outside date termination or Hornbeck terminable breach); and
 - within twelve months after such termination, (i) Hornbeck or any of its subsidiaries has entered into an alternative acquisition agreement with respect to any acquisition proposal with respect to Hornbeck or (ii) there has been consummated any acquisition proposal with respect to Hornbeck (in each case of clauses (i) and (ii), with 50% being substituted in lieu of 20% in each instance thereof in the definition of "acquisition proposal"); or
- by Helix following a material breach by Hornbeck of its non-solicitation obligations under the merger agreement.

Helix will be required to pay to Hornbeck a termination fee of \$40.5 million if the merger agreement is terminated:

- by either party pursuant to an outside date termination or a Helix no vote termination, or by Hornbeck pursuant to a Helix terminable breach, and, in either case:
 - a bona fide acquisition proposal with respect to Helix has been publicly announced or otherwise received by the Helix Board after the date of the merger agreement and prior to the Helix shareholder meeting (in the case of a Helix no vote termination) or the date of termination (in the case of an outside date termination or Helix terminable breach); and
 - within twelve months after such termination, (i) Helix or any of its subsidiaries has entered into an alternative acquisition agreement with respect to any acquisition proposal with respect to Helix or (ii) there has been consummated any acquisition proposal with respect to Helix (in each case of clauses (i) and (ii), with 50% being substituted in lieu of 20% in each instance thereof in the definition of "acquisition proposal");
- by Hornbeck following a material breach by Helix of its non-solicitation obligations under the merger agreement or a change of recommendation by Helix;
- by either Helix or Hornbeck pursuant to a Helix no vote termination (and, at the time of such termination, Hornbeck had the right to terminate the merger agreement as a result of a change of recommendation by Helix); or
- by Hornbeck pursuant to a Helix undertaking termination.

Expense Reimbursement

If the merger agreement is terminated by (i) either Helix or Hornbeck pursuant to a Hornbeck no vote termination, then promptly, but in no event later than, in the case of such termination by Helix, four business days or, in the case of such termination by Hornbeck, one business day after the date of such termination, Hornbeck will pay all of the documented out-of-pocket costs, fees and expenses of counsel, accountants, financial advisors and other experts and advisors as well as fees and expenses incident to negotiation, preparation and execution of the merger agreement and related documentation and shareholders' meetings and consents of Helix up to a maximum amount equal to \$16.5 million, to Helix or its designee by wire transfer of immediately available cash funds (provided that any such amounts paid will be credited (without interest) against any termination fee payable to Helix (or its designee) pursuant to the terms of the merger agreement).

If the merger agreement is terminated by (i) either Helix or Hornbeck pursuant to a Helix no vote termination, then promptly, but in no event later than, in the case of such termination by Hornbeck, four business days or, in the case of such termination by Helix, one business day after the date of such termination, Helix will pay all of the documented out-of-pocket costs, fees and expenses of counsel, accountants, financial advisors and other experts and advisors as well as fees and expenses incident to negotiation, preparation and execution of the merger agreement and related documentation and stockholders' meetings and consents of Hornbeck up to a maximum amount equal to \$13.5 million, to Hornbeck or its designee by wire transfer of immediately available cash funds (provided that any such amounts paid will be credited (without interest) against any termination fee payable to Hornbeck (or its designee) pursuant to the terms of the merger agreement).

Amendment

Subject to applicable law, at any time prior to the effective time, the parties to the merger agreement may amend or modify the merger agreement if, and only if, such amendment or modification is in writing and signed by Helix and Hornbeck, except that, after the Requisite Hornbeck Approval is obtained or the Requisite Helix Vote is obtained, no such amendment or modification may be made that pursuant to applicable law or NYSE rules and regulations requires further approval of Hornbeck stockholders or Helix shareholders, as applicable, without such further approval.

Waiver

The conditions to each of the parties' obligations to consummate the mergers and the other transactions contemplated by the merger agreement are for the sole benefit of such party and may be waived by such party in whole or in part to the extent permitted by applicable law, except that any such waiver will only be effective if made in writing and executed by the party against whom the waiver is to be effective. No failure or delay by any party in exercising any right, power or privilege under the merger agreement will operate as a waiver thereof nor will any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies provided in the merger agreement are cumulative and not exclusive of any rights or remedies provided by law.

Specific Performance

Each of the parties to the merger agreement has acknowledged and agreed in the merger agreement that the rights of each party to consummate the mergers and other transactions contemplated by the merger agreement are special, unique and of extraordinary character and that if for any reason any of the provisions of the merger agreement are not performed in accordance with their specific terms or are otherwise breached, immediate and irreparable harm or damage would be caused for which money damages would not be an adequate remedy. Pursuant to the merger agreement, each party agrees that, in addition to any other available remedies a party may have in equity or at law, each party will be entitled to enforce specifically the terms and provisions of the merger agreement and to obtain an injunction restraining any breach or violation or threatened breach or violation of the provisions of the merger agreement in the Court of Chancery of the State of Delaware without necessity of posting a bond or other form of security or proof of damages. In the event that any action or proceeding should be brought in equity to enforce the provisions of the merger agreement, no party thereto will allege, and each party thereby waives the defense, that there is an adequate remedy at law.

Third-Party Beneficiaries

Helix and Hornbeck have agreed that their respective representations, warranties and covenants set forth in the merger agreement are solely for the benefit of the other parties to the merger agreement, in accordance with and subject to the terms of the merger agreement, and the merger agreement is not intended to, and does not, confer upon any person

other than Helix, Hornbeck and their respective successors, legal representatives and permitted assigns any rights or remedies, express or implied, thereunder, including the right to rely upon the representations and warranties set forth in the merger agreement, except with respect to the sections regarding indemnification and directors' and officers' insurance, sections of the merger agreement relating to the governance of the combined company after the effective time, and after the effective time, the provisions of the merger agreement relating to payment of the merger consideration, which will inure to the benefit of, and will be enforceable by, holders of Hornbeck common stock as of immediately prior to the effective time to the extent necessary to receive the consideration and amount due to such persons thereunder. The representations and warranties in the merger agreement are the product of negotiations among the parties and are for the sole benefit of the parties. Any inaccuracies in such representations and warranties are subject to waiver by the parties in accordance with the terms of the merger agreement without notice or liability to any other person. In some instances, the representations and warranties in the merger agreement may represent an allocation among the parties of risks associated with particular matters regardless of the knowledge of any of the parties. Consequently, persons other than the parties may not rely upon the representations and warranties in the merger agreement as characterizations of actual facts or circumstances as of the date of the merger agreement, as of the closing date or as of any other date.

AGREEMENTS RELATED TO THE MERGERS

In connection with the entry into the merger agreement, Helix and/or Hornbeck entered into the agreements summarized below. The following summaries are not a complete description of the specific provisions referred to below. These summaries are qualified in their entirety by reference to the full text of the documents to which each summary relates, which Helix stockholders should read. The full text of the Securityholders Agreement and the Registration Rights Agreement are included in the proxy statement/prospectus as *Annexes F* and *G*, respectively, and are incorporated herein by reference. Capitalized terms used but not defined in following summaries have the meanings ascribed thereto in the applicable agreement summarized.

Securityholders Agreement

On April 22, 2026, Helix entered into the Securityholders Agreement with the Ares Investor and the Whitebox Investor (each an “Investor”) in the form included in this proxy statement/prospectus as *Annex F*, which, effective upon closing, will govern certain rights and obligations of the combined company and such stockholders following the mergers.

The Securityholders Agreement provides for the following:

- **Director Designation Rights.** From and after the closing, the Ares Investor shall have the right, but not the obligation, to designate for nomination to the combined company board (i) two directors, so long as the Ares Investor Group collectively beneficially owns at least 20% of the outstanding Converted Helix Common Stock; and (ii) one director, so long as the Ares Investor Group collectively beneficially owns at least 10% but less than 20% of the outstanding Converted Helix Common Stock. From and after the closing, the Whitebox Investor shall have the right to designate one director so long as the Whitebox Investor Group collectively beneficially owns at least 10% of the outstanding Converted Helix Common Stock. In each case, ownership thresholds for the Investor director’s designation rights include common stock issuable pursuant to the Jones Act Warrants and the Creditor Warrants. An Investor’s board designation rights will terminate upon the earlier of (i) such Investor’s Investor Group ceasing to collectively beneficially own at least 10% of the then outstanding Converted Helix Common Stock (including Converted Helix Common Stock issuable pursuant to Jones Act Warrants and Creditor Warrants) and (ii) such Investor delivering written notice irrevocably terminating its designation rights. In the event of a vacancy due to the death, disability, retirement, resignation or removal of an Investor designated director, the applicable Investor shall have the exclusive right to designate an individual to fill such vacancy.
- **Corporate Opportunities Waiver.** Subject to limited exceptions, the combined company will, to the fullest extent permitted by law, agree that specified Identified Persons, defined as the Securityholders, the Investor Directors, any member of an Investor Group and any of the foregoing persons’ respective affiliates, and any of the respective managers, directors, principals, officers, employees and other representatives of each such person or their respective affiliates, may, and shall have no duty not to, (i) invest in, carry on and conduct any business, whether or not competitive with the combined company, (ii) do business with any client, customer, vendor or lessor of the combined company, and/or (iii) make investments in any kind of property in which the combined company may make investments. The combined company renounces any interest or expectancy to participate in any such business opportunity and will indemnify each Identified Person against any related claim; provided that each Identified Person who is a director shall have the duty to communicate to the combined company any opportunity expressly first presented to such director in his or her capacity as a director.
- **Information Rights.** Following the closing date and for so long as an Investor is entitled to designate an Investor director, the combined company will provide such Investor with operating and capital expenditure budgets, periodic information packages and such other reports and information as may be reasonably requested by such Investor.
- **Standstill Restrictions.** During the period from and after the closing date until the applicable Expiration Date which generally means the earliest of the combined company’s 2028 annual meeting, the applicable Investor Group falling below the 10% ownership threshold referenced above, a third party entering into an extraordinary transaction agreement with the combined company, the combined company waiving equivalent restrictions for another person, or (following the 2027 annual meeting) the applicable Investor irrevocably waiving its board designation rights, and subject to certain exceptions, each Investor and its controlled affiliates (“Standstill Restricted Group”) will be subject to certain restrictions relating to (i) the acquisition

of additional shares of Converted Helix Common Stock (including Converted Helix Common Stock issuable pursuant to Jones Act Warrants and Creditor Warrants) that would result in beneficial ownership exceeding 30% of such shares, (ii) entering into commitments regarding an extraordinary transaction, (iii) initiating or supporting any contested solicitation, proxy contest, tender offer or exchange offer not approved by the board, (iv) forming or joining any “group” within the meaning of Section 13(d)(3) of the Exchange Act, (v) seeking to call a special meeting of stockholders and (vi) publicly proposing any extraordinary transaction.

- Without the prior written approval of a majority of non-Investor directors, no securityholder in a Standstill Restricted Group shall transfer Subject Securities to any person identified as a Prohibited Transferee in the Securityholders Agreement or to any person or group that would beneficially own 5% or more of the outstanding common stock. Subject Securities are defined as (a) Common Stock (i) beneficially owned or owned of record on the closing date, (ii) issued as consideration pursuant to the first merger (including any shares of Common Stock issued in respect of Creditor Warrants or Jones Act Warrants in connection with the first merger), or (iii) issued or issuable upon exercise of stock options or warrants outstanding as of immediately following the closing in respect of stock options or warrants of Hornbeck outstanding immediately prior to the closing; (b) Jones Act Warrants (solely to the extent issued or issuable in respect of warrants to purchase Hornbeck common stock outstanding as of immediately prior to the closing) or Creditor Warrants; and (c) any shares of Converted Helix Common Stock issued or issuable upon exercise of Jones Act Warrants or Creditor Warrants referred to in clause (b).
- The foregoing transfer restrictions do not apply to (i) transfers solely to a Permitted Transferee (which includes any direct or indirect equityholder of a Securityholder who receives shares as a result of a distribution or any member of the same Investor Group as the transferor, in each case that agrees to be bound by the terms of the Securityholders Agreement), (ii) transfers effected through an underwritten offering or other coordinated offering pursuant to a registration statement filed under the Securities Act, or (iii) transfers effected through open market transactions, block trades or sales conducted through a dealer, market maker or broker, provided in the case of each of (ii) and (iii) where the applicable securityholders instruct the managing underwriter(s) or distribution agent(s) to use reasonable best efforts to exclude Prohibited Transferees as potential purchasers.
- Covenant Not to Amend Organizational Documents. From and after the closing date until the Board Designation Expiration Date for each Investor, the combined company agree to not amend, or propose to amend, the organizational documents in any manner that is inconsistent with or would nullify or supersede any of the terms of the Securityholders Agreement or would prevent any party from complying with its obligations thereunder, unless such proposed amendment is approved by the applicable Investor.
- Confidentiality. For a period of one year following the date on which no Investor director appointed by the applicable Investor remains on the board, each such Investor and its designated director shall maintain the confidentiality of any confidential and proprietary information of the combined company using the same standard of care, but in no event less than reasonable care, as it applies to its own confidential information.

Registration Rights Agreement

On April 22, 2026, Helix entered into the Registration Rights Agreement with certain Hornbeck securityholders in the form included in this proxy statement/prospectus as *Annex G*, to be effective at the effective time of the first merger, which provides that:

- As soon as practicable after the closing date, but in any event within five business days of the later of (x) the closing date and (y) the date on which the combined company has filed with the SEC the required historical and pro forma financial statements related to the mergers, the combined company shall use reasonable best efforts to file with the SEC a shelf registration statement on Form S-3 (which the combined company will use its reasonable best efforts to cause to be an automatic shelf registration statement) (the “Initial Shelf Registration Statement”) covering the public resale of all Registrable Securities on a delayed or continuous basis;
- While a shelf registration statement remains effective, any one or more holders may request to sell all or any portion of their Registrable Securities in an underwritten offering (each a “Shelf Offering”); provided that the

combined company shall not be obligated to effect any Shelf Offering unless the initiating holders reasonably expect gross proceeds of at least \$50,000,000 and, provided further, that the combined company shall have no obligation to effect a Shelf Offering prior to the Lock-Up Release Date;

- From and after the Lock-Up Release Date, any one or more 5% holders may request engagement in an underwritten block trade or other coordinated registered offering (other than an “at the market” offering), in each case, reasonably expected to result in aggregate gross proceeds to such holder(s) of at least \$25,000,000, and the combined company shall use its reasonable best efforts to facilitate such offering;
- If the combined company proposes to file for an underwritten offering of its own account or for the account of other stockholders with registration rights (a “Piggyback Underwritten Offering”), the combined company shall give written notice to all holders of Registrable Securities as soon as practicable but not less than five business days before the anticipated filing date of the applicable underwritten offering filing, offering to all holders the opportunity to include their Registrable Securities, subject to customary cutback priority provisions;
- Each 5% holder agrees that in connection with any underwritten public offering (other than in connection with an underwritten block trade or other coordinated registered offering or Piggyback Underwritten Offering as described above), upon request from the managing underwriter(s), such holder shall not offer, sell, pledge or otherwise dispose of any Registrable Securities, enter into any hedging transaction that transfers in whole or in part the economic consequences or ownership of any Registrable Securities, or publicly disclose the intention to enter into any such transactions during such period as is reasonably requested by the managing underwriter(s), which period shall not exceed three days prior to and 90 days after the pricing of such offering;
- During the Lock-Up Period (a period of 180 days from the closing date), each holder shall not transfer any Lock-Up Securities without the prior written consent of the combined company; provided, however, that certain transfers are permitted, including bona fide gifts, transfers to family members or estate-planning entities, transfers to certain affiliates, transfers pursuant to a liquidation or similar transaction involving the combined company, de minimis transfers not exceeding 3,100 shares, transfers to the combined company in connection with repurchase upon termination of employment, and transfers to satisfy tax withholding obligations. The combined company may terminate the Lock-Up Period at any time prior to the Scheduled Lock-Up Release Date, provided that any such early termination shall apply to all, but not less than all, holders.

Lock-Up Agreement

On April 22, 2026, in connection with the entry into merger agreement, Helix entered into a lock-up agreement with the directors and officers and certain other securityholders of Hornbeck, to be effective at the effective time of the first merger, pursuant to which the Hornbeck securityholders party thereto agreed to be bound by restrictions on transfer of with respect to Lock-Up Securities (as defined in the Registration Rights Agreement) on substantially the same terms as the lock-up restrictions contained in the Registration Rights Agreement. A copy of the lock-up agreement is filed as an exhibit to the registration statement on Form S-4 of which this proxy statement/prospectus forms a part.

Securityholders Agreement Termination and Lock-Up Agreement

On April 22, 2026, in connection with the entry into merger agreement, Hornbeck and certain of its securityholders holding over 90% of the Fully Diluted Securities (as defined in the existing Securityholders Agreement) entered into the Securityholders Agreement Termination and Lock-Up Agreement, dated as of April 22, 2026. Pursuant to the Securityholders Agreement Termination and Lock-Up Agreement, effective as of immediately prior to the effective time, and conditioned upon the consummation of the transactions contemplated by the merger agreement, the existing securityholders agreement among Hornbeck and its securityholders will be terminated in its entirety and shall be of no further force or effect. In addition, from the date of such agreement until the earlier of (a) December 31, 2026, (b) the termination of the merger agreement in accordance with its terms, (c) the termination of such agreement in accordance with its terms and (d) the effective time of the first merger, each securityholder party thereto has agreed not to transfer any Hornbeck securities beneficially owned or owned of record by such securityholder without the prior written consent of Hornbeck, subject to limited exceptions for transfers to affiliates (provided the transferee agrees to be bound by the terms of the Securityholders Agreement Termination and Lock-Up Agreement) and de minimis transfers of up to 300 shares of Hornbeck common stock. Each securityholder party thereto also agreed to waive any dissenters’ rights or rights of appraisal with respect to the merger agreement and the transactions contemplated thereby, including the mergers.

Fourth A&R License Agreement

On April 23, 2026, Hornbeck and HFR executed the Fourth A&R License Agreement, which will become effective only upon closing of the mergers. The Fourth A&R License Agreement eliminates the quarterly payments of \$250,000 (\$1.0 million annually) for use of the Hornbeck Brands, and the Performance Fee under the Third A&R License Agreement in exchange for a single one-time payment of \$17.4 million paid to HFR plus any amounts earned under the Third A&R License Agreement that remain due and payable through the closing of the mergers. Pursuant to the Fourth A&R License Agreement, the combined company will have an exclusive license to use the various Hornbeck Brands in connection with the existing Hornbeck business and the recently-merged Helix business. The Fourth A&R License Agreement will continue until the later of the seventh (7th) anniversary of the closing of the mergers and the second (2nd) anniversary of the date that Todd M. Hornbeck is no longer Hornbeck's Chief Executive Officer and President (other than for Todd M. Hornbeck's resignation as President while he remains Chief Executive Officer). For additional details and risks associated with the Fourth A&R License Agreement, see *"Risk Factors—We do not own the Hornbeck Brands, but may use the Hornbeck Brands pursuant to the terms of a license granted by HFR, and our business may be materially harmed if we breach our license agreement or it is terminated."*

EXECUTIVE COMPENSATION OF THE COMBINED COMPANY

At the effective time, the following individuals will be appointed to the following positions of the combined company:

- Todd M. Hornbeck, President and Chief Executive Officer;
- Robert P. Adams, Executive Vice President and Chief Financial Officer;
- Samuel A. Giberga, Executive Vice President, General Counsel and Corporate Secretary;
- Scotty Sparks, Executive Vice President and Chief Operating Officer, Subsea Services and Well Intervention; and
- Ben Todd, Executive Vice President and Chief Operating Officer, Marine Transportation and Specialty.

The other executive officers of the combined company will be chosen by Mr. Hornbeck in consultation with a representative of each of the Helix Board and Hornbeck Board on a merit basis, without consideration of whether the persons selected serve as officers or employees of Hornbeck or Helix prior to the effective time. In addition, William L. Transier, the Chairperson of the Helix Delaware Board as of immediately prior to the effective time, will serve as Chairperson of the combined company board.

This section sets forth historical compensation information for the executive officers and directors of the combined company in their capacities as employees and directors of Hornbeck and Helix, as applicable. For historical compensation information for Mr. Sparks in his capacity as an executive officer of Helix, please see the “Executive Compensation” section of the Definitive Proxy Statement on Schedule 14A, filed by Helix on April 1, 2026, which is incorporated by reference into this proxy statement/ prospectus. For Hornbeck, Mr. Adams is not currently an executive officer, so his compensation reported herein reflects compensation received in the capacity as a non-executive officer, and Mr. Todd did not earn any compensation prior to 2026, so no compensation is reported herein for him.

Other than as set forth below for Mr. Hornbeck, determinations with respect to executive officer or director compensation after the closing of the mergers have not yet been made. Any compensation to be paid to the combined company’s executive officers will be determined by the combined company board upon the recommendation of a compensation committee comprised solely of independent directors. The merger agreement includes a non-binding term sheet for an employment agreement with Mr. Hornbeck that contains the following key terms:

1. *Term.* A five-year initial term with automatic one-year renewals unless non-renewal notice is provided within 90 days prior to a renewal date.
2. *Compensation.* An annualized base salary of \$875,000; a target annual bonus opportunity equal to 140% of base salary (with a threshold payout of 50% and a maximum payout of 200% of target); a target long-term incentive opportunity of \$4,400,000; and an automobile benefit whereby the combined company will provide an automobile and pay for insurance, maintenance and fuel.
3. *Transaction Equity Awards.* A pre-closing RSU grant with a grant date value of \$6,600,000, vesting annually over three years subject to continued employment; and a closing grant of 1,000,000 PSUs (with an opportunity to earn up to 1,500,000 shares), vesting in two tranches based on (1) the achievement of \$75 million in annualized gross synergies on a run-rate basis by year-end 2029 and (2) the combined company’s stock price, with a target of \$14 per share and a maximum of \$20 per share, in each case measured over a performance period ending December 31, 2029. Vested PSUs will be settled in restricted shares that time-vest on December 31, 2029; if Mr. Hornbeck resigns without “good reason” or his employment is terminated for “cause” prior to that date, the combined company will clawback the net after-tax shares. The RSUs and PSUs will generally be subject to acceleration of vesting if (a) Mr. Hornbeck’s employment is terminated without “cause,” due to his death or disability or as a result of his resignation for “good reason,” (b) subject to certain conditions, Mr. Hornbeck is not elected as board chairman of the combined company at the second annual meeting, or (c) a change in control of the combined company occurs.
4. *Severance.* Upon a qualifying termination without “cause,” for “good reason” or due to non-renewal, Mr. Hornbeck will be entitled to 2.5x the sum of his base salary and target bonus, a pro-rata bonus, 30 months of COBRA premiums (employer portion only) and full acceleration of time-vesting of his equity awards (and also up to 30 months of continuation of the automobile benefit if the termination occurs within two years after

a change in control, or if terminated without “cause” within six months before a change in control). Upon death or disability, Mr. Hornbeck (or his estate) will be entitled to a pro-rata bonus, up to 12 months of COBRA reimbursements and, in the case of disability only, six months of base salary.

5. *Restrictive Covenants.* Perpetual confidentiality; assignment of inventions; a non-competition covenant and a non-solicitation covenant during the employment term and for two years following termination; and mutual perpetual non-disparagement.

The employment agreement remains subject to the approval of the combined company board.

Hornbeck Compensation Discussion and Analysis

The purpose of this compensation discussion and analysis section is to provide information about the material elements of compensation that were paid, awarded to or earned by Messrs. Hornbeck, Adams and Giberga (the “Hornbeck NEOs”) for the fiscal year ended December 31, 2025 (“Fiscal 2025”), during which they served in the following roles:

- Todd M. Hornbeck, Chairman of the Board, President and Chief Executive Officer;
- Robert P. Adams, Senior Vice President, Finance; and
- Samuel A. Giberga, Executive Vice President, General Counsel and Corporate Secretary.

Hornbeck Compensation Philosophy and Objectives

Historically, Hornbeck’s executive compensation programs have been established to reflect Hornbeck’s entrepreneurial and innovative culture and philosophy. Executives, including the Hornbeck NEOs, are (i) hired to devise and execute strategies that create long-term stockholder value consistent with Hornbeck’s mission statement and core values and (ii) appropriately rewarded for doing so.

The objectives of Hornbeck’s executive compensation programs are to (i) attract and retain executives who possess abilities essential to Hornbeck’s long-term competitiveness and success, (ii) support a performance-oriented environment and (iii) create a culture of ownership, allowing executives to share meaningfully with stockholders in the long-term enhancement of stockholder value. Hornbeck’s compensation program for executive officers rewards the following attributes:

- *Financial Performance.* Hornbeck rewards decision-making that is designed to achieve operating results that increase stockholder value over the long-term and that compare favorably to the operating results of Hornbeck’s peers.
- *Excellence.* Hornbeck expects its executive officers to discharge their duties with excellence, professionalism and a high level of enthusiasm, integrity, diligence, analytical rigor, business acumen and attention to detail.
- *Leadership.* Executives of Hornbeck are expected to demonstrate leadership consistent with Hornbeck’s core values.
- *Teamwork.* Executives are evaluated as members of a team, not merely as individuals.
- *Forward-Looking Focus.* Hornbeck believes executives need to focus not only on Hornbeck’s short-term performance, but also on Hornbeck’s long-term future. Accordingly, Hornbeck compensates its executives in a manner that incentivizes them to manage Hornbeck’s business in a way that enables Hornbeck to meet its long-range objectives, as well as its short-term goals.
- *Loyalty.* Hornbeck promotes a culture of ownership throughout Hornbeck and rewards employees, including the Hornbeck NEOs, who remain dedicated to Hornbeck over the long-term with equity ownership opportunities, as well as other forms of long-term and incentive compensation.
- *Prudent Operating Practices.* Hornbeck expects executive decision-making that promotes safe, effective, compliant and prudent work practices.

In addition to the factors above, Hornbeck considers other factors in establishing compensation, such as Hornbeck’s financial condition and available resources and the competition for the services of Hornbeck’s executives, each as of the time of the applicable compensation decision. Hornbeck considers the competitive market for corresponding positions within comparable geographic areas and companies of similar size, strategic complexity and stage of development operating in Hornbeck’s industry or in other industries that are relevant to Hornbeck.

Hornbeck Compensation Committee Procedures

The Hornbeck compensation committee considers Hornbeck information, historical compensation information about each executive officer and data derived from market sources, including data regarding peer companies and current industry conditions, as points of reference for the appropriate mix of compensation elements.

The Role of the Compensation Committee. Hornbeck's compensation committee is comprised solely of directors who (i) meet the independence requirements of Section 303A of the NYSE Listed Company Manual, the provisions of Section 952 of the Dodd-Frank Act and any rules or regulations promulgated thereunder and (ii) qualify as "Non-Employee Directors" under Rule 16b-3 of the Exchange Act.

The compensation committee is responsible for (i) establishing and administering an overall compensation program for Hornbeck's executive officers and approving all compensation for Hornbeck's executive officers, (ii) establishing and administering Hornbeck's policies governing annual cash compensation and equity incentive awards for employees other than Hornbeck's executive officers and (iii) ensuring that the administration of Hornbeck's incentive compensation and certain employee benefit plans is delegated appropriately in accordance with the applicable governing documents. The compensation committee meets multiple times each year to analyze and discuss Hornbeck's compensation plans, proposals and other compensation-related issues. From time to time, it also engages in informal sessions with and without executive management. These sessions usually coincide with Hornbeck's annual budget process. At the regular meeting of the compensation committee in the first quarter of each year, the compensation committee determines and approves the award, if any, of prior year cash incentive compensation. In addition, typically during the fourth quarter, the compensation committee determines the following year's annual compensation for Hornbeck's executive officers, including the establishment of base salaries, determination of any potential cash incentive compensation targets and participation levels of each Hornbeck NEO and approval of long-term incentive awards under Hornbeck's 2020 Management Incentive Plan. The compensation awards approved by the committee are part of the annual budget approved by the Hornbeck Board, which is typically approved at the same time. When appropriate, the compensation committee recommends compensation or benefit policies or plans (or amendments to existing policies or plans) and amendments to employment agreements with Hornbeck's executive officers to the full Hornbeck Board. The Chief Executive Officer reviews the performance of the other executive officers and recommends to the compensation committee the base salary, cash incentive compensation, equity incentive compensation and other benefits for such executive officers. The compensation committee considers the Chief Executive Officer's recommendations when establishing the base salary, cash incentive compensation, equity incentive compensation and other benefits for the other executive officers.

Compensation Consultant. The compensation committee engaged Frederic W. Cook & Co., Inc. ("FW Cook") to review and make recommendations concerning compensation for Fiscal 2025. As part of their review, FW Cook provided advice on the compensation strategy and program design, compared Hornbeck's compensation programs with those of other companies and reviewed and recommended an updated peer group. The combined company's compensation committee may choose to retain outside compensation consultants to review compensation issues again in the future.

Benchmarks. Hornbeck competes with other companies for executive talent. In doing so, Hornbeck considers prevailing executive compensation trends in order to establish whether Hornbeck's compensation is appropriate, competitive and in-line with Hornbeck's overall executive compensation philosophy and objectives. The compensation committee considers competitive market data, including compensation levels and other information derived from: (i) public filings of publicly traded energy service companies identified by compensation consultants, other advisors or the compensation committee as having sufficiently similar operating characteristics with Hornbeck so as to provide a source of meaningful comparison, or Hornbeck's Industry Peer Group; (ii) public filings of publicly traded marine service companies that are Hornbeck's direct competitors; and (iii) published survey information for the energy industry, as well as the broader commercial industry, when appropriate. Hornbeck's competitive market is not comprised strictly of vessel owners, because the competition Hornbeck faces for certain executive talent is not limited to marine companies, and Hornbeck believes that the number of such companies represents too small of a sample size for a reasonable comparison. Generally, the compensation committee considers how the compensation of Hornbeck's executives compares with the individual elements of, as well as the total direct compensation of, the named executive officers of the groups described above.

At the compensation committee's request, FW Cook identified and selected a peer group that was representative of the competitive compensation landscape and the marketplace for executive talent. The Industry Peer Group was used to benchmark executive compensation for Fiscal 2025. The companies that are included in Hornbeck's public company Industry Peer Group consist of the following:

Industry Peer Group Used to Benchmark 2025 Executive Compensation

Bristow Group Inc. (VTOL)
Cactus, Inc. (WHD)
Diamond Offshore Drilling, Inc. (DO)
Dril-Quip, Inc. (DRQ)
Great Lakes Dredge & Dock Corporation (GLDD)
Helix Energy Solutions Group, Inc. (HLX)
Kirby Corporation (KEX)
Newpark Resources, Inc. (NR)
Oceaneering International, Inc. (OII)
SEACOR Marine Holdings Inc. (SMHI)
TETRA Technologies, Inc. (TTI)
Tidewater Inc. (TDW)
Valaris Limited (VAL)

Role of Executive Management in the Compensation Process. The compensation committee works with executive management with respect to the practical aspects of the design and execution of Hornbeck's executive compensation programs. Because Hornbeck's executive officers' cash compensation is derived, in part, from Hornbeck's annual operating performance, the annual budget process is a key component of the process by which compensation is determined. The Chief Executive Officer and other members of management also evaluate comparative data of the Industry Peer Group and the broader commercial industry in order to compare proposed compensation against those offered by such peer companies and provide such information to the compensation committee. Following proposals made by executive management, including the Chief Executive Officer's recommendations regarding the other NEOs, the compensation committee engages in one or more discussion sessions, with and without executive management, in order to make a final determination of compensation for the Hornbeck NEOs.

Incentive Cash Compensation Metrics. Hornbeck's performance measures for incentive cash compensation generally consist of Adjusted EBITDA, relative safety performance and a discretionary component tied to Hornbeck's achievement of certain strategic objectives set by management and the Hornbeck Board. Adjusted EBITDA has historically been Hornbeck's most heavily weighted objective component because of the prominence that Adjusted EBITDA has in several facets of Hornbeck's operations. For instance, Hornbeck discloses and discusses Adjusted EBITDA as a non-GAAP financial measure in Hornbeck's quarterly reports and conference calls with Hornbeck's financial constituents. Additionally, Adjusted EBITDA is used by management (i) as a supplemental internal measure for planning and forecasting overall expectations and for evaluating actual results against such expectations; (ii) when evaluating potential acquisition targets, whereby management compares Hornbeck's Adjusted EBITDA to that of the potential acquisition target; and (iii) to assess Hornbeck's ability to service existing fixed charges and incur additional indebtedness. The compensation committee may make certain adjustments to Adjusted EBITDA, including adjustments for gains or losses on early extinguishment of debt, asset sales, acquisitions, conversions or other investments funded by debt or new capital, growth resulting from investments funded with unreturned capital and other non-cash or non-recurring items, in years in which they have relevance to Hornbeck's compensation analysis and/or are unpredictable for budgeting purposes. In setting the Adjusted EBITDA target used as a component of Hornbeck's cash incentive compensation, the compensation committee historically set the Adjusted EBITDA target based on expected performance for the year considering industry conditions, competitor performance and expectations of the Hornbeck Board. This approach historically resulted in Adjusted EBITDA targets that were designed to incentivize management to perform at demanding levels. Hornbeck has not historically changed the Adjusted EBITDA target for cash incentive compensation for a given year, other than, on occasion, to adjust for significant acquisitions, dispositions or financings that had occurred after, and were unanticipated at the time when, the Adjusted EBITDA target was originally set.

The safety component is evaluated by comparing the total recordable incident rate (also known as "TRIR") with various industry benchmarks and Hornbeck's own prior safety performance. When selecting service providers, Hornbeck knows that Hornbeck's customers make decisions based on the safety performance of the provider.

Therefore, Hornbeck believes that by using a safety component in Hornbeck's objective performance measures, Hornbeck will not only reinforce the culture of safety within Hornbeck's Company, which benefits Hornbeck's employees, but also should optimize revenue and improve Hornbeck's long-term performance sustainability.

Hornbeck believes that these metrics incentivize management to strive for operating results that increase stockholder value, while reaffirming Hornbeck's commitment to operating Hornbeck's business at the highest levels of safety and with the utmost care and protection of the environment.

Hornbeck Elements of Compensation

Hornbeck's current executive compensation program, which was set by Hornbeck's compensation committee, consists of the following components:

- base salary;
- annual cash incentive awards linked to Hornbeck's overall performance;
- periodic grants of long-term equity-based compensation, such as time- or performance-based restricted stock units or options, or long-term cash incentive compensation;
- other executive benefits and perquisites; and
- employment agreements with certain Hornbeck NEOs, which contain termination and change of control benefits.

Hornbeck combines these elements in order to formulate compensation packages that provide competitive pay, reward the achievement of financial, operational and strategic objectives and align the interests of Hornbeck's executive officers and other senior personnel with those of Hornbeck's stockholders.

Pay Mix

The various components of Hornbeck's executive compensation program are related (but distinct) and are designed to emphasize "pay for performance," with a significant portion of total compensation reflecting a risk aspect tied to achieving Hornbeck's long-term and short-term financial and strategic goals. Hornbeck's compensation philosophy is designed to foster entrepreneurship at all levels of the organization and is focused on employee value and retention by making long-term, equity-based incentive opportunities a substantial component of Hornbeck's executive compensation. The appropriate level for each compensation component is based in part, but not exclusively, on internal equity and consistency, experience and responsibilities, as well as other relevant considerations, such as rewarding extraordinary performance and leadership qualities. When allocating compensation between long-term and currently paid out compensation, between cash and non-cash compensation or among different forms of non-cash compensation, Hornbeck has focused on structuring overall compensation packages that serve the goals described above.

Base Salary

Hornbeck pays a base salary to each Hornbeck NEO in order to compensate them for their day-to-day services rendered to us over the course of each year. Each of Messrs. Hornbeck's and Giberga's base salary was contractually established pursuant to his Amended and Restated Employment Agreement, dated September 4, 2020 (each, an "EA"). Hornbeck's compensation committee reviews base salaries annually, and Messrs. Hornbeck's and Giberga's base salaries may be increased, but not decreased (given the terms of such Hornbeck NEO's EA), from the contracted amount. In performing its annual review, the compensation committee considers the scope of the Hornbeck NEO's job responsibilities, the Hornbeck NEO's unique skill sets and experience and individual contributions, market conditions, the Hornbeck NEO's current compensation as compared to that provided by peer and competitor companies, including the Industry Peer Group, and Hornbeck's annual financial budget. In addition, the compensation committee considers the overall performance of Hornbeck and the recommendations of the Chief Executive Officer concerning the compensation of the Hornbeck NEOs other than himself. The base salaries paid to the Hornbeck NEOs in Fiscal 2025 are set forth in the Summary Compensation Table below.

Hornbeck Bonus

Hornbeck utilizes non-equity incentive compensation, also referred to herein as "cash incentive compensation," in order to reward the achievement of specific results each year and the relative out-performance of Hornbeck's peers for the applicable measurement period. Each of Messrs. Hornbeck's and Giberga's EA provides for the payment of cash

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incentive compensation to the extent earned based on performance, as measured against reasonably obtainable objective performance criteria determined by the compensation committee, after consultation with the Chief Executive Officer, no later than 90 days following the commencement of the applicable fiscal year. Each of Messrs. Hornbeck's and Giberga's EA also provides for a target cash incentive compensation opportunity for each fiscal year equal to 100% of the Hornbeck NEO's annualized base salary for the fiscal year (the "Target Bonus"). Each of Messrs. Hornbeck's and Giberga's actual cash incentive compensation for the relevant fiscal year will equal a percentage of the Target Bonus, determined as follows:

- 50% of the Target Bonus, if threshold levels of performance for that fiscal year are achieved;
- 100% of the Target Bonus, if target levels of performance for that fiscal year are achieved;
- 200% of the Target Bonus, if maximum levels of performance for that fiscal year are achieved; and
- A percentage of the Target Bonus determined in accordance with the plan established by the compensation committee, if achieved performance for the fiscal year is in between threshold, target and maximum levels of performance.

In Fiscal 2025, Hornbeck's compensation program called for the award of cash incentive compensation based on relative achievement of three components: (i) Adjusted EBITDA (weighted 70%), (ii) TRIR (weighted 10%), and (iii) Strategic Plan (weighted 20%). The Strategic Plan component is based upon the Hornbeck Board's year-end assessment of various qualitative and quantitative factors that it deems relevant, in its discretion, after considering management's recommendation to determine progress made by Hornbeck toward achieving objectives set forth in Hornbeck's Strategic Plan. The Strategic Component was weighted heavier in Fiscal 2025 than prior years in an effort to motivate management to focus even more on strategic milestones in instances where short-term financial metrics alone may not adequately capture the full scope of the Hornbeck NEO contribution to the creation of long-term shareholder value. The compensation committee annually revisits whether to change the vesting criteria or otherwise adjust the weighting of the Adjusted EBITDA, TRIR, and discretionary Strategic Plan components. Hornbeck refers to each of the Adjusted EBITDA, TRIR and discretionary Strategic Plan component weighting percentages herein as an "Applicable Percentage."

The TRIR target uses annual industry safety benchmarks of the International Association of Drilling Contractors ("IADC"), ISOA and IMCA. Previously, Hornbeck included the safety benchmark of OMSA; however, OMSA has discontinued publicizing its benchmark, so Hornbeck no longer use OMSA as one of Hornbeck's safety benchmarks. Because Hornbeck has usually outperformed these industry safety benchmarks and in an effort to place an even greater emphasis on the preservation of Hornbeck's executive team's focus on efficient, safe and environmentally sound operations, the maximum safety level is set at 10% better than the average of the three-best annual TRIRs achieved by Hornbeck in the most recent ten years. This results in a more difficult standard of TRIR necessary to achieve the maximum potential vesting for that factor.

The following table sets forth, for Fiscal 2025, the threshold, target and maximum goals for each of the non-discretionary components and their Applicable Percentages. Achievement of a performance level in between "threshold" and "target" levels or "target" and "maximum" levels, as applicable, results in a payout of cash incentive compensation equal to (i) a percentage of base salary determined using straight-line interpolation, multiplied by (ii) the Applicable Percentage. The cash incentive payout for Fiscal 2025 was 200%.

Component	Applicable Percentage	Threshold Goal (Payout of 50% of Base Salary)	Threshold Payout Attributable to Component	Target Goal (Payout of 100% of Base Salary)	Target Payout Attributable to Component	Maximum Goal (Payout of 200% of Base Salary)	Maximum Payout Attributable to Component
Adjusted EBITDA	70%	50% of the Adjusted EBITDA Target	35% of Base Salary	100% of the Adjusted EBITDA Target	70% of Base Salary	200% of the Adjusted EBITDA Target	140% of Base Salary
TRIR	10%	TRIR less than the lowest average of all three annual safety benchmarks for any year falling within the most recent three years compiled by IADC, ISOA and IMCA	5% of Base Salary	TRIR less than the lowest of any one of the three annual safety benchmarks for any year falling within the most recent three years compiled by IADC, ISOA and IMCA.	10% of Base Salary	TRIR at least 10% less than Hornbeck's three best annual TRIRs achieved in the last ten years	20% of Base Salary

Mr. Adams's annual bonus was subject to the same Adjusted EBITDA goal as applicable to the annual bonuses for Messrs. Hornbeck and Giberga described above, though the maximum payout level for Mr. Adams was 150%. Mr. Adams was eligible for quarterly bonuses based on the achievement of his personal performance goals and Hornbeck's achievement of safety performance goals.

The cash incentive compensation payout for the Hornbeck NEOs for Fiscal 2025 is set forth in the Summary Compensation Table below.

In extraordinary circumstances, the compensation committee can award event-driven or accomplishment-specific bonuses to the Hornbeck NEOs, which would be independent of the cash incentive compensation derived under the formulaic approach.

Hornbeck Long-Term Equity-Based Compensation

Hornbeck believes that the interests of Hornbeck's stockholders are best served when a meaningful portion of executive and management compensation is tied to equity ownership. On September 4, 2020, Hornbeck adopted the 2020 Management Incentive Plan. Under the 2020 Management Incentive Plan, the compensation committee is authorized to grant stock options, stock appreciation rights, time-vesting restricted stock units ("RSUs"), performance-vesting restricted stock units ("PSUs") and other equity-based awards. Hornbeck has historically used a combination of stock options, RSUs and PSUs as a means to incentivize long-term employment and performance and to align individual compensation with the objective of building stockholder value. Hornbeck uses equity incentive compensation, with vesting based on time, performance or both, as a means of encouraging a "culture of ownership" among employees, including the Hornbeck NEOs. The compensation committee believes that by using equity-based forms of incentive compensation, the interests of Hornbeck's stockholders and Hornbeck's management employees remain aligned over the long-term. The compensation committee exercises discretion in determining the number and type of equity awards to be granted to Hornbeck's executive officers, including the Hornbeck NEOs, as long-term incentive compensation. In exercising its discretion, the compensation committee considers a number of factors, including individual responsibilities, industry conditions, competitive market data and individual and Company performance. Subject to the express provisions of the 2020 Management Incentive Plan and direction from the Hornbeck Board, the compensation committee is authorized, among other things, (i) to select the executive officers to whom equity awards will be granted; (ii) to determine the type, size, terms and conditions of equity awards to executive officers, including vesting provisions and whether such equity awards will be time or performance-based; and (iii) to establish the terms for treatment of equity awards upon an executive officer's termination of employment.

On April 1, 2025, Hornbeck granted RSUs and non-qualified stock options ("NQSOs") to each of Messrs. Hornbeck and Giberga. Hornbeck did not grant any PSUs to any Hornbeck NEO in 2025. The RSUs and NQSOs will vest and become settleable in three equal tranches on February 15th of each of 2026, 2027 and 2028, subject to the Hornbeck NEO's continued service through the applicable vesting date (except in the case of an Hornbeck NEO's qualifying termination (i.e., a termination without "cause" or for "good reason" (each, as defined in the 2020 Management Incentive Plan)) occurring prior to the end of the vesting period, in which case the Hornbeck NEO will be entitled to vest in the next tranche of his RSUs or NQSOs). Notwithstanding the foregoing, all of a Hornbeck NEO's unvested RSUs and NQSOs that are outstanding at the effective time will vest at the effective time in accordance with the merger agreement.

Each RSU granted to Messrs. Hornbeck and Giberga is credited with dividends paid in respect of one share of Hornbeck's common stock ("Dividend Equivalents"). Dividend Equivalents credited to such Hornbeck NEO's respective account and attributable to any particular RSU (and earnings thereon, if applicable) will be distributed to such Hornbeck NEO upon settlement of such RSU, as applicable, and if such RSU is forfeited, such Hornbeck NEO shall have no right to such Dividend Equivalents. For the avoidance of doubt, any Dividend Equivalents paid in respect of an RSU will be subject to the same vesting conditions as apply to the underlying award. Any payments made pursuant to the Dividend Equivalents will be paid in either cash or, to the extent such rights are paid in shares of Hornbeck's common stock, shares of Hornbeck's common stock. NQSOs are not credited with Dividend Equivalents. Mr. Adams did not receive any equity awards in Fiscal 2025.

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Hornbeck favors time-based awards, which emphasize the retentive quality of Hornbeck's equity-based compensation.

Executive	Fiscal 2025 RSUs	Fiscal 2025 NQSOs
Todd M. Hornbeck	17,131	51,393
Robert P. Adams	—	—
Samuel A. Giberga	6,601	19,804

Hornbeck Long-Term Cash Incentive Compensation

In Fiscal 2025, Hornbeck adopted the 2025 Cash Long Term Incentive Plan (the "Cash LTIP") to further enable Hornbeck to incentivize and reward the Hornbeck NEOs and align the interests of management with Hornbeck and Hornbeck's shareholders. Under the Cash LTIP, upon certain capital return events, including distributions to Hornbeck's stockholders from cash flow and certain other approved monetization events, each of Messrs. Hornbeck and Giberga is entitled to receive a cash payment equal to the product of (a) their applicable participation percentage and (b) the aggregate amount of the Cash LTIP pool that is funded based on the amount of returned capital, subject to his continued employment through the date of the capital return event. The amount of the pool is up to maximum of \$6 million. The percentage of the pool that each of Messrs. Hornbeck and Giberga is eligible to receive is 40% and 15%, respectively. Hornbeck's tender offer in December 2025 (the "2025 Tender Offer") was deemed to be a capital return event under the Cash LTIP and, as a result of the 2025 Tender Offer, Messrs. Hornbeck and Giberga received the payments set forth in the table below under the Cash LTIP in December 2025 (the "2025 Cash LTIP Payments"). Mr. Adams was not eligible to participate in the Cash LTIP but participates in Hornbeck's Long-Term Incentive Cash Plan (the "Shoreside Cash LTIP"), pursuant to which he has received awards that vest ratably over three years. Mr. Adams was granted an award of \$115,200 under the Shoreside Cash LTIP in Fiscal 2025. In addition, Mr. Adams received payments under the Shoreside Cash LTIP in Fiscal 2025 in an aggregate amount of \$96,167 in respect of awards granted to him in 2022, 2023 and 2024.

Executive	Cash LTIP Payment
Todd M. Hornbeck	\$92,204
Robert P. Adams	\$96,167
Samuel A. Giberga	\$34,576

Hornbeck Other Executive Benefits and Perquisites

Hornbeck provides the Hornbeck NEOs and Hornbeck's other employees with certain perquisites and other personal benefits as part of providing a competitive executive compensation program and for employee retention. The following table generally identifies Hornbeck's benefit plans and identifies those employees who may be eligible to participate. The Hornbeck NEOs participate in the following benefit plans in the same manner that Hornbeck's employees do, except where noted below:

Benefit Plan	Executive Officers (including Hornbeck NEOs)	Certain Managers	Full-Time Employees
Medical Insurance ⁽¹⁾	X	X	X
Dental Insurance ⁽¹⁾	X	X	X
Vision Insurance ⁽¹⁾	X	X	X
Employee Assistance Plan	X	X	X
Life and Disability Insurance ⁽²⁾	X	X	X
Flexible Spending Accounts	X	X	X
401(k) Plan	X	X	X

- (1) In Fiscal 2025, each of Messrs. Hornbeck and Giberga had a supplemental medical insurance policy that pays for all of the Hornbeck NEO's eligible out-of-pocket medical, dental and vision expenses.
- (2) The Hornbeck NEOs, Hornbeck's Vice Presidents and certain other officers have Hornbeck-paid basic life and accidental death and dismemberment insurance in an amount equal to 1.5 times their base salary, up to \$300,000. All other employees have Hornbeck-paid basic life and accidental death and dismemberment insurance in an amount equal to 1.5 times their base salary, up to \$100,000. In addition, the Hornbeck

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NEOs, Hornbeck's Vice Presidents and certain other officers are eligible to receive disability benefits as long as they are disabled from performing their own occupation. For all other employees, they are entitled to disability benefits for up to 36 months, if they are disabled from performing their own occupation, and in order to be entitled to disability benefits after 36 months, they must be unable to work in any occupation.

Hornbeck believes it should provide limited perquisites for its executive officers. As a result, Hornbeck has historically provided nominal perquisites. The following table generally illustrates the perquisites Hornbeck does (and does not) provide and identifies those employees who may be eligible to receive them:

Type of Perquisite	Executive Officers (including Hornbeck NEOs)	Certain Managers	Certain Full-Time Employees
Company Vehicle	X	Not offered	X
Vehicle Allowance	Not offered	X	X
Use of Company Aircraft ⁽¹⁾	X	Not offered	Not offered
Supplemental Medical Insurance	X	Not offered	Not offered
Country Club Memberships	Not offered	Not offered	Not offered
Dwellings for Personal Use	Not offered	Not offered	Not offered
Security Services	Not offered	Not offered	Not offered
Supplemental Executive Retirement Program (SERP)	Not offered	Not offered	Not offered
Deferred Compensation Plan Matching Contribution	Not offered ⁽²⁾	Not offered	Not offered

(1) Hornbeck's Corporate Aircraft Use Policy permits the use of Hornbeck's aircraft for business purposes only, other than with respect to a personal use allowance of up to \$50,000 to Mr. Hornbeck. The value of personal use of the aircraft is determined by the incremental cost to Hornbeck for such use, which is calculated based on a contracted hourly rate billed to Hornbeck per hour of operation. Fixed costs that do not change based on usage are not included.

(2) A Deferred Compensation Plan was adopted by the Hornbeck Board in 2007. However, no matching provision has been authorized under the Deferred Compensation Plan, and, to date, no Hornbeck NEO has availed himself of participation therein.

Hornbeck Employment Agreements and Severance Benefits

Hornbeck believes that a strong, experienced management team is essential to the best interests of Hornbeck and Hornbeck's shareholders. As noted above, Hornbeck has entered into EAs with Messrs. Hornbeck and Giberga in order to, among other things, minimize employment security concerns, including those arising in the course of negotiating and completing a significant transaction. The EAs provide for severance benefits, which are payable only if Mr. Hornbeck or Mr. Giberga is terminated by Hornbeck without "cause" or by Mr. Hornbeck or Mr. Giberga resigns for "good reason," in each case, whether or not in connection with a change of control; these benefits are enumerated and quantified in the section captioned "Hornbeck Potential Payments Upon Termination or Change of Control."

Section 409A Considerations

Another section of the Code, Section 409A, affects the manner in which deferred compensation opportunities are offered to Hornbeck's employees, because Section 409A requires, among other things, that "non-qualified deferred compensation" be structured in a manner that limits employees' abilities to accelerate or further defer certain kinds of deferred compensation. Hornbeck intends to operate Hornbeck's existing compensation arrangements that are covered by Section 409A in accordance with the applicable rules thereunder, and Hornbeck will continue to review and amend Hornbeck's compensation arrangements where necessary to comply with Section 409A.

Code Section 280G

With respect to certain payments made or benefits provided to executives in connection with a change in control of a corporation that constitute "parachute payments" (as defined in Code Section 280G), Code Section 280G disallows a tax deduction for the payor with respect to, and Code Section 4999 imposes a 20% excise tax on the individual receiving, any such "parachute payments" that constitute "excess parachute payments" (as defined in Code Section 280G). Generally, such payments and benefits are in the nature of compensation that is linked to or triggered by a change in control and may include, but are not limited to, bonus payments, severance payments and accelerated vesting and payouts in respect of awards under long-term incentive plans, including equity-based compensation. None of the Hornbeck NEOs is entitled to any gross-up with respect to any excise taxes that may be imposed under Code Section 4999, and as noted in the "Hornbeck Narrative Description to the Summary Compensation Table and the Grants of Plan-Based Awards Table for the 2025 Fiscal Year," each of Messrs. Hornbeck's and Giberga's EA provides for a "best-net" cutback.

Hornbeck Post Year-End Actions Affecting Compensation

As discussed above, in March of each year, the compensation committee determines the cash incentive compensation and/or bonuses for the Hornbeck NEOs for services provided during the previous fiscal year. The compensation committee also determines equity incentive compensation awards for the Hornbeck NEOs, taking into account services provided during the previous fiscal year and the intended incentive for long-term employment and performance. All budgeted annual base salaries, equity incentive awards, potential cash incentive awards and performance targets related thereto, which are applicable to the Hornbeck NEOs, are addressed by the Hornbeck Board in its final approval of Hornbeck’s annual budget.

Hornbeck MIP Buybacks

Concurrent with the 2025 Tender Offer, Hornbeck accelerated the vesting of certain stock options, restricted stock units and performance stock units granted to employees and non-employee directors, including the Hornbeck NEOs, under the 2020 Management Incentive Plan and cashed out the shares of common stock underlying such accelerated stock options (net of the exercise price), restricted stock units and performance stock units at a price equal to \$75.05 per share. See “Option Exercises and Stock Vested in the 2025 Fiscal Year” below for more information with respect to the Hornbeck NEOs’ equity awards that were accelerated and cashed out in connection with the MIP buyback.

Hornbeck Compensation Risk Assessment

Hornbeck does not believe that any of Hornbeck’s incentive compensation plans, programs or arrangements create risks that are reasonably likely to have a material adverse effect on Hornbeck.

Hornbeck Summary Compensation Table

The table below sets forth the annual compensation awarded to or earned by the Hornbeck NEOs for Fiscal 2025 and the fiscal years ended December 31, 2024 (“Fiscal 2024”) and December 31, 2023 (“Fiscal 2023”).

Name and Principal Position	Year	Salary (\$)(1)	Bonus (\$)(2)	Stock Awards (\$)(3)	Option Awards (\$)(4)	Non-Equity Incentive Plan Compensation (\$)(5)	All Other Compensation (\$)(6)	Total (\$)
Todd M. Hornbeck	2025	750,000	—	1,102,209	1,891,776	1,644,704	94,467	5,483,156
Chairman, President & Chief Executive Officer	2024	750,000	200,000	—	—	825,000	93,452	1,868,452
	2023	750,000	100,000	6,054,243	—	885,000	66,242	7,855,485
Robert P. Adams								
Senior Vice President, Finance(7)	2025	284,501	96,167	—	—	250,376	16,130	647,174
Samuel A. Giberga								
EVP, General Counsel & Corporate Secretary(8)	2025	400,000	—	424,708	728,985	862,576	56,617	2,472,887
	2024	400,000	200,000	—	—	440,000	51,938	1,091,938
	2023	400,000	100,000	2,522,610	—	472,000	50,518	3,545,128

- (1) The amounts in this column reflect the actual base salaries earned by the Hornbeck NEOs for Fiscal 2025, Fiscal 2024 and Fiscal 2023 (and for Mr. Adams, only Fiscal 2025).
- (2) The amounts in this column reflect (i) for Fiscal 2025, payments that Mr. Adams received pursuant to his awards under the Shoreside Cash LTIP, as described above under the heading “Hornbeck Long-Term Cash Incentive Compensation”, (ii) for Fiscal 2024 a one-time accomplishment-specific bonus awarded to Messrs. Hornbeck and Giberga for the achievement of the direct cost savings related to Hornbeck’s refinancing transaction at the end of 2024 and (iii) for Fiscal 2023 a special one-time bonus awarded to Messrs. Hornbeck and Giberga for the successful resolution of the litigation with Gulf Island Shipyards, LLC, which was a key accomplishment of management in Fiscal 2023 that benefited Hornbeck.
- (3) The amounts in this column reflect the grant date fair values (computed in accordance with FASB ASC Topic 718) of the RSU awards granted to Messrs. Hornbeck and Giberga in Fiscal 2025 and the RSU and PSU awards granted to Messrs. Hornbeck and Giberga in Fiscal 2023. See Note 13 to Hornbeck’s Financial Statements included elsewhere in this proxy statement/prospectus for the assumptions used in calculating the grant date fair values. For the RSUs, the amounts reported in this column reflect the aggregate grant date fair value computed in accordance with ASC Topic 718. For the PSUs, the amounts reported in this column reflect the aggregate grant date fair value computed in accordance with ASC Topic 718, and assumes that the maximum number of the PSUs vest and participate in distributions.

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- (4) The amounts in this column reflect the grant date fair values (computed in accordance with FASB ASC Topic 718) of the NQSO awards granted to Messrs. Hornbeck and Giberga in Fiscal 2025. See Note 13 to Hornbeck's Financial Statements included elsewhere in this proxy statement/prospectus for the assumptions used in calculating the grant date fair values.
- (5) The amounts in this column reflect (a) for Fiscal 2025, annual bonuses for each Hornbeck NEO, the December Cash LTIP Payments paid to Messrs. Hornbeck and Giberga, and quarterly bonuses paid to Mr. Adams, in each case, as described above under the headings "Hornbeck Bonuses" and "Hornbeck Long-Term Cash Incentive Compensation" and (b) for Fiscal 2024 and Fiscal 2023, bonuses paid to Messrs. Hornbeck and Giberga for Fiscal 2024 and Fiscal 2023 performance, pursuant to the terms of the annual cash incentive compensation opportunities set forth in their respective EAs and Hornbeck's cash incentive compensation program in effect for Fiscal 2024 and Fiscal 2023, respectively.
- (6) The amounts in this column reflect the following amounts paid to the Hornbeck NEOs for Fiscal 2025: (i) employer-paid automobile lease, insurance, and fuel and repair expenses, which total \$22,012 and \$20,087 for each of Messrs. Hornbeck and Giberga, respectively, (ii) employer-paid term life insurance policy expenses for each Hornbeck NEO, (iii) employer-paid supplemental health insurance policy expenses in the amount \$20,400 for each of Messrs. Hornbeck and Giberga, (iv) 401(k) matching contributions, which total \$15,750 for each Hornbeck NEO and (v) use of Hornbeck's aircraft for Mr. Hornbeck of \$35,925. For the aircraft use, the value shown is the incremental cost to Hornbeck for such use, which is calculated based on a contracted hourly rate billed to Hornbeck per hour of operation. Fixed costs that do not change based on usage are not included.
- (7) Mr. Adams's compensation reported for Fiscal 2025 reflects compensation received in his capacity as a non-executive officer.
- (8) In March 2025, Mr. Giberga's title was changed from EVP, General Counsel, Chief Compliance Officer & Corporate Secretary to EVP, General Counsel & Corporate Secretary.

Hornbeck Grants of Plan-Based Awards for the 2025 Fiscal Year

The following table summarizes the non-equity incentive plan awards and equity incentive plan awards granted to the Hornbeck NEOs during Fiscal 2025. All numbers have been rounded to the nearest whole dollar or unit.

Name (a)	Grant Date (b)	Estimated Future Payouts Under Non-Equity Incentive Plan Awards			All Other Stock Awards: Number of Shares of Stock or Units (#)(6) (i)	All Other Option Awards: Number of Securities Underlying Options (#)(7) (j)	Exercise or Base Price of Option Awards (\$/Sh) (k)	Grant Date Fair Value of Stock and Option Awards (\$)(8) (l)
		Threshold (\$) (c)	Target (\$) (d)	Maximum (\$) (e)				
Todd M. Hornbeck	2/27/2025 ⁽¹⁾	375,000	750,000	1,500,000	—	—	—	—
	4/1/2025				17,131			1,102,209
	4/1/2025					51,393	65.67	1,891,776
	4/1/2025 ⁽⁴⁾			2,400,000				
Robert P. Adams	2/20/2025 ⁽²⁾	—	72,000	108,000	—	—	—	—
	2/20/2025 ⁽³⁾	—	144,000	—	—	—	—	—
	3/15/2025 ⁽⁵⁾	—	115,200	—	—	—	—	—
Samuel A. Giberga	2/27/2025 ⁽¹⁾	200,000	400,000	800,000	—	—	—	—
	4/1/2025				6,601	—	—	424,708
	4/1/2025				—	19,804	65.67	728,985
	4/1/2025 ⁽⁴⁾			900,000				

- (1) For Fiscal 2025, each of Messrs. Hornbeck and Giberga was eligible to receive non-equity incentive plan compensation based on the achievement of objective performance goals (for the EBITDA and TRIR components) and the discretion of the compensation committee (for the Strategic Plan component only).
- (2) For Fiscal 2025, Mr. Adams was eligible to receive an annual bonus that was subject to the same Adjusted EBITDA goal as applicable to the annual bonuses for Messrs. Hornbeck and Giberga described above, though the maximum payout level for Mr. Adams was 150%. There was no threshold amount for Mr. Adams's annual bonus.
- (3) For Fiscal 2025, Mr. Adams was eligible for quarterly bonuses based on the achievement of his personal performance goals and Hornbeck's achievement of safety performance goals. There was no threshold or maximum amount for Mr. Adams's quarterly bonuses.
- (4) In Fiscal 2025, Hornbeck adopted the Cash LTIP as described above under the heading "Long-Term Cash Incentive Compensation" pursuant to which there is a maximum pool of up to \$6 million. The percentage of the pool that each of Messrs. Hornbeck and Giberga is eligible to receive is 40% and 15%, respectively. There are no threshold or target amounts under the Cash LTIP.
- (5) In Fiscal 2025, Mr. Adams received an award of \$115,200 under the Shoreside Cash LTIP in 2025. Such award vests ratably over three years. There are no threshold or maximum amounts under the Shoreside Cash LTIP.
- (6) The amounts in this column reflect the RSUs granted to Messrs. Hornbeck and Giberga pursuant to the 2020 Management Incentive Plan in Fiscal 2025. The RSUs vest ratably on each of the first three anniversaries of February 15, 2025.
- (7) The amounts in this column reflect the NQSOs granted to Messrs. Hornbeck and Giberga pursuant to the 2020 Management Incentive Plan in Fiscal 2025. The NQSOs vest ratably on each of the first three anniversaries of February 15, 2025.

- (8) Amounts shown represent the grant date fair value of equity awards granted to Messrs. Hornbeck and Giberga in Fiscal 2025 calculated in accordance with FASB ASC Topic 718. The grant date fair value for the RSUs and NQSOs was \$64.34 and \$36.81, respectively.

Hornbeck Narrative Description to the Summary Compensation Table and the Grants of Plan-Based Awards Table for the 2025 Fiscal Year

Hornbeck Amended and Restated Employment Agreements

As noted above, each of Messrs. Hornbeck and Giberga is a party to an EA that provides for such Hornbeck NEO's initial annual base salary, target annual cash incentive compensation opportunity, certain severance benefits (as described in detail in the section titled "Hornbeck Potential Payments upon Termination or Change of Control"), entitlement to reimbursement of reasonable business expenses and eligibility to participate in Hornbeck's benefit plans generally.

At the end of Fiscal 2025, Mr. Hornbeck's annualized base salary was \$750,000, and Mr. Giberga had an annualized base salary of \$400,000, and each of Messrs. Hornbeck and Giberga had a target annual cash incentive compensation opportunity equal to 100% of his annualized base salary. As previously noted, the various components of Hornbeck's executive compensation program are related but distinct and are designed to emphasize "pay for performance," with a significant portion of total compensation reflecting a risk aspect tied to achieving Hornbeck's long-term and short-term financial and strategic goals.

The EAs subject Messrs. Hornbeck and Giberga to the following restrictive covenants: (i) perpetual confidentiality, (ii) employment term and 2-year post-employment (A) non-competition and (B) employee and individual service provider (with a 6-month lookback) non-solicitation and no hire, (iii) mutual non-disparagement and (iv) assignment of inventions. The EAs also contain a Section 280G "best-net" cutback, which provides that any payments and/or benefits that constitute "parachute payments" (as defined under Section 280G of the Code) will be reduced to the extent necessary to avoid the imposition any excise tax under Section 4999 of the Code, but only to the extent that the reduction results in Mr. Hornbeck or Mr. Giberga receiving a greater amount (on an after-tax basis) than he would receive absent such reduction.

Mr. Adams is not currently party to an EA with Hornbeck.

Hornbeck Grant of Equity Incentive Awards

In Fiscal 2025 and under the 2020 Management Incentive Plan (as described above), Mr. Hornbeck was granted 17,131 RSUs and 51,393 NQSOs. Mr. Giberga was granted 6,601 RSUs and 19,804 NQSOs. These equity incentive awards are described in more detail above in the section titled "Hornbeck Long-Term Equity-Based Compensation."

Hornbeck Outstanding Equity Awards at 2025 Fiscal Year-End

The following table provides information on the stock option and stock award holdings of the Hornbeck NEOs as of the end of Fiscal 2025. This table includes unexercised stock options and unvested RSUs and PSUs. The vesting dates for each award are shown in the accompanying footnotes. The market value of the stock awards was determined using a price per share of \$75.05, which is the fair market value of a share of Hornbeck's common stock as of December 31, 2025 and the price used for the 2025 Tender Offer in December 2025.

Name	Equity Incentive Plan Awards: Number of Securities Underlying Unexercised Options (#)	Option Exercise Price (\$)	Option Expiration Date	Stock Awards			
				Number of Unearned Shares, Units or Other Rights That Have Not Vested (#)	Market or Payout Value of Unearned Shares, Units or Other Rights That Have Not Vested (\$)(6)	Equity Incentive Plan Awards: Number of Unearned Shares, Units or Other Rights That Have Not Vested (#)	Equity Incentive Plan Awards: Market or Payout Value of Unearned Shares, Units or Other Rights That Have Not Vested (\$)(6)
Todd M. Hornbeck	113,140 ⁽¹⁾	10.00	9/4/2030			29,910 ⁽²⁾	2,244,746
				8,496 ⁽³⁾	637,625		
				17,131 ⁽⁴⁾	1,285,682		
	51,123 ⁽⁵⁾	65.67	4/1/2035				
Robert P. Adams	19,038	10.00	9/4/2030			1,471	110,399
				540 ⁽³⁾	40,527		
Samuel A. Giberga	47,140 ⁽¹⁾	10.00	9/4/2030			12,462 ⁽²⁾	935,273
				3,562 ⁽³⁾	267,328		
				6,601 ⁽⁴⁾	495,405		
	19,702 ⁽⁵⁾	65.67	4/1/2035	—	—	—	—

- (1) On September 4, 2020, each of the Hornbeck NEOs received an award of stock options that is comprised of three equal tranches, with each tranche subject to both time-vesting and performance-vesting conditions. The stock options time-vested ratably on each of the first three anniversaries of June 19, 2020, subject to the Hornbeck NEO's continued employment through the applicable vesting date. The stock options performance-vest based on the achievement of specified total enterprise value ("TEV") levels, such that the Hornbeck NEO will only performance-vest if and when (i) a "change of control" (as defined in the 2020 Management Incentive Plan), an initial public offering or September 4, 2027 occurs and (ii) the implied TEV as of such time equals or exceeds the specified TEV threshold for such tranche.
- (2) On June 9, 2022, each of the Hornbeck NEOs received an award of PSUs subject to both time-based and performance-based vesting conditions. The PSUs performance-vest based on the achievement of specified TEV levels, such that the Hornbeck NEO will only performance-vest if and when (i) a "change of control" (as defined in the 2020 Management Incentive Plan), an initial public offering or September 4, 2027 occurs, subject to the Hornbeck NEO's continued service until such date, and (ii) the implied TEV as of such time equals or exceeds the specified TEV threshold for such tranche.
- (3) On March 23, 2023, each of the Hornbeck NEOs received an award of RSUs, all of which are subject to time-based vesting conditions only. The first one-half of the award vested and became settleable immediately on the grant date. The remainder of the award vested and became settleable (or will vest and become settleable, as applicable) in three equal tranches on February 15th of each of 2024, 2025 and 2026, subject to the Hornbeck NEO's continued service through the applicable vesting date (except in the case of a "qualifying termination," for Mr. Hornbeck or Mr. Giberga, occurring prior to the end of the vesting period, in which case Mr. Hornbeck or Mr. Giberga will be entitled to vest in the next tranche of his RSUs that is scheduled to vest on the next vesting date). Notwithstanding the foregoing, all of a Hornbeck NEO's unvested RSUs will fully vest upon the consummation of a "change of control," subject to the Hornbeck NEO's continued service through the date of such "change of control."
- (4) On April 1, 2025, each of Messrs. Hornbeck and Giberga received an award of RSUs, all of which are subject to time-based vesting conditions only. The RSUs vest ratably on each of the first three anniversaries of February 15, 2025, subject to the Hornbeck NEO's continued service through the applicable vesting date (except in the case of the Hornbeck NEO's "qualifying termination" occurring prior to the end of the vesting period, in which case the Hornbeck NEO will be entitled to vest in the next tranche of his RSUs that is scheduled to vest on the next vesting date). Notwithstanding the foregoing, all of a Hornbeck NEO's unvested RSUs will fully vest upon the consummation of a "change of control," subject to the Hornbeck NEO's continued service through the date of such "change of control."

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- (5) On April 1, 2025, each of Messrs. Hornbeck and Giberga received an award of stock options, all of which are subject to time-based vesting conditions only. The NQSOs vest ratably on each of the first three anniversaries of February 15, 2025, subject to the Hornbeck NEO's continued service through the applicable vesting date (except in the case of the Hornbeck NEO's "qualifying termination" occurring prior to the end of the vesting period, in which case the Hornbeck NEO will be entitled to vest in the next tranche of his NQSOs that is scheduled to vest on the next vesting date). Notwithstanding the foregoing, all of a Hornbeck NEO's unvested NQSOs will fully vest upon the consummation of a "change of control," subject to the Hornbeck NEO's continued service through the date of such "change of control."
- (6) Calculated by multiplying (i) the number of shares of Hornbeck's common stock underlying the unvested portion of the RSU or PSU award, as applicable, by (ii) \$75.05, which is the fair market value of a share of Hornbeck's common stock as of December 31, 2025 and the price used for the 2025 Tender Offer in December 2025.

Hornbeck Option Exercises and Stock Vested in the 2025 Fiscal Year

The following table provides information, on an aggregate basis, about the Hornbeck NEOs' stock awards that vested during Fiscal 2025. None of the Hornbeck NEOs exercised stock options in Fiscal 2025.

Name	Option Awards	Stock Awards		
	Number of Shares Acquired on Exercise (#) (1)	Value Realized on Exercise (\$)(2)	Number of Shares Acquired on Vesting (#) (3)	Value Realized on Vesting (\$)(4)
Todd M. Hornbeck	4,492	277,174	28,878	1,982,311
Robert P. Adams	710	46,186	1,034	67,470
Samuel A. Giberga	1,862	115,445	12,013	824,485

- (1) The amounts reported in this column represent the number of stock options that were granted to each Hornbeck NEO on September 4, 2020 and April 1, 2025, for which vesting was accelerated and the underlying shares cashed out in connection with the MIP buyback.
- (2) The value realized on vesting was calculated by multiplying the number of options that vested in connection with the MIP buyback by (a) for the stock options granted on September 4, 2020, \$65.05, which represents the excess of the price at which shares underlying the vested options were cashed out in connection with the MIP buyback, which is \$75.05, over the exercise price of the stock options, which is \$10.00, and (b) for the stock options granted on April 1, 2025, \$9.38, which represents the excess of the price at which shares underlying the vested options were cashed out in connection with the MIP buyback, which is \$75.05, over the exercise price of the stock options, which is \$10.00.
- (3) The amounts reported in this column represent (i) RSUs that were granted to Mr. Adams on June 9, 2022, of which 33.33% vested and became settleable on February 15, 2025, (ii) RSUs that were granted to each Hornbeck NEO on March 23, 2023, of which 16.67% vested and became settleable on February 15, 2025 and (iii) the portion of RSUs that were granted to each Hornbeck NEO on March 23, 2023 and the portion of PSUs that were granted to each Hornbeck NEO on June 9, 2022, for which vesting was accelerated and the underlying shares cashed out in connection with the MIP buyback.
- (4) The value realized on vesting was calculated by multiplying (i) the number of RSUs that vested in February 2025 by the fair market value of a share of Hornbeck's common stock as of April 1, 2025 (i.e., \$64.34) and (ii) the number of RSUs and PSUs that vested in connection with the MIP buyback by \$75.05, which was the price at which shares underlying the vested RSUs and PSUs were cashed out in connection with the MIP buyback.

Hornbeck Non-Qualified Deferred Compensation

The following table provides information, on an aggregate basis, about the Hornbeck NEOs' vested RSUs for which settlement was deferred during Fiscal 2023, and Hornbeck's fiscal years ended December 31, 2022 ("Fiscal 2022") and December 31, 2021 ("Fiscal 2021"). There were no vested RSUs for which settlement was deferred in Fiscal 2024 or Fiscal 2025.

Name	Aggregate Balance at Last FYE(1) (\$)
Todd M. Hornbeck	15,925,235
Samuel A. Giberga	6,635,546

- (1) The aggregate balance was calculated by multiplying (i) the aggregate number of RSUs that vested and was deferred during Fiscal 2023, Fiscal 2022 and Fiscal 2021, by (ii) \$75.05, which is the fair market value of a share of Hornbeck's common stock as of December 31, 2025 and the price used for the 2025 Tender Offer in December 2025. None of these RSUs will be settled until the earlier to occur of a "change of control", which includes the mergers, and September 4, 2027. Upon such settlement, amounts in this column will reflect any Dividend Equivalents that were previously accrued during the prior periods and be net of any vested RSUs that are used to satisfy any tax withholding obligations.

Hornbeck Potential Payments Upon Termination or a Change of Control

In this section, Hornbeck describes payments and benefits that may be made to the Hornbeck NEOs upon the occurrence of certain terminations of employment and/or a change of control, assuming that such event occurred on the last day of Fiscal 2025. Mr. Adams does not currently have any contractual severance entitlements other than certain acceleration provisions in his award agreements as described below.

Hornbeck Payments upon Termination of Employment due to Death or Disability

The EAs of Messrs. Hornbeck and Giberga provide that upon a termination of employment due to his death or “disability” (as defined therein), each of Messrs. Hornbeck and Giberga will receive the following severance benefits: (i) a pro-rata annual bonus, based on actual performance for the year in which the termination occurs, and (ii) reimbursement for the employer portion of the his COBRA premiums for 12 months.

Each Hornbeck NEO’s outstanding stock options that have time-vested as of such Hornbeck NEO’s termination due to death or “disability” will remain outstanding and eligible to performance-vest to the extent the applicable performance conditions are actually achieved.

Hornbeck Payments upon a Termination of Employment without Cause or for Good Reason

The EAs of Messrs. Hornbeck and Giberga provide that upon a termination of employment by Hornbeck without “cause” (including due to Hornbeck’s non-renewal of the employment term) or by Mr. Hornbeck or Mr. Giberga for “good reason” (each as defined therein and summarized below, and each such termination, a “Qualifying Termination”), subject to his execution and non-revocation of a release of claims in favor of Hornbeck, each of Messrs. Hornbeck and Giberga will receive the following severance benefits (the “Severance Benefits”): (i) 2.5 times for Mr. Hornbeck and 2 times for Mr. Giberga, the sum of his base salary and target bonus, payable over the 24-month period following termination; (ii) a pro-rata annual bonus (the “Pro-Rata Annual Bonus”), based on actual performance for the fiscal year in which the termination occurs, provided, that such termination occurs at least half way through the applicable fiscal year; and (iii) reimbursement for the employer portion of the COBRA premiums for 24 months (or, for Mr. Hornbeck only, 30 months, provided that such amount shall still be payable over the 24-month period following termination); provided, that, if the Qualifying Termination occurs within the 2-year period following (or within the 6-month period preceding) a “change of control,” then the (x) Severance Benefits will be payable in a lump sum on or about the 60th day following such “change of control” and (y) Pro-Rata Annual Bonus will be determined based on deemed achievement of target performance for the fiscal year in which the termination occurs regardless of when the termination occurs during such fiscal year.

Additionally, upon a Qualifying Termination (which, for Mr. Adams, means a termination without “cause” or resignation for “good reason”, each as defined in the 2020 Management Incentive Plan), (i) each of Messrs. Hornbeck and Giberga will vest in the tranche of RSUs next scheduled to vest following such Qualifying Termination, if any, and (ii) each Hornbeck NEO will (a) time-vest in the tranche of stock options next scheduled to time-vest following such Qualifying Termination, if any; and (b) be entitled to, with respect to any stock options that have time-vested as of the Qualifying Termination date (after accounting for the acceleration set forth in clause (a)), have such time-vested stock options remain outstanding and eligible to performance-vest to the extent the applicable performance conditions are actually achieved.

The EAs of Messrs. Hornbeck and Giberga define “cause” as any of the Hornbeck NEO’s: (i) conviction of either (A) a felony involving moral turpitude or (B) any crime in connection with the Hornbeck NEO’s employment that causes Hornbeck and each of its subsidiaries and affiliates (collectively, the “Hornbeck Group”) a substantial detriment (in each case, excluding traffic offenses); (ii) actions or inactions that clearly are contrary to the best interests of Hornbeck Group and the express directives of the Hornbeck Board; provided, that, such actions or inactions by the Hornbeck NEO cause Hornbeck Group a substantial detriment or could reasonably be expected to cause a substantial detriment to Hornbeck Group as determined by the Hornbeck Board in good faith; (iii) willful failure to take actions permitted by law and necessary to implement policies of the Hornbeck Board that the Hornbeck Board has communicated to the Hornbeck NEO in writing; provided, that, such policies that are reflected in minutes of the Hornbeck Board meeting attended in its entirety by the Hornbeck NEO shall be deemed communicated to the Hornbeck NEO to the extent the Hornbeck NEO received a copy of such minutes from the secretary or the general counsel of Hornbeck promptly following approval by the Hornbeck Board; (iv) continued failure to attend to the Hornbeck NEO’s material duties as an executive officer of Hornbeck Group following the Hornbeck NEO’s receipt of written notice from the Hornbeck Board of such failure; provided, that, such failure by the Hornbeck NEO causes Hornbeck Group a

substantial detriment or could reasonably be expected to cause a substantial detriment to Hornbeck Group as determined by the Hornbeck Board in good faith; (v) commission of an act of fraud or material act of dishonesty or misappropriation involving Hornbeck Group; (vi) willful violation of law or gross negligence that is substantially detrimental to Hornbeck; (vii) material breach or material violation of the EA or any other written agreement with a member of Hornbeck Group, or any material violation of any written policy of Hornbeck Group; provided, that, such material breach or material violation by the Hornbeck NEO causes Hornbeck Group a substantial detriment or could reasonably be expected to cause a substantial detriment to Hornbeck Group as determined by the Hornbeck Board in good faith; or (viii) habitual use of illicit drugs or habitual abuse of alcohol that, in the reasonable good faith opinion of the Hornbeck Board, renders the Hornbeck NEO unfit to serve as an officer of Hornbeck Group. If any determination of habitual use or substantial dependence under clause (viii) is disputed by the Hornbeck NEO, Hornbeck and the Hornbeck NEO agree to abide by the decision of a panel of 3 physicians appointed in the manner specified in the applicable EA. For purposes of this “cause” definition, no action or inaction will be considered “willful” or constitute “gross negligence,” if the Hornbeck NEO had a reasonable, good faith belief that such action or inaction was in the best interests of Hornbeck Group. Anything in the EA to the contrary notwithstanding, the Hornbeck NEO shall not be terminated for “cause” under the EA, unless (A) written notice stating the basis for the termination is provided to the Hornbeck NEO, and (B) with the exception of the Hornbeck NEO’s conviction of either a felony involving moral turpitude or any crime in connection with the Hornbeck NEO’s employment that causes Hornbeck Group a substantial detriment (in each case, excluding traffic offenses), the Hornbeck NEO is given 10 business days to cure the neglect or conduct that is the basis of such claim, to the extent curable.

The EAs of Messrs. Hornbeck and Giberga define “good reason” as, unless otherwise agreed to in writing by the Hornbeck NEO, (i) any material diminution in the Hornbeck NEO’s titles, duties, responsibilities, status or authorities with Hornbeck or any of its material operating subsidiaries; (ii) a material reduction in the Hornbeck NEO’s base salary or target bonus; (iii) a relocation of the Hornbeck NEO’s primary place of employment to a location more than 35 miles farther from the Hornbeck NEO’s primary residence than the current location of Hornbeck’s offices in Louisiana as of June 19, 2020; or (iv) a material breach by Hornbeck of the EA or any other agreement between Hornbeck and the Hornbeck NEO. In order to invoke a termination for “good reason,” (A) the Hornbeck NEO must provide written notice within 45 days of the Hornbeck NEO becoming aware of the occurrence of any event of “good reason”; (B) Hornbeck must fail to cure such event within 30 days of the giving of such notice; and (C) the Hornbeck NEO must terminate employment within 45 days following the expiration of Hornbeck’s cure period.

Hornbeck Payments upon a Change of Control

All outstanding Hornbeck equity awards will vest upon the consummation of the mergers pursuant to the terms of the merger agreement. This section describes the “change of control” treatment without giving effect to the merger agreement. Upon a “change of control,” (i) 100% of the Hornbeck NEO’s then-unvested RSUs will accelerate and vest; (ii) the time-vesting condition of the Hornbeck NEO’s then-unvested stock options will be deemed fully satisfied; and (iii) the Hornbeck NEO’s then-unvested PSUs will vest only if the applicable performance hurdles are achieved in connection with such change of control. Upon a “Qualifying Termination” (as described above) in connection with a change of control, each Hornbeck NEO shall be entitled to the Severance Benefits described above in the section titled “—Hornbeck Payments upon a Termination of Employment without Cause or for Good Reason,” except that the Hornbeck NEO shall be entitled to the Pro-Rata Annual Bonus regardless if such termination occurs prior to the midpoint of the fiscal year and shall be based on target performance and all amounts shall be paid in a lump sum.

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The table sets forth the estimated payments and benefits payable upon the occurrence of the events described in this section. In estimating the value of such payments, the table assumes that (i) the Hornbeck NEO's employment was terminated and/or a "change of control" occurred, in each case on December 31, 2025; (ii) each Hornbeck NEO's compensation rates were the same as in effect on December 31, 2025; and (iii) the market value of the stock awards is based on \$75.05, which is the fair market value of a share of Hornbeck's common stock as of December 31, 2025 and the price used for the 2025 Tender Offer in December 2025.

Officer	Type of Payment	Termination Without Cause or for Good Reason (\$)	Termination Due to Death (\$)	Termination Due to Disability (\$)	Occurrence of a Change of Control
Todd M. Hornbeck	Cash Severance	3,750,000	—	—	
	Stock Award Vesting ⁽²⁾	1,226,005	—	—	12,007,343
	Pro-Rata Annual Bonus ⁽¹⁾	750,000	750,000	750,000	
	Health and Welfare Benefits	223,123	347,656	90,455	
	Total	5,949,128	1,097,656	840,455	12,007,343
Robert P. Adams	Stock Award Vesting ⁽²⁾	—	—	—	1,389,347
	Total	—	—	—	1,389,347
Samuel A. Giberga	Cash Severance	1,600,000	—	—	—
	Stock Award Vesting ⁽²⁾	494,046	—	—	4,949,268
	Pro-Rata Annual Bonus ⁽¹⁾	400,000	400,000	400,000	—
	Health and Welfare Benefits	212,606	352,171	107,509	
	Total	2,706,652	752,171	507,509	4,949,268

- (1) The Pro-Rata Annual Bonus amounts set forth above are based on deemed achievement of all performance criteria at target levels. Given that Hornbeck assumes payout of the Pro-Rata Annual Bonus at target levels, the total severance amount reported in this table under the "Termination Without Cause or for Good Reason" column would be the same if such termination occurred in connection with a change of control.
- (2) The Stock Award Vesting amounts set forth do not include the value of the RSUs granted in 2020 that previously vested, as such inclusion would result in a duplication of income reporting, but such vested RSUs would be settled upon a change of control. The value of RSUs previously vested are as follows: \$15,925,235 for Mr. Hornbeck and \$6,635,546 for Mr. Giberga. Mr. Adams was not granted RSUs in 2020. All equity awards, including RSUs, were granted from the reserve under the 2020 Management Incentive Plan, which initially allocated 2,198,044 shares of common stock of Hornbeck for issuance thereunder, of which 2,063,111 of such total shares were reserved for executives, senior management, and certain consultants and advisors (excluding non-employee directors) (the "MIP Reserve") and would have been paid to the MIP participants upon a change of control. The MIP Reserve has been fully allocated, so the Stock Award Vesting amounts assume none of the remaining MIP Reserve would be granted to any of Hornbeck NEOs at the time of a change of control.

Helix Director Compensation

The table below sets forth the annual compensation awarded to or earned by certain of Helix's non-employee directors for Fiscal 2025 who will continue as directors of the combined company.

Name	Fees Earned or Paid in Cash ⁽¹⁾⁽²⁾ (\$)	Stock Awards ⁽³⁾ (4) (\$)	Total (\$)
William L. Transier	256,250	150,000	406,250

- (1) The annual retainer for each member of the Helix Board, the retainer related to the applicable Helix Board member's serving as a Chair of a committee and/or as Chairman of the Helix Board, and the retainer related to the applicable Helix Board member's serving as a member of a committee are paid quarterly. Directors have the option of taking Helix Board and committee retainers (but not expenses) in the form of restricted stock. See "Summary of Helix Director Compensation and Procedures" below.
- (2) In this column we are required to report all fees either earned or paid to directors during 2025. As a result, fees earned in 2024 for fourth quarter service in 2024 but paid in 2025 are also included; thus the dollar amount represents fees paid for five (not four) successive quarters. Fees earned in 2024 but paid to Mr. Transier in 2025 were \$51,250.
- (3) Amount shown in this column represents the grant date fair value of the restricted stock as calculated in accordance with the provisions of FASB Accounting Standard Codification (ASC) Topic 718. The value ultimately realized by Mr. Transier may or may not be equal to the FASB ASC Topic 718 determined value.
- (4) The grant date fair value of the restricted stock awarded with respect to the year ended December 31, 2025 to Mr. Transier, computed in accordance with FASB ASC Topic 718, is as follows:

Name	Date of Grant	Number of Shares	Grant Date Fair Value
William L. Transier	December 11, 2024(a)	14,881	\$150,000

(a) Represents the annual equity grant made in December 2024 for 2025 Board service.

Additionally, on December 10, 2025, Mr. Transier was issued 20,690 shares of restricted stock having a grant date fair value of \$150,000 representing his annual grant for 2026 Helix Board service.

As of December 31, 2025, unvested restricted stock held by Mr. Transier is as follows:

Name	Shares of Unvested Restricted Stock Outstanding
William L. Transier	20,690

Summary of Helix Director Compensation and Procedures

In 2025, the Helix non-employee director compensation structure had three components: (i) director, Chairman of the Helix Board and committee Chair retainers, (ii) committee retainers and (iii) annual equity-based compensation in the form of restricted stock awards. Helix also reimburses non-employee directors for their reasonable out-of-pocket expenses related to attending Helix Board and committee meetings. Helix re-evaluates director compensation based on the compensation of directors by companies in the Helix Benchmarking Peer Group and other relevant facts and circumstances.

In 2025, non-employee director cash retainers were as follows, in each case paid on a quarterly basis:

- All non-employee directors received an annual director's retainer of \$70,000;
- The independent Chairman of the Helix Board received an annual retainer of \$125,000 for such service;
- Each committee Chair received an annual retainer of \$20,000; and
- Each non-Chair member of each standing committee received an annual retainer of \$10,000.

Non-employee directors have the option of taking Helix Board and committee retainers and fees (but not expenses) in the form of restricted stock, pursuant to the terms of the Helix 2005 Long Term Incentive Plan. An election to take retainers and fees in the form of cash or stock is made by directors prior to the beginning of the subject fiscal year (and if no election is made, retainers and fees are paid in cash). Directors taking retainers and fees in the form of restricted stock receive a stock award for service during a quarter on or about the first business day of the next quarter in an amount equal to 125% of the cash equivalent of his or her retainers and fees, with the number of shares determined by the closing stock price on the last trading day of the fiscal quarter for which the retainers and fees were earned. These awards fully vest two years after the first day of the year in which the grant is made.

Upon joining the Helix Board and on the date of each regularly scheduled December Helix Board meeting thereafter, a director receives a grant of restricted stock, with a grant value of \$150,000 and a one-year vesting term. These grants are made pursuant to the terms of Helix 2005 Long Term Incentive Plan. All grants are subject to immediate vesting on the occurrence of a Change in Control (as defined in the Helix 2005 Long Term Incentive Plan) and will vest upon the consummation of the mergers pursuant to the terms of the merger agreement. From time to time, the Helix Board establishes special committees and special committee members may receive fees in amounts based on the relevant facts and circumstances. Such fees for special committee service are reported in the Helix Director Compensation Table above. The grant of stock options is not currently an element of director compensation.

HORNBECK'S BUSINESS

References in this section to "Hornbeck," "we," "us" and "our" are to Hornbeck Offshore Services, Inc. and its consolidated subsidiaries, unless the context otherwise requires or as otherwise indicated.

Company Overview

Hornbeck is a leading provider of marine transportation services supporting a range of diversified offshore end-markets including oilfield specialty services and drilling support, military support services, renewable energy, HADR and aerospace support services. At Hornbeck, our mission is to be recognized as the marine transportation and service "Company of Choice" for our customers, employees and investors through innovative, high-quality and value-added business solutions delivered with enthusiasm, integrity and professionalism with the utmost regard for safety of individuals and the protection of the environment. We own a fleet of 73 offshore vessels comprised of 15 MPSVs, including two 400-class MPSV newbuilds that are currently under construction, and 58 OSVs. In addition, we provide to the U.S. Navy ongoing operation and maintenance of four highly specialized OSVs (which we previously developed, constructed, and sold to the U.S. Navy) via a long-term O&M contract. Since our founding nearly 30 years ago, we have focused on providing technologically advanced marine solutions to meet the evolving needs of our customers across our core geographic regions spanning the United States and Latin America. Our team brings substantial industry expertise built through decades of maritime-related experience and has leveraged that knowledge to amass what we believe is one of the largest, most capable and highest specification fleets of OSVs and MPSVs in the offshore vessel industry.

Geographically, we have focused on cabotage protected markets in the Americas that limit competition by low-priced foreign competitors. Our largest market is in the United States, where foreign competition is limited by the Jones Act. In addition, the U.S. high-spec and ultra high-spec vessel supply is highly restricted with long lead times for new construction. High newbuild costs result in unfavorable return economics for newbuilds, which is exacerbated by limited pools of available capital to make investments into new fleet construction.

We manage our fleet by implementing a fleet strategy, whereby we evaluate alternative scenarios for value capture across our fleet of vessels. We often package our high- and ultra high-specification OSVs alongside our MPSV fleet to support major projects, creating logistical efficiencies and vessel-bundling opportunities that increase utilization and enhance both our operational and financial performance. Finally, we seek diversification of deployments, in order to expand alternatives and lessen over-reliance on any single end-market. Since 2021, we have strategically repositioned our fleet to capture value across these diversified end-markets. As of March 31, 2026, approximately 62% of our trailing twelve-month revenues were derived from oilfield specialty and non-oilfield services, providing a more consistent operating environment for our Company that is less impacted by industry cyclicality associated with oilfield drilling operations.

Description of Our Business and Fleet

We own and operate OSVs, MPSVs, and a port facility in Port Fourchon, Louisiana. Our fleet of vessels provide logistics support and specialty services to the offshore oil and gas exploration and production industry, primarily in the U.S. GoA, the Caribbean, Northern South America and Brazil, as well as non-oilfield specialty services for the U.S. military and other non-oilfield service customers primarily from the East and West Coasts of the United States and in the U.S. GoA. Measured by DWT capacity, we believe we have the number one ultra high-spec market position in the U.S., and the third largest fleet of high-spec and ultra high-spec OSVs in the world. Hornbeck has the second largest fleet of high-spec and ultra high-spec Jones Act-qualified OSVs. Hornbeck is the largest U.S. owner of MPSVs, which fleet is comprised of Jones Act-qualified vessels as well as foreign-flagged vessels for both U.S. and foreign operations.

OSVs

OSVs are highly versatile offshore vessels that are utilized in a variety of marine operations. In addition to oilfield operations, for which OSVs were initially developed, their flexibility and utility are now recognized and employed in an array of non-oilfield service applications. OSVs differ from other vessels primarily due to their cargo-carrying flexibility and capacity. In addition to transporting large quantities of deck cargo, OSVs also have below-deck tanks and pumping systems that enable them to transport and transfer large volumes of liquid cargoes, such as cement, liquid mud, water and fuel, as well as dry bulk cargoes, including barite, cement and bentonite. OSVs have accommodations for personnel in addition to the marine crew and can therefore be used as an operating platform for a variety of offshore missions requiring specialized personnel, equipment and processing plants. High-spec and ultra high-spec OSVs can

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interface with other offshore vessels and facilities using DP. Driven primarily by safety concerns that prohibit vessels from physically mooring to offshore installations, DP systems have been refined over time, with the highest DP rating currently being DP-3. The number following the DP notation generally indicates the degree of redundancy built into the vessel's systems and the range of usefulness of the vessel in various weather conditions and sea states during offshore operations. Today, most offshore customers prefer a DP-2 notation. The combination of DP technology and cargo transport and transfer capability allow OSVs to interface with other offshore facilities and vessels in a safe and efficient manner.



***HOS 300' OSV in Foreground, Paired with HOS MPSV-Flotel in Background
Supporting Gulf of America Production Facility***

MPSVs

MPSVs are primarily distinguished from OSVs in that they are more specialized and often significantly larger vessels that are not typically employed to transport and transfer cargo, but rather to engage in a variety of offshore and subsea construction as well as other highly specialized operations. Our fleet of 15 MPSVs are utilized as marine platforms for services ranging from offshore construction to recurring IRM services, as well as commissioning and decommissioning for offshore and subsea energy and infrastructure projects. Most of our MPSVs are outfitted with specialty equipment that is specifically installed for the type of work the vessel is contracted to complete, which can easily be modified to address varying customer requirements by leveraging our in-house engineering capabilities, modular accommodation units and shore-based facilities. Typically, our MPSVs are equipped with one or more deepwater cranes, can deploy one or more ROVs to support subsea work and have an installed helipad to facilitate the on- and off-boarding of specialist service providers and personnel. Our MPSVs can also be outfitted as flotels capable of providing berthing cabins, offices, catering, laundry, medical and recreational facilities for up to nearly 200 personnel for the duration of an offshore project. Given the breadth of capabilities of our MPSV fleet, our vessels are highly relevant to our customers across a broad range of end-markets that we serve, including oilfield infrastructure construction and installation, ongoing IRM services, maintenance and overhaul projects, military support services and renewable energy projects such as offshore wind. Two of our MPSVs have DP-3 capabilities, while all others are DP-2.

Included in our fleet of 15 MPSVs are two 400-class MPSV newbuilds that are currently under construction and expected to be delivered in 2027. Based on their overall length and total lifting capacity, we expect these vessels to be the largest, most capable Jones Act-qualified MPSVs in the market, with industry-leading technologies that will make them some of the most sophisticated MPSVs in the world. Each vessel will be equipped with one 400-ton subsea crane, a secondary 100-ton crane and large berthing areas, giving them the highest level of subsea crane capacity within the Jones Act MPSV fleet. Such cranes will be capable of lifting to an industry leading water depth of 4,000 meters. The vessels will also be outfitted with integrated ROV systems and specialized below-deck tanks allowing them to engage in light well intervention. Once delivered, these two vessels have the potential to contribute significant organic growth to our underlying business and will deepen our strategic diversification across the offshore infrastructure complex. Importantly, our remaining capital expenditures to bring the vessels online are minimal compared to the cost of constructing similar vessels, creating the potential for significant upside to our scale and financial performance in the future.



Rendering of 400' Class HOS MPSV Expected to Deliver 2027

We have strategically organized our fleet to focus on the high- and ultra high-spec vessel classifications, which generally provide customers with greater capacities, larger deck spaces, greater lifting capabilities, and leading-edge dynamic positioning systems. As measured by DWT capacity, approximately 85% of our total fleet is classified as either high- or ultra high-spec with DP-2 or higher classification, which we believe represents the third largest fleet of such vessels in the world. Similarly, approximately 99% of our currently active fleet of 47 vessels are classified as either high- or ultra-high spec and have an expected remaining economic useful life that exceeds 20 years. We believe that our industry-leading fleet provides our customers with a reliable and differentiated value proposition across the varied end-markets in which they operate and allows us to achieve significant, consistent operational and financial performance that can generate enhanced returns for our investors.



HOS Rocinante – CSOV Converted and Delivered 2025 for Offshore Wind Services

The strengths of our OSVs and MPSVs are further enhanced by complementary shore-based assets and service offerings. We own and operate a shore-based facility in Port Fourchon, Louisiana, providing approximately 60 acres and nearly 3,000 linear feet of proprietary dock space capable of providing staging, storage, dispatch, and dockage services for customers and our fleet of vessels. In combination with HOSLIFT, a 7,700 mT floating drydock, we can efficiently conduct ongoing maintenance and topside repairs of our vessels, as well as upgrade and replace installed equipment. Our in-house engineering capabilities, comprised of approximately 16 individuals who specialize in naval architecture and marine engineering, provide a point of differentiation from our competitors by allowing us to design, modify and reconfigure vessels tailored to specific jobs and customer requirements. These capabilities are highly valuable in an evolving industry and allow us to quickly respond to dynamic customer needs and capitalize on emerging market opportunities. As an example, we recently completed the conversion of one of our U.S.-flagged HOSMAX 280-class OSVs into a dual-service MPSV capable of operating as either a C/SOV for offshore wind farm development or as a flotel for offshore oilfields.



***HOS Blocking Vessel Alongside SSB
Using Proprietary Technology Developed by HOS***

Our internal engineering resources, together with our significant fleet of U.S. flag vessels enhances the level of specialized services that we provide to the United States Navy and other U.S. government customers. Our military service capabilities are a growing component of our service portfolio and military support is an end-customer market that is of particular importance given the stability provided by the U.S. government's desire to execute long-term service agreements with qualified private contractors.

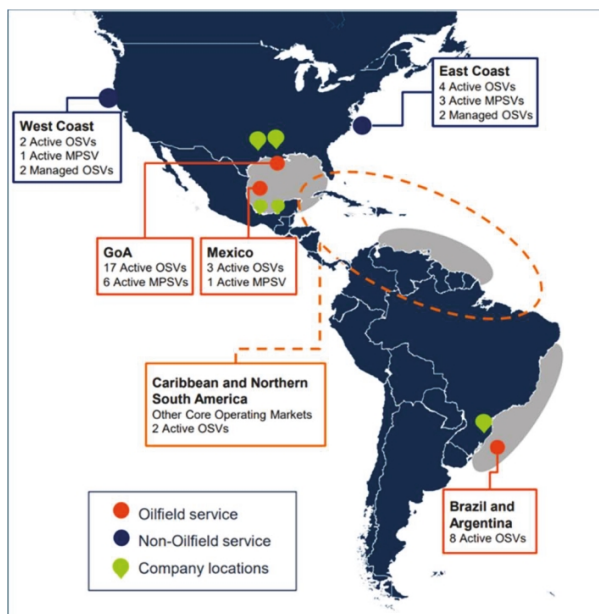
Customer Markets and Applications

The market for OSVs and MPSVs has changed dramatically over the last decade, driven by vastly more complex offshore oil and gas production requirements in deepwater and ultra-deepwater regions, requiring highly-capable vessels. Moreover, such shifts in oilfield demand fundamentals have been complemented by incremental demand from emerging non-oilfield customer markets, including military support services, renewable energy development, HADR, aerospace and other non-oilfield service offerings that can benefit from the capabilities of our unique vessel classes. In response to changing market conditions and customer demand, we regularly transfer vessels between and within our core geographic regions and adapt equipment and features of our vessels to best meet potential revenue opportunities. Each customer market has specialized service needs and vessel requirements and we believe our flexible fleet enables us to adapt to changing demand across our markets. Historically, most of our revenues were generated by deepwater and ultra-deepwater oil and gas drilling support activities; however, for the three months ended March 31, 2026, only 40% of our revenues were attributed to oil and gas drilling support activities. The remaining approximately 60% of our revenues were generated away from the drill bit, with approximately 18% coming from oilfield specialty services, including offshore IRM, subsea construction and equipment installation, as well as decommissioning and plugging and abandonment work, approximately 19% coming from military support services and approximately 23% coming from other non-oilfield support services, including offshore wind development, construction and support services. As we continue to diversify our customer markets, we expect the non-oilfield markets to continue contributing a significant portion of our revenues in the future.

Geographic Areas

Our core geographic markets include the United States and Latin America. Across each of these markets, we provide our customers with a range of maritime transportation services covering a variety of customer end-markets. We predominantly serve our oilfield customers in the U.S. GoA, the Caribbean, Northern South America and Brazil, while our vessels serving non-oilfield customers primarily operate along the East and West Coasts of the United States and the U.S. GoA. When not operating in Mexico, we operate our Mexican-flagged vessels across the U.S., Caribbean, Northern South America and Brazil, as well as in other international markets, utilizing a highly-skilled workforce of Mexican mariners and shore-side support teams that have been trained in our safety systems and culture.

A map illustrating our active vessel locations as of May 20, 2026, is below:



The table below presents revenues by geographic region⁽¹⁾ for the three months ended March 31, 2026 and 2025 and the years ended December 31, 2025 and 2024 (in thousands):

	Three Months Ended March 31,				Year Ended December 31,			
	2026	% of Total	2025	% of Total	2025	% of Total	2024	% of Total
United States	\$119,586	69.2%	\$ 91,737	65.6%	\$510,942	71.0%	\$478,052	74.6%
International ⁽²⁾⁽³⁾	53,135	30.8%	48,088	34.4%	208,888	29.0%	162,799	25.4%
	<u>\$172,721</u>	<u>100.0%</u>	<u>\$139,825</u>	<u>100.0%</u>	<u>\$719,830</u>	<u>100.0%</u>	<u>\$640,851</u>	<u>100.0%</u>

(1) Hornbeck attributes revenues to individual geographic regions based on the location where services are performed.

(2) International revenues of \$25.3 million, \$16.7 million, and \$7.5 million were attributed to services performed in Brazil, Mexico, and Colombia, respectively, for the three months ended March 31, 2026 and international revenues of \$29.1 million, \$7.3 million, and \$8.8 million were attributed to services performed in Brazil, Mexico, and Colombia, respectively, for the three months ended March 31, 2025. Revenues attributed to other countries were not individually material for the periods presented.

(3) International revenues of \$111.8 million and \$88.4 million were attributed to services performed in Brazil for the years ended December 31, 2025 and 2024, respectively. International revenues of \$34.7 million and \$27.5 million were attributed to services performed in Colombia for the years ended December 31, 2025 and 2024, respectively. International revenues of \$33.0 million and \$32.3 million were attributed to services performed in Mexico for the years ended December 31, 2025 and 2024, respectively. Revenues attributed to other countries were not individually material for the periods presented.

Management Team

Our founder-led executive management team has an average of nearly 40 years of domestic and international marine transportation industry-related experience and has worked together at Hornbeck for over 25 years. Our executives are supported by a senior leadership team that we believe has extensive continuity and industry experience that will help to sustain our business and drive long-term growth well into the future. Our team is comprised of individuals with extensive, global experience with backgrounds across many diverse fields including engineering, project management, military service, finance, accounting, tax, legal, risk management and corporate leadership. We believe that our team has successfully demonstrated its ability to grow our fleet through new construction and acquisitions and to secure profitable contracts for our vessels in both favorable and unfavorable market conditions in domestic and foreign markets.

HORNBECK MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

The following discussion and analysis of the results of operations, financial condition and liquidity position of Hornbeck for the three months ended March 31, 2026 and 2025 and the years ended December 31, 2025, 2024 and 2023 should be read in conjunction with the information contained in the consolidated financial statements and related notes included elsewhere in this proxy statement/prospectus. The following discussion and analysis of the financial condition and results of operations of Hornbeck covers periods prior to the consummation of the mergers described elsewhere in this proxy statement/prospectus and does not reflect its effect on future periods. The mergers will result in financial results that are materially different from those reflected in the consolidated financial statements of Hornbeck that are included elsewhere in this proxy statement/prospectus. Unless the context otherwise requires, all references in this section to "Hornbeck," "we," "us," or "our" refer to the business of Hornbeck Offshore Services, Inc. and its subsidiaries before giving effect to the merger and related transactions, unless the context otherwise requires or as otherwise indicated. Additionally, unless noted otherwise, discussions surrounding our vessels are as of March 31, 2026 and include two partially constructed Jones Act-qualified MPSV newbuilds to be completed pursuant to our settlement with the Surety. Our vessels exclude the four non-owned OSVs that we operate on behalf of the U.S. Navy.

This discussion contains forward-looking statements that involve risks and uncertainties about our business and operations and reflect our plans, estimates and beliefs. Our actual results and the timing of selected events may differ materially from those anticipated in these forward-looking statements as a result of various factors, including those we describe below, under "Risk Factors" and elsewhere in this proxy statement/prospectus. See "Cautionary Statement Regarding Forward-Looking Statements."

Company Overview

Hornbeck is a leading provider of marine transportation services supporting a range of diversified offshore end-markets including oilfield specialty services and drilling support, military support services, renewable energy development and other non-oilfield service offerings, such as HADR and aerospace support services. We own a fleet of 73 offshore vessels comprised of 15 MPSVs, two of which are under construction, and 58 OSVs. In addition, we provide ongoing operation and maintenance of four highly specialized OSVs (which we previously developed, constructed, and sold to the U.S. Navy) via a long-term O&M contract. Since our founding nearly 30 years ago, we have focused on providing innovative, technologically advanced marine solutions to meet the evolving needs of our customers across our core geographic regions spanning the United States and Latin America. Our team brings substantial industry expertise built through decades of maritime-related experience and has leveraged that knowledge to amass what we believe is one of the largest, most capable and highest specification fleets of OSVs and MPSVs in the offshore vessel industry.

Our fleet was assembled to be a market-leading provider of complex "life-of-field" maritime services for deepwater and ultra-deepwater offshore projects in select, cabotage-protected markets. As a result, we have strategically organized our fleet to focus on the high- and ultra high-spec vessel classifications, which generally provide customers with greater capacities, larger deck spaces, greater lifting capabilities, and leading-edge dynamic positioning systems. As measured by DWT capacity, approximately 85% of our total fleet is classified as either high- or ultra high-spec with DP-2 or higher classification, which we believe represents the third largest fleet of such vessels in the world. Similarly, approximately 99% of our currently active fleet of 47 vessels are classified as either high- or ultra-high spec and have an expected remaining economic useful life that exceeds 20 years. We believe that our industry leading fleet of active vessels provides our customers with a reliable and differentiated value proposition across the varied end-markets in which they operate and allows us to achieve significant, consistent operational and financial performance that is capable of generating enhanced returns for our investors.

Additionally, we have strategically chosen to operate our vessels in select geographic locations that represent what we believe are the most compelling deepwater offshore markets in the world. Many of these locations, such as the United States, Mexico and Brazil, also have regulatory protections known as cabotage laws that limit market participation for non-indigenous flagged vessels, creating high barriers to entry and advantaged supply and demand dynamics for our vessels. This allows us to execute a highly differentiated commercial strategy, optimizing vessel contracts across our portfolio of assets and diversified end-markets to maximize profitability, free cash flow generation and returns, rather than focusing primarily on asset utilization and contract tenor. Ultimately, we believe this commercial strategy has proven to be a superior business model, allowing us to strategically deploy our assets to high-demand end-markets, contract our vessels at industry-leading dayrates and consistently achieve average dayrates and financial margins that outperform our domestic public peers.

Our fleet of 15 MPSVs provides services ranging from offshore construction to recurring IRM services, as well as commissioning and decommissioning for offshore and subsea energy and infrastructure projects. Most of our MPSVs are outfitted with specialty equipment that is specifically installed for the type of work the vessel is contracted to complete, which can easily be modified to address varying customer requirements by leveraging our in-house engineering capabilities, modular accommodation units and shore-based facilities. Typically, our MPSVs are equipped with one or more deepwater cranes, have the ability to deploy one or more ROVs to support subsea work and have an installed helipad to facilitate the on- and off-boarding of specialist service providers and personnel. Our MPSVs can also be outfitted as flotels capable of providing berthing cabins, offices, catering, laundry, medical and recreational facilities for up to nearly 200 personnel for the duration of an offshore project. Given the breadth of capabilities of our MPSV fleet, our vessels are highly relevant to our customers across a broad range of end-markets that we serve, including oilfield infrastructure construction and installation, ongoing IRM services, maintenance and overhaul projects, military support services and renewable energy projects such as offshore wind. This diversification makes our fleet less vulnerable to fluctuating commodity prices or industry cyclicality and allows us to strategically reposition our assets to different customer types depending on prevailing industry trends, demand drivers and growth opportunities, helping to maximize the opportunities for each of our vessels to achieve its targeted profitability and return objectives. Since 2021, we have strategically repositioned our fleet to capture value across these diversified end-markets. As of March 31, 2026, approximately 62% of our trailing twelve-month revenues were derived from oilfield specialty and non-oilfield services, providing a more consistent operating environment for our Company that is less impacted by industry cyclicality associated with oilfield drilling operations.

Included in our pro forma fleet of 15 MPSVs are two 400-class MPSV newbuilds that are currently under construction and expected to be delivered in 2027. Based on their overall length and total lifting capacity, we expect these vessels to be the largest, most capable Jones Act-qualified MPSVs in the market, with industry-leading technologies that will make them two of the most sophisticated MPSVs in the world. Each vessel will be equipped with one 400-ton subsea crane, a secondary 100-ton crane and large berthing areas, giving them the highest level of subsea crane capacity within the Jones Act MPSV fleet. Such cranes will be capable of lifting to an industry leading water depth of 4,000 meters. The vessels will also be outfitted with integrated ROV systems and specialized below-deck tanks allowing them to engage in light well intervention. Once delivered, these two vessels have the potential to contribute significant organic growth to our underlying business and will deepen our strategic diversification across the offshore infrastructure complex. Importantly, our remaining capital expenditures to bring the vessels online are minimal compared to the cost of constructing similar vessels, creating the potential for significant upside to our scale and financial performance in the future.

Our fleet of 58 OSVs transports equipment, materials and supplies to a diverse range of offshore projects. These vessels differ from most other OSVs in the industry in that they provide increased cargo-carrying capacities capable of transporting large quantities of both deck cargoes as well as various liquid and dry bulk cargoes stored in below-deck tanks. Our OSVs are also outfitted with advanced nautical technologies, including DP capabilities that allow them to safely interface with other vessels or offshore fixed or floating assets by maintaining either an absolute or relative station-keeping position while working in rough seas. Given their size, versatility and advanced technologies, our OSVs can support the full range of “life-of-field” end-markets, including the deepwater and ultra-deepwater oilfield market, where we transport supplies and equipment to support offshore drilling rigs, production platforms and subsea construction projects, as well as provide ongoing IRM services to existing energy infrastructure. In addition, our OSVs provide offshore support to the U.S. military, where we transport supplies and provide logistical and other services for training exercises, renewable energy development, where we support the transportation and installation of infrastructure primarily for offshore wind farms, and other non-oilfield applications such as HADR and aerospace support services. By implementing our fleet strategy, we often package our high- and ultra high-specification OSVs alongside our MPSV fleet to support major projects, creating logistical efficiencies and vessel-bundling opportunities that increase utilization and enhance both our operational and financial performance.

After enduring a multi-year down-turn in the oil and gas industry from October 2014 to June 2021 due principally to an over-supply of oil, in addition to the COVID-19 pandemic, we developed a strategic plan focused on (i) right-sizing our fleet to focus on high-spec and ultra high-spec vessels, (ii) diversifying further into oilfield services to more broadly serve customer requirements that are less reliant on drilling operations and (iii) growing our non-oilfield revenue base. As oil markets have recovered, drilling activity across our operating region has grown. Drilling in the U.S. GoA has stabilized to an active drilling rig count ranging from 17 to 20 rigs. The Brazilian rig count has increased more dramatically to 34 rigs, whereas Guyana, Suriname and other South American regions have also seen increases. Non-drilling oilfield activities have also increased, creating demand for MPSVs, and to a lesser extent OSVs. We have

also seen increased activity in non-oilfield markets, with offshore wind development playing a significant part. In 2025, we had as many as eight vessels working outside of the oilfield supporting offshore wind development projects. Moreover, our services to the United States military have also increased. Geopolitical tensions, particularly in Ukraine, the Middle East and the Pacific theater, are driving increased inquiries regarding the unique capabilities of our vessels as platforms that can perform military missions. Our strategy to diversify our revenue base and high grade our fleet has produced favorable results, and we achieved our all-time highest operating results in a single quarter during the second quarter of 2025. For the three months ended March 31, 2026, we had 40% of our revenue derived from oilfield drilling operations, 18% from oilfield specialty operations, 19% from military operations and 23% from other non-oilfield operations, including wind, HADR and aerospace operations.

Oil prices remain volatile. During 2022, the domestic oil price peaked at \$124 per barrel, representing a near 14-year high, which was driven by geopolitical tensions, low investment by our customers and increased demand following the COVID-19 pandemic. In 2025, the domestic oil price averaged \$65.39, as supply increased and demand softened as a result of global economic weakness, especially in China. Amid the ongoing conflict in Iran, oil prices have recently risen above \$110 per barrel, their highest level since 2022. Forecasts prior to the conflict called for an over-supplied oil market in 2026, which was expected to result in softer prices. However, such forecasts also called for steady increases in oil prices as supply shortages from under-investment and strengthening demand in the developing world increase the demand for hydrocarbons. An extended conflict in the Middle East would likely result in continued upward pressure on oil prices and further impact anticipated supply shortages.

Because the vast majority of our fleet is Jones Act-qualified, our primary geographic focus is in the United States, as foreign competition is limited and the supply of U.S.-built OSVs and MPSVs is not growing. The supply of OSVs and MPSVs working in the United States can have a significant impact on our utilization and pricing. As U.S.-flagged vessels are drawn into other proximate regional markets, such as Brazil and Northern South America, fewer vessels are available domestically to serve the oilfield and non-oilfield markets. This dynamic was particularly true during 2025. As of March 31, 2026, 26% of the U.S.-flagged high- and ultra high-spec OSVs were working in foreign markets, limiting the supply domestically at a time when vessel demand for offshore wind development increased, despite relatively flat demand in the U.S. GoA for drilling support.

We believe that by 2027, drilling will increase modestly in the U.S. GoA and will continue to have grown in Brazil and other Latin American markets, increasing the demand from drilling markets for our vessels. We have grown our presence in Brazil since 2021 from one vessel to eight. Two of those vessels are Brazilian-flagged and therefore have the ability to block foreign competitors. We have also increased our presence on the Northern Slope of South America. A potential threat to these positive developments is the possible movement of vessels from other parts of the world into the non-U.S. regional markets that we serve. The North Sea has been particularly soft for the last two years, owing in part to efforts to decarbonize in the U.K. and Norway. However, as oil prices increase, it is expected that drilling will likewise increase globally, dampening the temptation of foreign operators to mobilize vessels into our Latin American markets at a high cost. During 2026, we expect that offshore wind development projects currently under construction in the United States will continue to develop, notwithstanding the Trump Administration's efforts to curtail future offshore wind development. Several such projects in development will likely be completed over the next several years. These projects are vessel intensive and, because they are located in the United States, require Jones Act-qualified vessels for much of the work. In March 2026, we renewed our contract with the United States Navy for another circa five years to provide operations and management services for four vessels that we sold to the United States in 2015. Moreover, we expect other government chartering opportunities to materialize, especially given escalation of geopolitical tensions around the world.

In Mexico, we have faced challenges on several fronts, notwithstanding the enormous potential of that country's deepwater prospects. Our fleet of Mexican-flagged vessels is comprised of 10 OSVs and two MPSVs. In 2023, Mexican regulators challenged our right to perform cabotage services in Mexico. As a result, we have taken legal and administrative actions to preserve our cabotage privileges there, and a Mexican court ordered that our privileges be reinstated. Despite this court ruling and SEMAR receiving confirmation from the DGIE that we comply with its requirement for foreign investment, SEMAR refuses to take the necessary steps to recognize our cabotage privileges. Following the DGIE notification, we obtained further provisional relief from a Mexican court. Concomitantly, the Mexican offshore market has deteriorated significantly owing to the departure of several international oil companies ("IOCs") that faced administrative and other challenges under the prior administration and PEMEX's financial deterioration, which has left a large portion of its supply- and service-chain unpaid for over a year. We were able to mobilize 73% of our active Mexican-flagged vessels into adjacent regional markets during this period of market

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uncertainty in Mexico. Only one Mexican-flagged MPSV and two Mexican-flagged OSVs operated in Mexico during 2025. The charterer of that MPSV is working directly for PEMEX and has experienced delays in payments from PEMEX, which has affected the timing of its payments to us. While the administration of President Sheinbaum is seeking a solution to the PEMEX financial crisis, it has also taken steps to seek renewed investment from IOC, including a deepwater project to be developed in Mexico by an IOC. We recently commenced charters for five vessels to support this project that is expected to last several years and require more vessels, including MPSVs.

The recent and current inflationary environment has affected the cost of our operations, including but not limited to increased labor, repair and maintenance, consumable supply and insurance costs, and we have budgeted for an increase of approximately 5.5% in such costs in 2026 compared to 2025. To date, we have largely mitigated the impact on our operating margins through price escalation clauses in our customer contracts or higher pricing for our vessels operating in the spot market. If we are unable to continue securing price escalation clauses in our customer contracts or if market prices for our services do not increase at a rate at least commensurate with general inflation, the effects of inflation could have a materially adverse impact on our results in the future.

Performance and Other Key Indicators

Vessel Count, Utilization and Dayrates

Our revenues, net income and cash flows from operating activities are largely dependent upon the activity level of our marine service vessels. In analyzing our activity level, we focus primarily on vessel count (including whether vessels are active or stacked), average and active vessel utilization, and average and effective vessel dayrates. Our activity level is largely dependent on the level of exploration, development and production activity of our oilfield customers and the demand for marine transportation services in our non-oilfield markets, all of which impact dayrates and utilization, which, in turn inform management decisions regarding vessel count and deployment. Our oilfield customers' business activity is dependent on current and expected crude oil and natural gas prices, which fluctuate depending on expected future levels of supply and demand for crude oil and natural gas, and on estimates of the cost to find, develop and produce crude oil and natural gas reserves. Business activity for our non-oilfield customers is driven by an expanding need for specialized marine services in support of military, offshore wind and other non-oilfield applications.

The table below sets forth the average dayrates, utilization rates and effective dayrates for our owned OSVs and MPSVs and the average number and size of such vessels owned during the periods indicated. These vessels generate the majority of our revenues. Excluded from the OSV and MPSV information below is the results of operations for our shore-based port facility and vessel management services, including the four vessels formerly owned by us that we now operate and maintain for the U.S. Navy.

	Three Months Ended March 31,		Year Ended December 31,		
	2026	2025	2025	2024	2023
Offshore Supply Vessels:					
Average number of OSVs ⁽¹⁾	58.7	60.0	59.3	59.0	53.8
Average number of active OSVs ⁽²⁾	35.3	39.0	37.3	38.0	32.2
Average OSV fleet capacity (DWT) ⁽³⁾	262,355	266,505	264,076	261,528	235,514
Average OSV capacity (DWT) ⁽⁴⁾	4,468	4,442	4,451	4,437	4,374
Average OSV utilization rate ⁽⁵⁾	48.9%	41.6%	47.0%	41.3%	44.3%
Active OSV utilization rate ⁽⁶⁾	81.3%	64.0%	74.8%	64.1%	74.0%
Average OSV dayrate ⁽⁷⁾	\$ 43,768	\$ 43,986	\$ 44,636	\$ 41,956	\$ 39,297
Effective OSV dayrate ⁽⁸⁾	\$ 21,403	\$ 18,298	\$ 20,979	\$ 17,328	\$ 17,409
Multi-Purpose Support Vessels:					
Average number of MPSVs ⁽¹⁾	13.0	12.0	12.2	12.0	12.0
Average number of active MPSVs ⁽²⁾	10.9	11.3	11.1	12.0	11.2
Average MPSV utilization rate ⁽⁵⁾	42.0%	40.4%	59.0%	73.4%	68.4%
Active MPSV utilization rate ⁽⁶⁾	50.0%	42.8%	64.9%	73.4%	73.6%
Average MPSV dayrate ⁽⁷⁾	\$ 96,016	\$ 65,567	\$ 82,125	\$ 67,853	\$ 62,372
Effective MPSV dayrate ⁽⁸⁾	\$ 40,327	\$ 26,489	\$ 48,454	\$ 49,804	\$ 42,662

(1) Represents the weighted-average number of vessels owned during the period, adjusted to reflect date of acquisition or disposition of vessels. We owned 58, 60, 59, 60 and 55 OSVs and 13, 12, 13, 12 and 12 MPSVs as of March 31, 2026 and 2025 and December 31, 2025, 2024 and 2023.

- respectively. Excluded from the data are four non-owned vessels that we manage for the U.S. Navy and two partially constructed Jones Act-qualified MPSV newbuilds to be completed pursuant to our settlement with the Surety. Also excluded from the data as of the dates indicated are the following vessels acquired under the ECO Acquisitions that had not yet been acquired or had not yet been placed in service: (i) as of December 31, 2023, five such vessels, (ii) as of December 31, 2024, no such vessels, (iii) as of December 31, 2025 no such vessels, (iv) as of March 31, 2025, six such vessels and (v) as of March 31, 2026, no such vessels. We also sold one OSV during the three months ended March 31, 2026 and sold one, zero and two OSVs during 2025, 2024 and 2023, respectively.
- (2) In response to weak market conditions, we elected to stack certain of our OSVs and MPSVs on various dates since October 2014. The average number of active OSVs represents the weighted-average number of vessels that were immediately available for service during each respective period, adjusted to reflect date of stacking or recommissioning of vessels.
 - (3) Represents the weighted-average number of OSVs owned during the period multiplied by the weighted-average cargo-carrying capacity of OSVs during the same period.
 - (4) Represents the actual capacity of OSVs owned during the period on a weighted-average basis, adjusted to reflect the date of acquisition or disposition of vessels.
 - (5) Average utilization rates are weighted-average rates based on a 365-day year. Vessels are considered utilized when they are generating revenues.
 - (6) Active utilization rate is based on a denominator comprised only of vessel-days available for service by the active fleet, which excludes the impact of inactive or stacked vessel days.
 - (7) Average OSV and MPSV dayrates represent weighted-average revenues per day, which includes charter hire, crewing services, and net brokerage revenues, based on the number of days during the period that the OSVs and MPSVs, respectively, generated revenues.
 - (8) Effective dayrate represents the average dayrate multiplied by the average utilization rate.

Operating Expense

Our operating costs are primarily a function of total fleet size, the number of active vessels and areas of operations. These costs include, but are not limited to:

- wages paid to vessel crews;
- maintenance and repairs to vessels;
- contract-specific cost of sales;
- marine insurance;
- materials and supplies; and
- routine inspections to ensure compliance with applicable regulations and to maintain certifications for our vessels with the USCG and various classification societies.

As of March 31, 2026, we had 19 U.S.-flagged OSVs, three U.S.-flagged MPSVs and two foreign-flagged OSVs stacked. By removing these vessels from our active operating fleet, we significantly reduced our operating costs, including crew costs. As of March 31, 2026, our fixed operating costs were spread over 47 owned and operated vessels in active service and four vessels formerly owned by us that we now operate and maintain for the U.S. Navy.

In certain foreign markets in which we operate, we may be subject to higher operating costs compared to our domestic operations due to challenges and costs of staffing international operations, social taxes, local content requirements, and increased administration. We may not be able to recover higher international operating costs through higher dayrates charged to our customers. Therefore, when we increase our international complement of vessels, our gross margins may fluctuate depending on the foreign areas of operation and the complement of vessels operating domestically.

In addition to the operating costs described above, we incur fixed charges related to the depreciation of our fleet and amortization of costs for routine drydock inspections to ensure compliance with applicable regulations and to maintain certifications for our vessels with the USCG and various classification societies. The aggregate number of drydockings and other repairs undertaken in a given period determines the level of maintenance and repair expenses and marine inspection amortization charges. We capitalize costs incurred for drydock inspection and regulatory compliance and amortize such costs over the period between such drydockings, typically between 24 and 36 months. Applicable maritime regulations require us to drydock our vessels twice in a five-year period for inspection and routine maintenance and repair. If we undertake a disproportionately large number of drydockings in a particular year, comparability of results may be affected. While we can defer required drydockings of stacked vessels, we will be required to conduct such deferred drydockings prior to such vessels returning to service, which could delay their return to active service.

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The table below sets forth a breakdown of our operating expenses by type and the corresponding percent of total operating expenses (in thousands, except percent of total, average vessel counts and amounts per day):

	Three Months Ended March 31,				Year Ended December 31,					
	2026		2025		2025		2024		2023	
Operating expense										
Contract-specific cost of sales	\$ 3,981	4.4%	\$ 7,394	7.6%	\$ 31,072	8.3%	\$ 21,335	5.9%	\$ 20,804	6.8%
Personnel expense	53,613	58.9%	55,241	57.1%	219,459	58.3%	216,225	59.3%	194,091	63.5%
Maintenance and repair	16,942	18.6%	18,275	18.9%	64,236	17.1%	71,877	19.7%	46,095	15.1%
Materials and supplies	4,328	4.8%	5,697	5.9%	22,955	6.1%	19,530	5.4%	16,329	5.3%
Insurance	3,887	4.2%	2,876	3.0%	11,015	2.9%	12,521	3.4%	9,925	3.2%
Other	8,279	9.1%	7,346	7.5%	27,554	7.3%	23,096	6.3%	18,219	6.1%
Total operating expense	\$91,030	100.0%	\$96,829	100.0%	\$376,291	100.0%	\$364,584	100.0%	\$305,463	100.0%
Active OSV opex	\$57,771	63.5%	\$65,012	67.1%	\$250,528	66.6%	\$226,813	62.2%	\$178,784	58.5%
Active MPSV opex	22,285	24.5%	22,279	23.0%	86,919	23.1%	96,690	26.5%	84,260	27.6%
Stacked vessel opex	2,247	2.4%	919	0.9%	6,029	1.6%	8,202	2.2%	12,414	4.1%
Non-vessel opex	8,727	9.6%	8,619	9.0%	32,815	8.7%	32,879	9.1%	30,005	9.8%
Total operating expense	\$91,030	100.0%	\$96,829	100.0%	\$376,291	100.0%	\$364,584	100.0%	\$305,463	100.0%
Active OSV opex per vessel day ⁽¹⁾	\$18,184		\$18,522		\$ 18,402		\$ 16,308		\$ 15,212	
Active MPSV opex per vessel day ⁽²⁾	\$22,717		\$21,907		\$ 21,454		\$ 22,015		\$ 20,612	
Stacked vessel opex per vessel day ⁽³⁾	\$ 979		\$ 471		\$ 712		\$ 1,067		\$ 1,518	
Total vessel opex per vessel day	\$12,754		\$13,613		\$ 13,143		\$ 12,765		\$ 11,469	

- (1) Computed as active OSV opex divided by the average number of active OSVs multiplied by the applicable number of calendar days per period.
- (2) Computed as active MPSV opex divided by the average number of active MPSVs multiplied by the applicable number of calendar days per period.
- (3) Computed as stacked vessel opex divided by the average number of stacked OSVs and MPSVs multiplied by the applicable number of calendar days per period.

General & Administrative (G&A) Expense

Our G&A expenses are primarily a function of the number of shoreside personnel and include, but are not limited to, base salaries, benefits and incentive compensation for shoreside employees, legal and other third-party advisor expenses, rent and other items.

The table below sets forth our general and administrative expenses in total, as a percentage of total revenue and per vessel day (in thousands, except percent of total revenues and amounts per day):

	Three Months Ended March 31,		Year Ended December 31,		
	2026	2025	2025	2024	2023
General and administrative expense	\$18,406	\$15,542	\$74,461	\$71,110	\$66,108
G&A as a % of total revenues	10.7%	11.1%	10.3%	11.1%	11.5%
G&A per active vessel day	4,427	3,433	4,215	3,886	4,173
G&A per total vessel day	2,852	2,398	2,849	2,736	2,753

Capital Expenditures

In addition to our operating metrics, we also focus on capital expenditures. Growth capital expenditures are expenditures undertaken by us to expand our fleet of vessels through acquisition or newbuild construction, while maintenance capital expenditures consist of deferred drydocking charges and maintenance capital improvements of existing vessels. Fluctuations in maintenance capital expenditures are primarily driven by the number of required recertification drydockings undertaken in a given period. Commercial capital expenditures represent vessel-related expenditures incurred to retrofit, convert or modify a vessel's systems, structures or equipment to enhance functional capabilities and improve marketability or to meet certain commercial requirements. Non-vessel capital expenditures primarily relate to fixed asset additions or improvements related to our port facility, office locations, information technology, non-vessel property, plant and equipment or other shoreside support initiatives. For a more detailed description of growth, maintenance, commercial and non-vessel capital expenditures, see "—Liquidity and Capital Resources—Capital Expenditures and Related Commitments."

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The table below sets forth a breakdown of our capital expenditures by type and the corresponding vessel downtime related to deferred drydockings, vessel counts and days (dollars in thousands):

	Three Months Ended March 31,		Year Ended December 31,		
	2026	2025	2025	2024	2023
Capital expenditures⁽¹⁾					
Maintenance capital expenditures	\$31,449	\$25,598	\$ 87,044	\$ 75,662	\$ 37,573
Growth capital expenditures	2,604	23,390	45,413	55,536	128,547
Commercial capital expenditures	7,978	8,940	51,232	47,619	33,864
Non-vessel capital expenditures	324	40	8,364	753	1,087
Total capital expenditures	\$42,355	\$57,968	\$192,053	\$179,570	\$201,071
Drydock downtime					
<i>OSVs</i>					
Number of vessels commencing drydock activities	4	3	11	16	15
Out-of-service time for drydock activities (in days)	184	154	742	790	608
<i>MPSVs</i>					
Number of vessels commencing drydock activities	2	0	3	5	5
Out-of-service time for drydock activities (in days)	92	26	128	406	191

(1) For further explanation on what these items consist of, see “—Liquidity and Capital Resources—Capital Expenditures and Related Commitments.”

Reportable Segments

Hornbeck has one reportable segment, which encompasses all aspects of its marine transportation services business. Revenues from customers are derived from chartering Hornbeck’s vessels, providing vessel management services to external vessel owners and providing shore-based port facility services. As the chief operating decision maker, Hornbeck’s Chief Executive Officer evaluates operating results on a consolidated basis to assess performance and allocate resources. While Hornbeck’s vessels operate in various geographic regions and end-customer markets, they are centrally managed, share multiple forms of common costs, provide similar or complementary marine transportation services, are manned by crews that may move from location to location or market to market as needed, and are marketed on a portfolio basis with the goal of maximizing net income, Adjusted EBITDA and Adjusted Free Cash Flow and generating the highest possible rate of return on invested capital without a permanent commitment of any particular vessel to any specific geographic region or customer market.

The revenues, expenses and net income of Hornbeck’s one reportable segment, as reviewed and assessed by the chief operating decision maker, are equal to and categorized consistently with the amounts reflected in the consolidated statements of operations for the periods ended March 31, 2026 and 2025. The measure of segment assets is reported on the consolidated balance sheet as total assets as of March 31, 2026 and December 31, 2025.

The chief operating decision maker utilizes net income, as reflected in the consolidated statements of operations, and net cash flows provided by operating activities, as reflected in the consolidated statements of cash flows, to measure profitability and liquidity, as well as to calculate supplemental non-GAAP financial metrics, such as EBITDA, Adjusted EBITDA and Adjusted Free Cash Flow, primarily for planning and forecasting overall expectations and for evaluating actual results against such expectations; for short-term cash bonus incentive compensation purposes; to compare to such metrics of other companies when evaluating potential acquisitions; to assess Hornbeck’s ability to service existing fixed charges and incur additional indebtedness and to purchase, convert or construct additional vessels.

Results of Operations

Three Months Ended March 31, 2026 Compared to Three Months Ended March 31, 2025

Summarized financial information for the three months ended March 31, 2026 and 2025, respectively, is shown below in the following table (in thousands, except % change):

	Three Months Ended March 31,		Change	
	2026	2025	\$	%
Revenues:				
Vessel revenues				
Domestic	\$107,232	\$ 79,364	\$27,868	35.1%
Foreign	53,135	48,088	5,047	10.5
	160,367	127,452	32,915	25.8
Non-vessel revenues	12,354	12,373	(19)	(0.2)
	172,721	139,825	32,896	23.5
Operating expense	91,030	96,829	(5,799)	(6.0)
Depreciation and amortization	24,800	19,834	4,966	25.0
General and administrative expense	18,406	15,542	2,864	18.4
Stock-based compensation expense	1,160	1,114	46	4.1
Merger and integration costs	3,931	—	3,931	>100.0
	139,327	133,319	6,008	4.5
Gain on sale of assets	979	43	936	>100.0
Operating income	34,373	6,549	27,824	>100.0
Foreign currency gain	186	32	154	>100.0
Interest expense	(9,259)	(8,002)	(1,257)	15.7
Interest income	634	1,283	(649)	(50.6)
Income tax expense (benefit)	6,831	(244)	7,075	(100.0)
Net income	\$ 19,103	\$ 106	\$18,997	>100.0%

Revenues. Revenues for the three months ended March 31, 2026 and 2025 were \$172.7 million and \$139.8 million, respectively. Our weighted-average active operating fleet for the three months ended March 31, 2026 and 2025 was 46.2 and 50.3 vessels, respectively. For the three months ended March 31, 2026, we had an average of 25.5 vessels stacked compared to an average of 21.7 vessels stacked in the prior-year period.

Vessel revenues for the three months ended March 31, 2026 and 2025 were \$160.4 million and \$127.5 million, respectively. The increase in vessel revenues from the prior-year period was primarily due to improved market conditions for our active OSVs. Revenues from our OSV fleet increased \$14.3 million, or 14.5%, for the three months ended March 31, 2026 compared to the prior-year period. Average OSV dayrates were \$43,768 for the three months ended March 31, 2026 compared to \$43,986 for the same period in 2025. Our average OSV utilization rate was 48.9% for the three months ended March 31, 2026 compared to 41.6% for the same period in 2025. Our OSVs incurred 184 days of aggregate downtime for regulatory drydockings and were stacked for an aggregate of 2,103 days during the three months ended March 31, 2026 compared to 154 and 1,890 days, respectively, for the same period in 2025. Excluding stacked vessel days, our active OSV utilization rate was 81.3% and 64.0% for the comparative periods, respectively. Our effective OSV dayrates were \$21,403 for the three months ended March 31, 2026 compared to \$18,298 for the same period in 2025. Revenues from our MPSV fleet increased \$18.6 million, or 65.1%, for the three months ended March 31, 2026 compared to the prior-year period. Average MPSV dayrates were \$96,016 for the three months ended March 31, 2026 compared to \$65,567 for the same period in 2025. Our MPSV utilization was 42.0% for the three months ended March 31, 2026 compared to 40.4% for the same period in 2025. Our MPSVs incurred 92 days of aggregate downtime for regulatory drydockings and were stacked for an aggregate of 186 days during the three months ended March 31, 2026 compared to 26 and 60 days, respectively, for the same period in 2025. Excluding stacked vessel days, our active MPSV utilization was 50.0% and 42.8% during the comparative periods, respectively. Our effective MPSV dayrates were \$40,327 for the three months ended March 31, 2026 compared to \$26,489 for the same period in 2025. Domestic vessel revenues increased \$27.9 million, or 35.1%, from the prior-year period primarily

due to improved market conditions for vessels operating domestically during the three months ended March 31, 2026. Foreign vessel revenues increased \$5.0 million, or 10.5%, primarily due to improved market conditions for vessels operating in Mexico during the three months ended March 31, 2026. Foreign vessel revenues for the three months ended March 31, 2026 comprised 33.1% of our total vessel revenues compared to 37.7% for the prior-year period.

Non-vessel revenues were \$12.4 million for each of the three months ended March 31, 2026 and 2025.

Operating Expense. Operating expense for the three months ended March 31, 2026 and 2025 was \$91.0 million and \$96.8 million, respectively. The year-over-year decrease in operating expense was primarily due to lower contract-specific cost of sales, lower salaries and wages from vessels in recertification in the first quarter of 2026, and higher employee medical costs during the first quarter of 2025.

Depreciation and Amortization. Depreciation and amortization for the three months ended March 31, 2026 and 2025 were \$24.8 million and \$19.8 million, respectively. Depreciation increased from the prior-year period due to delivery of the *HOS Rocinante* during the fourth quarter of 2025. Amortization increased primarily due to recently acquired vessels undergoing their first recertifications since December 31, 2024, as well as rising costs of all vessel recertifications.

General and Administrative Expense. G&A expense for the three months ended March 31, 2026 and 2025 was \$18.4 million and \$15.5 million, respectively. The year-over-year increase in G&A expense was primarily attributable to a recovery of bad debt expense during the first quarter of 2025.

Stock-Based Compensation Expense. Stock-based compensation expense for the three months ended March 31, 2026 and 2025 was \$1.2 million and \$1.1 million, respectively.

Merger and Integration Costs. Merger and integration costs for the three months ended March 31, 2026 were \$3.9 million related to our pending merger with Helix.

Operating income. Operating income for the three months ended March 31, 2026 and 2025 was \$34.4 million and \$6.5 million, respectively. Operating income increased by \$27.8 million, or >100.0%, during the current-year period compared to the prior-year period for the reasons discussed above. Operating income as a percentage of revenues was 19.9% for the three months ended March 31, 2026 and 4.7% for the same period in 2025. Excluding the gain on vessel sale, our operating margin for the three months ended March 31, 2026 was 19.3%.

Interest Expense. Interest expense for the three months ended March 31, 2026 and 2025 was \$9.3 million and \$8.0 million, respectively. Interest expense increased primarily due to a decrease in capitalized interest from the delivery of the *HOS Rocinante* during the fourth quarter of 2025.

Interest Income. Interest income for the three months ended March 31, 2026 and 2025 was \$0.6 million and \$1.3 million, respectively. Our average cash balance decreased to \$61.2 million during the current-year period compared to \$74.3 million for the prior-year period. The decrease in average cash balance was primarily due to Hornbeck's tender offer to purchase certain equity instruments for cash that was completed in December of 2025.

Income Tax Expense (Benefit). Our effective income tax expense (benefit) rate was 26.3% and (176.8)% for the three months ended March 31, 2026 and 2025, respectively. Due to the amplified effect of our permanent book tax differences on the relatively small pre-tax book loss for the three months ended March 31, 2025, the benefit rate for the current period is higher than the tax rate for the same period in 2025.

Year Ended December 31, 2025 Compared to Year Ended December 31, 2024

Summarized financial information for the years ended December 31, 2025 and 2024, respectively, is shown below in the following table (in thousands, except % change):

	Year Ended December 31,		Change	
	2025	2024	\$	%
Revenues:				
Vessel revenues				
Domestic	\$460,116	\$429,447	\$ 30,669	7.1%
Foreign	208,888	162,799	46,089	28.3
	669,004	592,246	76,758	13.0
Non-vessel revenues	50,826	48,605	2,221	4.6
	719,830	640,851	78,979	12.3
Operating expenses	376,291	364,584	11,707	3.2
Depreciation and amortization	85,369	64,546	20,823	32.3
General and administrative expenses	74,461	71,110	3,351	4.7
Stock-based compensation expense	7,723	9,384	(1,661)	(17.7)
	543,844	509,624	34,220	6.7
Gain on sale of assets	13,222	42	13,180	>100.0
Operating income	189,208	131,269	57,939	44.1
Postponed offering costs	—	(9,136)	9,136	(100.0)
Foreign currency loss	(692)	(1,434)	742	(51.7)
Gain (loss) on early extinguishment of debt	(67)	—	(67)	—
Interest expense	(32,559)	(26,382)	(6,177)	23.4
Interest income	6,518	5,763	755	13.1
Fair value adjustment of liability-classified warrants	—	5,412	(5,412)	(100.0)
Other income, net (loss)	—	(8)	8	(100.0)
Income before income taxes	162,408	105,484	56,924	54.0
Income tax expense (benefit)	(10,982)	12,682	(23,664)	(100.0)
Net income	<u>\$173,390</u>	<u>\$ 92,802</u>	<u>\$ 80,588</u>	<u>86.8%</u>

For comparative purposes, references in the explanations below to 2025 reflect the year ended December 31, 2025. References to 2024 reflect the year ended December 31, 2024.

Revenues. Revenues for 2025 and 2024 were \$719.8 million and \$640.9 million, respectively. Our weighted-average active operating fleet for 2025 and 2024 was 48.4 and 50.0 vessels, respectively. For 2025, we had a weighted-average of 23.1 vessels stacked compared to a weighted-average of 21.0 vessels stacked in the prior year.

Vessel revenues for 2025 and 2024 were \$669.0 million and \$592.2 million, respectively. Revenues from our OSV fleet increased \$80.6 million, or 21.6% for 2025 compared to the prior year. The year-over-year increase in revenues was due to higher demand for our OSVs. Average OSV dayrates were \$44,636 for 2025 compared to \$41,956 in 2024. Our average OSV utilization rate was 47.0% for 2025 compared to 41.3% in 2024. Our OSVs incurred 742 days of aggregate downtime for regulatory drydockings and were stacked for an aggregate of 8,057 days during 2025 compared to 790 days and 7,686 days, respectively, in 2024. Excluding stacked vessel days, our active OSV utilization rate was 74.8% and 64.1% for the same periods, respectively. Our effective, or utilization-adjusted, OSV dayrates were \$20,979 in 2025 compared to \$17,328 in 2024. Revenues from our MPSV fleet decreased \$3.8 million, or 1.8% in 2025 compared to the prior year. Average MPSV dayrates were \$82,125 for 2025 compared to \$67,853 for 2024. Our MPSV utilization rate was 59.0% for 2025 compared to 73.4% for 2024. Our MPSVs incurred 128 days of aggregate downtime for regulatory drydockings and were stacked for an aggregate of 404 days during 2025 compared to 406 days and zero days, respectively, in 2024. Excluding stacked vessel days, our active MPSV utilization rate was 64.9% and 73.4% during 2025 and 2024, respectively. Our effective MPSV dayrates were \$48,454 for 2025 compared to \$49,804 in 2024. Domestic vessel revenues for 2025 increased \$30.7 million, or 7.1%, from 2024 primarily due to improved market conditions during 2025 and the addition of acquired vessels. Foreign vessel revenues increased \$46.1 million, or 28.3%, primarily due to an increase in vessels operating in Brazil, Guyana and Suriname. Foreign vessel revenues for 2025 comprised 31.2% of our total vessel revenues compared to 27.5% for 2024.

Non-vessel revenues for 2025 and 2024 were \$50.8 million and \$48.6 million, respectively. The 4.6% year-over-year increase in non-vessel revenues during 2025 was primarily due to higher revenues earned from four vessels formerly owned by us that we now operate and maintain for the U.S. Navy.

Operating Expense. Operating expense for 2025 and 2024 was \$376.3 million and \$364.6 million, respectively. The year-over-year increase in operating expense was primarily due to increases in contract-specific cost of sales and duties for parts shipped to foreign locations.

Depreciation and Amortization. Depreciation and amortization for 2025 and 2024 was \$85.4 million and \$64.5 million, respectively. Depreciation increased from the prior year due to six newly acquired vessels being placed into service since 2023. Amortization also increased as a result of 35 vessel recertification drydockings being completed since December 31, 2023. In addition, the average cost of vessel recertifications has continued to increase.

General and Administrative Expense. G&A expense for 2025 and 2024 was \$74.5 million and \$71.1 million, respectively. The year-over-year increase in G&A expense was primarily attributable to an increase in short-term incentive compensation.

Stock-Based Compensation Expense. Stock-based compensation expense for 2025 and 2024 was \$7.7 million and \$9.4 million, respectively. The stock-based compensation expense decrease from the prior year was primarily attributable to certain long-term incentive grants of restricted stock units that fully vested during the first quarter of 2025, partially offset by the issuance of stock options during the second quarter of 2025.

Operating Income. Operating income for 2025 and 2024 was \$189.2 million and \$131.3 million, respectively. Operating income increased by \$57.9 million, or 44.1% for the reasons discussed above, but primarily due to increased vessel revenues, partially offset by increased depreciation and amortization expense. Operating income as a percentage of revenues was 26.3% for 2025 and 20.5% for 2024.

Postponed Offering Costs. Postponed offering costs for 2024 were \$9.1 million. These non-recurring charges relate to previously deferred costs associated with a postponed initial public equity offering process in 2024.

Interest Expense. Interest expense for 2025 and 2024 was \$32.6 million and \$26.4 million, respectively. Interest expense increased primarily due to the refinancing of our second-lien term loans in December 2024, resulting in a higher fixed interest rate of 9.25% on a higher outstanding balance, along with the related amortization of the original issue discount and deferred issuance costs for our Second Lien Term Loans due 2033 compared to the prior second-lien fixed rate of 8.25% with no amortized discounts or issuance costs.

Interest Income. Interest income for 2025 and 2024 was \$6.5 million and \$5.8 million, respectively. This year-over-year increase in interest income is primarily attributable to interest collections on customer balances, partially offset by a lower average cash balance and interest rate earned on our invested cash balances.

Fair Value Adjustment of Liability-Classified Warrants. Fair value adjustment of liability-classified warrants for 2024 was a \$5.4 million gain. On December 10, 2024, the Creditor Warrant Agreement was modified to remove the language requiring classification of the warrants as a liability, resulting in the final fair value adjustment of liability-classified warrants being recorded as of the modification date in the fourth quarter of 2024. Accordingly, there was no fair value adjustment for 2025.

Income Tax Expense. Our effective income tax expense (benefit) rate was (6.8)% and 12.0% for 2025 and 2024, respectively. Our current income tax expense (benefit) reflects current foreign tax liabilities and certain deferred tax liabilities that could not be offset with a reduction in the valuation allowance. Since September 4, 2020, we have offset deferred tax assets with a valuation allowance, as required in certain circumstances by GAAP, leading to volatility in our effective income tax rate from period to period. The 2025 rate is lower than 2024 due to the reversal of valuation allowances at December 31, 2025 on certain NOL and other deferred tax assets that management believes will more likely than not be realized.

Year Ended December 31, 2024 Compared to Year Ended December 31, 2023

Summarized financial information for the years ended December 31, 2024 and 2023, respectively, is shown below in the following table (in thousands, except % change):

	Year Ended December 31,		Change	
	2024	2023	\$	%
Revenues:				
Vessel Revenues				
Domestic	\$429,447	\$387,952	\$41,495	10.7%
Foreign	162,799	140,828	21,971	15.6
	592,246	528,780	63,466	12.0
Non-vessel revenues	48,605	44,669	3,936	8.8
	640,851	573,449	67,402	11.8
Operating expenses	364,584	305,463	59,121	19.4
Depreciation and amortization	64,546	47,851	16,695	34.9
General and administrative expenses	71,110	66,108	5,002	7.6
Stock-based compensation expense	9,384	19,097	(9,713)	(50.9)
	509,624	438,519	71,105	16.2
Gain on sale of assets	42	2,702	(2,660)	(98.4)
Operating income	131,269	137,632	(6,363)	(4.6)
Postponed offering costs	(9,136)	(3,693)	(5,443)	>100.0
Foreign currency loss	(1,434)	(1,559)	125	(8.0)
Gain (loss) on early extinguishment of debt	—	(1,236)	1,236	(100.0)
Interest expense	(26,382)	(39,802)	13,420	(33.7)
Interest income	5,763	9,755	(3,992)	(40.9)
Fair value adjustment of liability-classified warrants	5,412	(10,917)	16,329	>100.0
Other income, net (loss)	(8)	853	(861)	>100.0
Income before income taxes	105,484	91,033	14,451	15.9
Income tax expense	12,682	16,495	(3,813)	(23.1)
Net income	<u>\$ 92,802</u>	<u>\$ 74,538</u>	<u>\$18,264</u>	<u>24.5%</u>

For comparative purposes, references in the explanations below to 2024 reflect the year ended December 31, 2024. References to 2023 reflect the year ended December 31, 2023.

Revenues. Revenues for 2024 and 2023 were \$640.9 million and \$573.4 million, respectively. Our weighted-average active operating fleet for 2024 and 2023 was 50.0 and 43.4 vessels, respectively. For 2024, we had an average of 21.0 vessels stacked compared to an average of 22.4 vessels stacked in the prior year.

Vessel revenues for 2024 and 2023 were \$592.2 million and \$528.8 million, respectively. Revenues from our OSV fleet increased \$31.5 million, or 9.2%, for 2024 compared to 2023. OSVs acquired in 2023 that provided their first full-year contribution to revenues in 2024 and OSVs acquired in 2024 contributed \$35.6 million to the year-over-year increase in revenues, partially offset by lower utilization in 2024. Average OSV dayrates were \$41,956 for 2024 compared to \$39,297 in 2023. Our average OSV utilization rate was 41.3% for 2024 compared to 44.3% for 2023. Our OSVs incurred 790 days of aggregate downtime for regulatory drydockings and were stacked for an aggregate of 7,686 days during 2024 compared to 586 days and 7,887 days, respectively, during 2023. Excluding stacked vessel days, our active OSV utilization rate was 64.1% and 74.0% for the same periods, respectively. Our effective, or utilization-adjusted, OSV dayrates were \$17,328 in 2024 compared to \$17,409 in 2023. Revenues from our MPSV fleet increased \$32.0 million, or 17.1%, in 2024 compared to the prior year. Average MPSV dayrates were \$67,853 for 2024 compared to \$62,372 for 2023. Our MPSV utilization rate was 73.4% for 2024 compared to 68.4% for 2023. Our MPSVs incurred 406 days of aggregate downtime for regulatory drydockings and were stacked for an aggregate of zero days during 2024 compared to 191 days and 310 days, respectively, in 2023. Excluding stacked vessel days, our active MPSV utilization rate was 73.4% and 73.6% during 2024 and 2023, respectively. Our effective MPSV dayrates were \$49,804 for 2024 compared to \$42,662 in 2023. Domestic vessel revenues for 2024 increased \$41.5 million, or

10.7%, from 2023 primarily due to the addition of acquired vessels, an increase in other active vessels and improved market conditions during 2024. Foreign vessel revenues increased \$22.0 million, or 15.6%, primarily due to an increase in vessels operating in Brazil, Colombia and Trinidad. Foreign vessel revenues for 2024 comprised 27.5% of our total vessel revenues compared to 26.6% for 2023.

Non-vessel revenues for 2024 and 2023 were \$48.6 million and \$44.7 million, respectively. The 8.8% year-over-year increase in non-vessel revenues was primarily due to higher revenues earned from four vessels formerly owned by us that we now operate and maintain for the U.S. Navy during 2024.

Operating Expense. Operating expense for 2024 and 2023 was \$364.6 million and \$305.5 million, respectively. Acquired vessels placed in service in 2023 that provided their first full-year contribution to operating expense in 2024 and vessels acquired and placed into service in 2024 contributed \$31.5 million to the increase in operating expense, while the remaining variance was due to increases in maintenance and repair costs and local taxes on revenue for vessels operating in Brazil.

Depreciation and Amortization. Depreciation and amortization for 2024 and 2023 was \$64.5 million and \$47.9 million, respectively. Depreciation increased from the prior year due to eight newly acquired vessels being placed into service since 2022. Amortization also increased as a result of 29 vessel recertification drydockings being completed since September 30, 2023. In addition, the average cost of vessel recertifications has increased since 2023.

General and Administrative Expense. G&A expense for 2024 and 2023 was \$71.1 million and \$66.1 million, respectively. The year-over-year increase in G&A expense was primarily attributable to an increase in shoreside employee headcount and an increase in wage rates.

Stock-Based Compensation Expense. Stock-based compensation expense for 2024 and 2023 was \$9.4 million and \$19.1 million, respectively. The stock-based compensation expense decrease from the prior year was primarily attributable to certain new long-term incentive grants of restricted stock units under the 2020 Management Incentive Plan that were issued in the first quarter of 2023, one-half of which immediately vested on the grant date.

Operating Income. Operating income for 2024 and 2023 was \$131.3 million and \$137.6 million, respectively. Operating income decreased by \$6.4 million, or 4.6% for the reasons discussed above, but primarily due to increased vessel recertifications and incremental operating expense. Operating income as a percentage of revenues was 20.5% for 2024 and 24.0% for 2023.

Postponed Offering Costs. Postponed offering costs for 2024 and 2023 were \$9.1 million and \$3.7 million, respectively. These non-recurring charges relate to previously deferred costs associated with a postponed initial public equity offering process in 2024 and a terminated senior debt offering to refinance all of our then-outstanding debt in 2023.

Interest Expense. Interest expense for 2024 and 2023 was \$26.4 million and \$39.8 million, respectively. Interest expense decreased primarily due to the contractual conversion of our Second Lien Term Loans due 2026 to full cash-pay obligations with a lower annual interest rate of 8.25% on September 4, 2023 and the \$68.7 million pay-off of the remaining principal balance of our Replacement First Lien Term Loans in August 2023. In addition, we capitalized \$3.0 million more of interest in 2024 compared to 2023.

Interest Income. Interest income for 2024 and 2023 was \$5.8 million and \$9.8 million, respectively. Interest income decreased primarily due to a decrease in our average cash balance year-over-year.

Fair Value Adjustment of Liability-Classified Warrants. Fair value adjustment of liability-classified warrants for 2024 and 2023 was a \$5.4 million gain and a \$10.9 million loss, respectively. Based on an ASC 718 valuation analysis, the estimated fair value of the outstanding Creditor Warrants decreased by \$3.39, or 7.2%, per warrant in 2024. In December 2024, following an amendment to the Creditor Warrant Agreement, all liability-classified warrants were reclassified to stockholders' equity at their estimated fair value and will be accounted for at such value prospectively.

Income Tax Expense. Our effective income tax expense rate was 12.0% and 18.1% for 2024 and 2023, respectively. Our current income tax expense reflects current foreign tax liabilities and certain deferred tax liabilities that could not be offset with a reduction in the valuation allowance. Since September 4, 2020, we have offset deferred tax assets with a valuation allowance, as required in certain circumstances by GAAP, leading to volatility in our effective income tax rate from period to period. The 2024 rate is lower than 2023 due to higher current foreign taxes in the prior year resulting from a higher proportion of earnings in foreign jurisdictions, while the related foreign tax credits are being reserved.

Liquidity and Capital Resources

Our capital requirements have historically been financed with cash flows from operations, proceeds from issuances of our debt and common equity securities, borrowings under our revolving credit and term loan agreements and cash received from the sale of assets. We require capital to fund on-going operations, discretionary ongoing vessel-modification projects, vessel recertifications, discretionary capital expenditures and debt service and may require capital to fund potential future vessel construction, retrofit or conversion projects, acquisitions, dividends, equity repurchases or the retirement of debt. We believe that existing cash and cash equivalents, available borrowing capacity under our revolving credit facility established pursuant to the term of the First Lien Credit Agreement (the “First Lien Revolving Credit Facility”) and anticipated positive cash flows from operations will be sufficient to support working capital, maintenance, commercial and growth capital expenditures and other cash requirements for at least the next 12 months and, based on our current expectations, for the foreseeable future thereafter.

As of and for the three months ended March 31, 2026, we had total cash and cash equivalents of \$85.9 million. We also had \$50.0 million of undrawn borrowing capacity available under our revolving credit facility. On March 4, 2026, we drew \$25.0 million of cash borrowings under such facility. As of March 31, 2026 and December 31, 2025, we had total cash and cash equivalents of \$85.9 million and \$54.2 million, respectively, and no restricted cash for either period.

Cash Flows for the years Ended December 31, 2025, 2024 and 2023

The following summarizes our cash flows for the years ended December 31, 2025, 2024 and 2023.

Operating Activities. We rely primarily on cash flows from operations to provide working capital for current and future operations, to fund payroll and incentive compensation for our vessel crews and shoreside employees, to supply, repair and maintain our vessels, to service our debt obligations, to pay taxes and to insure our assets. Net cash provided by operating activities typically fluctuates according to the level of market activity and demand for our vessels for each period. Net cash provided by operating activities was \$142.1 million, \$16.5 million and \$146.1 million for the years ended December 31, 2025, 2024 and 2023, respectively. Overall, operating cash flows for the years ended December 31, 2025, 2024 and 2023 were favorably affected by improved market conditions for our vessels. Operating cash flows for 2025 were favorably affected by an increase in vessel revenues driven by growing demand for our vessels. Operating cash flows for 2024 were unfavorably affected by the refinancing of \$74.4 million of accumulated PIK interest included in the principal balance of the Second Lien Term Loans due 2026, an increase in operating expense from newly acquired vessels, deferred drydocking charges from vessel recertifications and postponed offering costs. The \$33.1 million growth in net cash provided by operating activities in 2023 was primarily the result of a substantial increase in cash receipts from customers driven by a 30.2% increase in vessel revenues due to higher average dayrates and active fleet count for our OSVs and MPSVs, including the effects of recent vessel acquisitions.

Investing Activities. Net cash used in investing activities was \$114.7 million, \$120.0 million and \$168.3 million for 2025, 2024 and 2023, respectively. Net cash used in investing activities in 2025 was primarily attributable to costs related to the construction of the two MPSV newbuilds and the conversion of one OSV into a dual capable C/SOV or flotel, as well as maintenance and commercial capital improvements for active vessels, partially offset by net proceeds from the sale of one U.S.-flagged, HOS 265 class DP-2 OSV at a substantial gain. Net cash used during 2024 was primarily attributable to the purchase of the final vessel delivered from ECO Acquisitions #2, costs related to the conversion of one OSV into a C-SOV/flotel, costs related to the construction of the two MPSV newbuilds and maintenance capital improvements for active vessels. Net cash used during 2023 was primarily attributable to vessel acquisitions, partially offset by proceeds from vessel sales.

Financing Activities. Net cash provided by (used in) financing activities was \$(56.0) million, \$68.3 million and \$(76.0) million for 2025, 2024 and 2023, respectively. Cash used in financing activities in 2025 was primarily attributable to the repurchase of common stock, warrants and outstanding stock-based compensation awards. Cash provided by financing activities in 2024 was primarily attributable to proceeds from the Second Lien Term Loans due 2033, offset by the repayment of the Second Lien Term Loans due 2026, the repurchase of common stock and outstanding stock based compensation awards, payments for deferred issuance costs related to the First Lien Revolving Credit Facility due 2029 and Second Lien Term Loans due 2033, and employee taxes related to shares withheld from vested and net share settled restricted stock unit awards. Cash used in financing activities for 2023 was primarily attributable to the payoff of the remaining principal balance of the Replacement First Lien Term Loans in the third quarter of 2023.

Cash Flows for the three months Ended March 31, 2026 and 2025

The following summarizes our cash flows for the three months ended March 31, 2026 and 2025.

Operating Activities. We rely primarily on cash flows from operations to provide working capital for current and future operations, to fund contract-specific cost of sales, payroll and incentive compensation for our vessel crews and shoreside employees, to supply, repair and maintain our vessels, to service our debt obligations, to pay taxes and to insure our assets. Net cash provided by operating activities typically fluctuates according to the level of market activity and demand for our vessels for each period. Net cash provided by operating activities was \$31.9 million and \$18.4 million for the three months ended March 31, 2026 and 2025, respectively. Operating cash flows for the first three months of 2026 were favorably affected by an increase in vessel revenues driven by growing demand for our vessels.

Investing Activities. Net cash used in investing activities was \$17.7 million and \$38.7 million for the three months ended March 31, 2026 and 2025, respectively. Net cash used in investing activities during the three months ended March 31, 2026 was primarily attributable to costs related to the construction of the two MPSV newbuilds, as well as maintenance and commercial capital improvements for active vessels, partially offset by net proceeds from the sale of a 1999-built, Vanuatu-flagged HOS 200 class DP-1 OSV at a gain. Cash used in investing activities during the three months ended March 31, 2025, was primarily attributable to costs related to the construction of the two MPSV newbuilds, as well as maintenance and commercial capital improvements for active vessels.

Financing Activities. Net cash provided by (used in) financing activities was \$17.3 million and \$(1.6) million for the three months ended March 31, 2026 and 2025, respectively. Cash provided by financing activities during the three months ended March 31, 2026 was primarily attributable to the \$25.0 million draw on our First Lien Revolving Credit Facility, offset in part by principal payments on the Second Lien Term Loans due 2033 and tax payments made by us for employee taxes related to shares withheld from vested and net-share-settled RSU awards. Cash used in financing activities during the three months ended March 31, 2025, was primarily attributable to tax payments made by us for employee taxes related to shares withheld from vested and net-share-settled RSU awards.

Contracted Backlog

Our total contracted revenue backlog was \$964.1 million as of April 30, 2026, which we calculate as the dayrates of contracted vessel days multiplied by the contracted days for such vessels. The contractual revenue we ultimately receive may be lower than the contracted backlog due to a number of factors, including vessel downtime or suspension of operations. The actual dayrate may be lower than the contractual operating dayrate assumed in the contracted backlog described above because a down-time (such as waiting on weather) rate, repair rate, standby rate or force majeure rate may apply under certain circumstances. In certain contracts, the dayrate may be reduced to zero if, for example, repairs extend beyond a stated period of time. Our total contracted backlog includes only firm commitments and certain contracted option periods, which are represented by signed contracts or, in some cases, other definitive agreements awaiting contract execution.

Debt Agreements

As of March 31, 2026, we had \$442.6 million of outstanding principal amount of second-lien term loans that bear interest at a fixed annual interest rate of 9.25% and mature in January 2033, or the Second Lien Term Loans due 2033. We had \$25.0 million of outstanding borrowings under the \$75.0 million First Lien Revolving Credit Facility as of such date. As of March 31, 2026, we had the following outstanding debt (dollars in thousands):

	Total Debt ⁽¹⁾	Effective Interest Rate ⁽¹⁾	Cash Interest Payments ⁽¹⁾ (2)	Payment Dates ⁽²⁾
First Lien Revolving Credit Facility due 2029, net of deferred financing costs of \$655	\$ 24,345	7.01%	\$ 146	Variable (based on interest election) ⁽²⁾⁽³⁾
Second Lien Term Loans due 2033, net of original issue discount of \$5,509 and deferred financing costs of \$1,860 ⁽¹⁾	435,213	9.25%	\$3,337	First day of each month
	<u>\$459,558</u>			

(1) During 2025, we were required to make monthly, interest-only payments under the Second Lien Term Loans due 2033. However, beginning January 1, 2026, monthly principal and interest payments commenced on the first day of each month until a final balloon payment in the amount of all unpaid principal, accrued and unpaid interest becomes due on January 1, 2033.

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- (2) Interest payments related to the currently-drawn \$25.0 million are due every 30 days.
- (3) The First Lien Revolving Credit Facility is subject to an unused fee of 1.0% per annum, paid quarterly, on the remaining undrawn balance, which is currently \$50.0 million.

First Lien Revolving Credit Facility

On August 13, 2024, we entered into a First Lien Revolving Credit Facility with DNB Bank ASA, New York Branch, as administrative agent, Wilmington Trust, National Association, as collateral agent, and the lenders party thereto. All capitalized terms in the description below not defined herein have the meaning assigned to them in such agreement. The aggregate commitments for the Revolving Loans under the First Lien Revolving Credit Facility total \$75 million. The First Lien Revolving Credit Facility also has a customary uncommitted incremental facility in an amount up to \$50 million (or such greater amount as consented to by all lenders). Our ability to borrow under the First Lien Revolving Credit Facility is subject to customary conditions precedent, including no default or event of default, representations and warranties being true and correct in all material respects, and pro forma compliance with the financial covenants therein.

The First Lien Revolving Credit Facility will mature on the earlier of (i) the fifth (5th) anniversary of the Credit Agreement Closing Date or (ii) the date the Revolving Loans are declared due and payable following the occurrence and during the continuation of an event of default. Borrowings under the First Lien Revolving Credit Facility will be comprised of Base Rate Loans or SOFR Rate Loans, at the option of the Borrower, and accrue interest as follows: (A) for Revolving Loans that are Base Rate Loans, a rate ranging from 1.75% to 2.75% (depending on the total net leverage ratio in effect at such time) per annum, plus the greatest of, subject to a 0.00% floor: (a) the Prime Rate in effect on such day, (b) the Federal Funds Rate in effect on such day plus 0.50%, and (c) the Adjusted Term SOFR rate for a one month interest period on such day after giving effect to a floor of 0.00% per annum, plus 1.00% and (B) for Revolving Loans that are SOFR Rate Loans, a rate ranging from 2.75% to 3.75% (depending on the total net leverage ratio in effect at such time) per annum plus the Term SOFR rate, subject to a 0.00% floor, plus a credit spread adjustment of 0.10% per annum. The First Lien Revolving Credit Facility has customary affirmative and negative covenants, including restrictions on our ability to incur additional indebtedness, incur liens, make restricted payments, make optional prepayments on junior financings, engage in transactions with affiliates and make asset sales, in each case, subject to customary exceptions and baskets. The First Lien Revolving Credit Facility is subject to financial covenants that require us to have (i) a maximum First Lien Revolving Credit Facility net leverage ratio (measured by Revolving Loans outstanding, net of unrestricted cash and cash equivalents of up to \$25.0 million) of no more than 1.00 to 1.00, (ii) minimum liquidity (measured by unrestricted cash and cash equivalents, together with undrawn Revolving Loan commitments) of \$25.0 million, (iii) a collateral coverage ratio (measured by total first and second lien debt outstanding) of no less than 1.50 to 1.00 and (iv) a First Lien Revolving Credit Facility collateral coverage ratio (measured by total Revolving Loan commitments, whether or not drawn) of no less than 3.00 to 1.00, in each case, tested on the facility closing date, and thereafter as of the end of each fiscal quarter, beginning with our first full fiscal quarter ending after the facility closing date. However, failure to meet such financial covenants will not result in a default or event of default at any time when no Revolving Loans are outstanding and will instead prohibit us from borrowing any Revolving Loans under the First Lien Revolving Credit Facility until the financial covenants, together with other customary conditions precedent to borrowing, are satisfied. To the extent the financial covenants under the First Lien Revolving Credit Facility are not met as of the end of any fiscal quarter, we will have the opportunity to cure such financial covenant shortfall by making a mandatory prepayment of the Revolving Loans in an amount such that compliance with such financial covenants would be met on a pro forma basis following such prepayment prior to the occurrence of any default or event of default thereunder.

Second Lien Term Loans

On December 27, 2024, we entered into the Second Lien Term Loan Credit Agreement with Stonebriar Commercial Finance, LLC, as administrative agent, and Wilmington Trust, National Association, as collateral trustee, and the lenders party thereto, providing for \$450.0 million of second-lien term loans with a maturity date of January 1, 2033, all of which were drawn on December 27, 2024. The Second Lien Term Loans due 2033 are scheduled to be repaid in (i) 12 consecutive equal monthly installments of interest, payable on the first day of each month commencing on January 1, 2025, (ii) followed by 84 consecutive equal monthly payments of principal and interest, payable on the first day of each consecutive month, and (iii) a final balloon payment in the amount of all unpaid principal, accrued and unpaid interest and any other amounts that may become due under the Second Lien Term Loan Credit Agreement on the maturity date of January 1, 2033. Borrowings bear interest at a fixed rate of 9.25% per annum. We may fully prepay all amounts due under the Second Lien Credit Agreement at any time prior to maturity, subject to the prepayment fee schedule set forth below. We are permitted to partially prepay between \$50.0 million and \$100.0 million prior to

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June 30, 2026 in connection with an initial public offering (directly or indirectly) and may make additional partial prepayments not to exceed \$100.0 million in the aggregate at any time during the term of the Second Lien Term Loans due 2033. In the event of any prepayment (in whole or in part), we are subject to a prepayment fee equal to (i) 4.00% of the prepaid principal amount prior to December 27, 2025, (ii) 3.00% of the prepaid principal amount after December 27, 2025 but on or prior to December 27, 2026, (iii) 2.00% of the prepaid principal amount after December 27, 2026 but on or prior to December 27, 2027, and (iv) 1.00% of the prepaid principal amount thereafter.

The Second Lien Term Loans due 2033 are guaranteed by certain of our domestic and foreign subsidiaries and are secured by a second priority security interest in, and lien on, all our U.S.-flagged vessels. The credit agreement contains customary representations and warranties, covenants and events of default, but only one financial maintenance covenant, which is a \$25.0 million minimum cash liquidity requirement. The carrying value of our Second Lien Term Loans due 2033 approximates their fair value.

During the three months ended and as of March 31, 2026, we were in compliance with all applicable financial covenants under our First Lien Revolving Credit Facility and Second Lien Term Loan Credit Agreement.

Capital Expenditures and Related Commitments

The following table summarizes the costs incurred for the purposes set forth below for the three months ended March 31, 2026, 2025 and 2024, and for the years ended December 31, 2025, 2024 and 2023, respectively (in thousands):

	Three Months Ended March 31,		Year Ended December 31,		
	2026	2025	2025	2024	2023
Capital Expenditures:					
<i>Maintenance Capital Expenditures</i>					
Deferred drydocking charges	\$23,599	\$19,193	\$ 63,921	\$ 59,491	\$ 29,828
Maintenance capital improvements	7,850	6,405	23,123	16,171	7,745
	<u>31,449</u>	<u>25,598</u>	<u>87,044</u>	<u>75,662</u>	<u>37,573</u>
<i>Growth Capital Expenditures⁽¹⁾⁽²⁾</i>					
MPSV Newbuild Construction	2,604	23,390	45,413	35,173	—
ECO Acquisitions	—	—	—	20,363	119,449
MARAD Acquisition	—	—	—	—	9,098
	<u>2,604</u>	<u>23,390</u>	<u>45,413</u>	<u>55,536</u>	<u>128,547</u>
<i>Commercial Capital Expenditures⁽²⁾⁽³⁾</i>	<u>7,978</u>	<u>8,940</u>	<u>51,232</u>	<u>47,619</u>	<u>33,864</u>
<i>Non-vessel Capital Expenditures</i>	<u>324</u>	<u>40</u>	<u>8,364</u>	<u>753</u>	<u>1,087</u>
	<u>8,302</u>	<u>8,980</u>	<u>59,596</u>	<u>48,372</u>	<u>34,951</u>
Total	<u>\$42,355</u>	<u>\$57,968</u>	<u>\$192,053</u>	<u>\$179,570</u>	<u>\$201,071</u>

(1) Includes the purchase price of constructed or acquired vessels, plus the costs incurred to place such vessels into active service, as necessary.

(2) Amounts include associated capitalized interest, as applicable.

(3) Includes the conversion costs of our recently-delivered HOS C/SOV + Flotel MPSV of \$42.3 million, \$38.9 million, and \$23.7 million for the years ended December 31, 2025, 2024, and 2023 respectively.

Maintenance Capital Expenditures

Maintenance capital expenditures consist of deferred drydocking charges, which are capitalized to Deferred Charges on the consolidated balance sheet; and maintenance capital improvements, which are capitalized to Property, Plant and Equipment on the consolidated balance sheet.

Our vessels are required by regulation to be recertified after certain periods of time. These recertification costs are incurred while the vessel is in drydock where other routine repairs and maintenance are performed and, at times, major replacements and improvements are performed. We expense routine repairs and maintenance as they are incurred. We elect to defer and amortize recertification costs, or deferred drydocking charges, over the length of time that the recertification is expected to last, which is generally 30 months on average. Deferred drydocking charges vary year-to-year depending on the number of vessels with expiring certifications in a given year. We completed 11, 24 and 18 recertification drydockings in 2025, 2024 and 2023, respectively.

Maintenance capital improvements include major replacements of, or improvements to, vessel systems, structures and equipment to enhance operability or extend the vessel's useful life. The costs of such improvements are typically capitalized and depreciated over the vessel's remaining useful life. Variability in maintenance capital improvements year-to-year is primarily driven by the number of required recertification drydockings in a given year as we utilize the downtime during the planned shipyard event as an opportunity to complete the discretionary vessel improvements.

Growth Capital Expenditures

We undertake growth capital expenditures to expand our fleet of vessels through acquisition or newbuild construction. Growth capital expenditures typically include the purchase price of acquired vessels, as well as the costs incurred to ready such vessels for active service, and the construction costs of newbuild vessels, inclusive of capitalized interest.

MPSV Newbuild Construction

In October 2023, we entered into a final settlement of a dispute with Surety and Gulf Island related to the construction of two MPSV newbuilds. Pursuant to the settlement agreement, Gulf Island released all claims asserted against us and we released our claims against Gulf Island and the Surety. Further, the Surety agreed to take over and complete the construction of the two U.S.-flagged, Jones Act-qualified, HOS 400 class MPSVs at a shipyard acceptable to us. In December 2023, Eastern, was mutually selected by the parties and contracted by the Surety to complete construction of the two MPSVs. We were obligated to pay only the remaining portion of the original shipyard contract price for the two MPSVs, which then-amounted to \$53.8 million in the aggregate on the settlement date, but was subsequently reduced to \$42.6 million for liquidated damages resulting from shipyard delays. The Surety is required to cure all defaults of Gulf Island and pay all completion costs in excess of the \$42.6 million remaining original contract price, to Eastern excluding approved change orders arising after the settlement date. There is no cap on the Surety's completion costs. As of March 31, 2026, we have fulfilled our \$42.6 million contractual obligation and all remaining construction costs are being paid by the Surety to Eastern.

Following physical delivery by the shipyard, which is expected in 2026, each vessel is expected to undergo crane and other system installations and both vessels are expected to be available for commercial service in 2027. In addition to the fully satisfied \$42.6 million contractual obligation, we expect to incur an additional \$89.0 million in the aggregate for outfitting, engineering, overhead and the post-delivery discretionary enhancements, of which \$65.4 million solely relates to the purchase and installation of the cranes. As of March 31, 2026, we had incurred \$31.3 million of such incremental amounts, excluding capitalized interest. Once placed in service, we expect that our book carrying value for each vessel will approximate \$80.0 million, including estimated capitalized interest, which is significantly below the expected market value of Jones Act-qualified vessels of this type, size and specifications.

Commercial Capital Expenditures

Commercial capital expenditures represent vessel-related expenditures incurred to retrofit, convert or modify a vessel's systems, structures or equipment to enhance functional capabilities and improve marketability or to meet certain commercial requirements. Examples of commercial capital expenditures include the addition of cranes, ROVs, helidecks, living quarters, and other specialized vessel equipment. Recovery of the related costs are typically included in and offset, in whole or in part, by higher dayrates charged to customers in a lump-sum payment or over time. Commercial capital expenditures for improvements that are intended to be permanent to the vessel are typically capitalized and depreciated over the vessel's remaining useful life. Modifications or improvements of a temporary nature that are completed for a specific commercial contract are deferred as a direct contract cost and amortized over the term of such contract.

HOS C/SOV + Flotel Conversion

In July 2023, we announced that we had contracted Eastern to convert one of our U.S.-flagged, Jones Act-qualified, HOSMAX 280 class DP-2 OSVs acquired from MARAD into a MPSV for dual-service as either a C/SOV or flotel to meet the growing demand of the U.S. offshore wind or oilfield markets for large personnel accommodations with "walk-to-work" capability, respectively. As a C/SOV, we can provide services to the U.S. offshore wind market both during the commissioning phase of an offshore wind farm and during its operational life. As a flotel, we can provide services to facilities engaged in exploration and production of hydrocarbons offshore. Following delivery from the shipyard in early November 2025, the converted vessel was placed into active service and commenced a charter to

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support an offshore wind project off the U.S. East Coast. The cost of the conversion totaled \$107.6 million, including owner-furnished equipment, outfitting, engineering, overhead costs, and capitalized interest. The aggregate of the original vessel acquisition and conversion costs is significantly below the estimated newbuild costs of approximately \$170.0 million for an equivalent vessel.

Non-Vessel Capital Expenditures

Non-vessel capital expenditures primarily relate to fixed asset additions or improvements related to our port facility, office locations, information technology, non-vessel property, plant and equipment or other shoreside support initiatives.

Contractual Obligations

The following table and notes set forth our aggregate contractual obligations under our existing debt agreements, non-cancellable property and equipment leases, and vessel construction and conversion programs as of March 31, 2026 (in thousands). These amounts do not include expected capital spending or other related costs that were not contractually committed as of March 31, 2026.

	Total	Less than 1 Year	1-3 Years	3-5 Years	Thereafter
Crane purchase contracts ⁽¹⁾	\$ 16,013	\$16,013	\$ —	\$ —	\$ —
First Lien Revolving Credit Facility ⁽²⁾	25,000	—	—	25,000	—
Second Lien Term Loans ⁽³⁾	442,582	35,081	80,699	97,383	229,419
Interest payments ⁽⁴⁾⁽⁵⁾	193,556	40,045	69,552	52,869	31,090
Non-cancellable leases	38,287	8,399	13,230	7,410	9,248
Total	<u>\$715,438</u>	<u>\$99,538</u>	<u>\$163,481</u>	<u>\$182,662</u>	<u>\$269,757</u>

(1) Represents our contractual agreement to purchase five active heavy compensated knuckle boom cranes, consisting of two 400 MT cranes and three 100 MT cranes. Two 400 MT and two 100 MT cranes are designated for installation on the two MPSV newbuilds currently under construction, while the remaining 100 MT crane is intended for future installation on an existing vessel. Contractual amounts reflect the equipment acquisition costs covered under the purchase agreement and excludes currently non-contractually obligated costs, such as shipping and installation costs. See “—Capital Expenditures and Related Commitments—MPSV Newbuild Construction” for further discussion related to the crane installation and other expected costs related to the two MPSV newbuilds.

(2) On March 4, 2026, we drew \$25.0 million on our \$75.0 million First Lien Revolving Credit Facility.

(3) Our Second Lien Term Loans due 2033 mature on January 1, 2033 with monthly principal payments commencing February 1, 2026. Please see Note 10 to our audited consolidated financial statements and Note 8 to our unaudited condensed consolidated financial statements, each included elsewhere in this proxy statement/prospectus, for further discussion regarding payment obligations under the Second Lien Term Loans due 2033.

(4) On December 27, 2024, we entered into a second-lien term loan credit agreement with Stonebriar Commercial Finance, LLC, as administrative agent, and Wilmington Trust, National Association, as collateral trustee, and the lenders party thereto, providing for \$450.0 million of second-lien term loans that bear interest at a fixed annual interest rate of 9.25% and mature on January 1, 2033.

(5) As of March 31, 2026, there was \$25.0 million drawn on our \$75.0 million First Lien Revolving Credit Facility. The First Lien Revolving Credit Facility is subject to a quarterly unused fee of 1.0% per annum, as applicable, that is excluded from these amounts.

Critical Accounting Estimates

Our consolidated financial statements have been prepared in accordance with accounting principles generally accepted in the United States. In many cases, the accounting treatment of a particular transaction is specifically dictated by GAAP. In other circumstances, we are required to make estimates, judgments and assumptions that we believe are reasonable based upon available information. We base our estimates and judgments on historical experience and various other factors that we believe are reasonable based upon the information available. Actual results may differ from these estimates under different assumptions and conditions. We believe the following significant accounting policies, discussed further in the notes to our consolidated financial statements, involve estimates that are inherently more subjective.

Revenue Recognition. The services that we provide represent a single performance obligation under our contracts that are satisfied at a point in time or over time. Revenues are earned primarily by (1) chartering our vessels, including the operation of such vessels, (2) providing vessel management services to third party vessel owners, and (3) providing shore-based port facility services, including rental of land. Revenues associated with performance obligations satisfied over time are recognized on a daily basis throughout the contract period.

Typically, our application of ASC 606, *Revenue from Contracts with Customers* does not require significant judgment as the vast majority of our contracts provide a specific daily rate as the transaction price for each day of service provided for our customers' benefit. Occasionally, we are required to apply judgment in the determination and allocation of the transaction price over the performance period of our vessel charters in circumstances when the contract contains multiple daily rates or includes a lump-sum payment from the customer for certain activities such as vessel mobilizations, demobilizations or modifications. Should our judgments and estimates regarding the transaction price, representing the amount of consideration to which we expect to be entitled for services transferred to the customer, and the performance period, representing the period over which our performance obligation will be satisfied, change during the term of a contract, it could have a material effect on our results of operations for the applicable periods. We have not recorded a material adjustment to revenues as a result of changes in our estimates and assumptions associated with customer contracts during the three months ended March 31, 2026 or during the years ended December 31, 2025, 2024 or 2023. Please see further discussion regarding revenues generated from contracts with customers in Note 5 to our audited consolidated financial statements and Note 4 to our unaudited condensed consolidated financial statements, each included elsewhere in this proxy statement/prospectus.

Allowance for Doubtful Accounts. Our customers are primarily major and independent, domestic and international, oil and gas and oilfield service companies and national oil companies. Our customers are granted credit on a short-term basis and related credit risks are considered minimal. We usually do not require collateral. We provide an estimate for uncollectible accounts based primarily on management's judgment. Management uses the relative age of receivable balances, historical losses, current economic conditions and individual evaluations of each customer to make adjustments to the allowance for doubtful accounts. Our historical losses have not been significant. However, because amounts due from individual customers can be significant, future adjustments to the allowance can be material if one or more individual customers' balances are deemed uncollectible.

Liability-Classified Warrants. Common stock warrants are accounted for as either equity instruments or liabilities depending on the specific terms of the applicable warrant agreement. Our outstanding Creditor Warrants were previously classified as liabilities pursuant to ASC 815, *Derivatives and Hedging* due to certain anti-dilution provisions in the Creditor Warrant Agreement. On December 10, 2024, the Creditor Warrant Agreement was amended to remove such anti-dilution provisions. As a result, the Creditor Warrants are now effectively indexed to Hornbeck's common stock and are thus accounted for as stockholders' equity since the effective date of the amendment. While classified as a liability, the Creditor Warrants were recorded at their estimated fair value on a recurring basis at each balance sheet date. To estimate their fair value, we, assisted by third-party valuation advisors, used a Black-Scholes model, which utilizes the following input assumptions at the applicable valuation date: (i) the current estimated fair value of the underlying common stock based on a controlling interest equity valuation, (ii) the exercise price, (iii) the contractual expiry term, (iv) an estimated equity volatility based on the historical asset and equity volatilities of comparable publicly traded companies, (v) a term-matched risk-free rate based on the U.S. Treasury separate trading of registered interest and principal securities (STRIPS) yield, and (vi) an expected dividend yield. Our third-party valuation advisors estimated the fair value of the underlying common stock using the income approach and the market approach with each equally weighted. The income approach involves the use of various judgmental assumptions including the use of prospective financial information, the weighted-average cost of capital and an exit multiple. The fair value of the Creditor Warrants fell within Level 3 of the hierarchy as there is currently no active trading market and certain inputs of the Black-Scholes model are not observable or corroborated by available market data. Based on the lack of trading history of our privately-held equity, we consider the estimated fair value of our common stock to be the most critical assumption in the determination of the fair value of the Creditor Warrants. At December 10, 2024, the date of the amendment to the Creditor Warrant Agreement, every one-dollar change in the estimated fair value per share of the underlying common stock would have had an approximate \$1.5 million impact on the estimated fair value of the Creditor Warrants.

Prior to the reclassification of the warrants to stockholders' equity resulting from the amendment to the Creditor Warrant Agreement, changes in the estimated fair value of our liability-classified warrants were recognized as a non-cash gain or loss on the consolidated statements of operations. All outstanding warrants are reassessed each reporting period to determine whether their classification continues to be appropriate. Please see further discussion of the inputs and assumptions related to the fair value estimates of our liability-classified warrants in Note 11 to our audited consolidated financial statements.

Stock-Based Compensation Expense. Stock-based compensation awards are accounted for in accordance with ASC 718, *Compensation – Stock Compensation*, which requires all share-based payments to our employees and

directors to be recognized in the audited consolidated financial statements based on their fair values on the grant date. The fair value of the underlying common stock is based upon a valuation of our equity developed with the assistance of third-party valuation experts using a combination of income and market approaches as of the appropriate measurement date. We recognize compensation expense on a straight-line basis over the expected vesting period of stock-based awards that are ultimately expected to vest based on their estimated fair value on the grant date. Forfeitures are recognized during the period in which they actually occur. Please see further discussion regarding our stock-based compensation in Note 13 to our audited consolidated financial statements and Note 9 to our unaudited condensed consolidated financial statements.

Income Taxes. We follow accounting standards for income taxes that require the use of the liability method of computing deferred income taxes. Under this method, deferred income taxes are provided for the temporary differences between the financial reporting basis and the tax basis of our assets and liabilities. Deferred tax assets and liabilities are measured using enacted tax rates expected to apply to taxable income in the years in which those temporary differences are expected to be recovered or settled. The assessment of the realization of deferred tax assets, particularly those related to NOL carryforwards and foreign tax credit, or FTC, carryforwards, is based on the weight of all available evidence, both positive and negative, including future reversals of deferred tax liabilities. Due to a cumulative three-year book loss for the period ended December 31, 2022, ASC 740 precluded us from using projected operating results in determining the realization of deferred tax assets. We are using the existing taxable temporary differences that will reverse and create taxable income in the future to determine the realizability of these NOL and FTC carryforwards. We have valuation allowances of \$195.3 million and \$220.6 million recorded against our deferred tax assets as of December 31, 2025 and 2024, respectively. Such valuation allowances were established because we determined that it was more likely than not such NOL, FTC carryforwards and other deferred tax assets may not be fully utilized prior to their expiration. Each reporting period, we assess and adjust for any significant changes to our liability for unrecognized income tax benefits. Due to a cumulative three-year book loss for the period ended December 31, 2022, ASC 740 precluded us from using projected operating results in determining the realization of deferred tax assets. For the year ended December 31, 2024, we used the existing taxable temporary differences that will reverse and create taxable income in the future to determine the realizability of these NOL and FTC carryforwards. For the period ended December 31, 2025, based upon the positive evidence of another year of strong earnings, management concluded projected operating results could be considered, in addition to existing taxable temporary differences that will reverse and create taxable income in the future, when determining the realizability of its deferred tax assets. We account for any interest and penalties relating to uncertain tax positions in interest expense and G&A expense, respectively. We have made an accounting policy election to account for global intangible low-taxed income, or GILTI, in the year the tax is incurred. Please see further discussion regarding income taxes in Note 14 to our audited consolidated financial statements and Note 10 to our unaudited condensed consolidated financial statements.

Legal Contingencies. We are involved in a variety of claims, lawsuits, investigations and proceedings, as described in Note 16 to our audited consolidated financial statements and Note 11 to our unaudited condensed consolidated financial statements. We determine whether an estimated loss from a contingency should be accrued by assessing whether a loss is deemed probable and can be reasonably estimated. We assess our potential liability by analyzing our litigation and regulatory matters using available information. We develop our views on estimated losses in consultation with outside counsel handling our defense in these matters, which involves an analysis of potential results, assuming a combination of litigation and settlement strategies. Should developments in any of these matters cause a change in our determination such that we expect an unfavorable outcome and result in the need to recognize a material accrual, or should any of these matters result in a final adverse judgment or be settled for a significant amount, they could have a material adverse effect on our results of operations in the period or periods in which such change in determination, judgment or settlement occurs.

Recertification Costs. Our vessels are required by regulation to be recertified after certain periods of time. These recertification costs are incurred while the vessel is in drydock where other routine repairs and maintenance are also performed and, at times, major replacements and improvements are performed. We expense routine repairs and maintenance as they are incurred. Recertification costs can be accounted for under GAAP in one of two ways: (1) defer and amortize or (2) expense as incurred. We defer and amortize recertification costs over the length of time that the recertification is expected to last, which is generally 24 to 36 months on average. Major replacements and improvements, which extend the vessel's useful life or increase its functional operating capability, are capitalized and depreciated over the vessel's remaining useful life. Inherent in this process are judgments we make regarding whether

the specific cost incurred is capitalizable and the period that the incurred cost will benefit. In 2025, 2024 and 2023, we incurred deferred drydocking costs totaling \$63.9 million, \$59.5 million and \$29.8 million, respectively. A change in policy from defer-and-amortize to expense-as-incurred could materially impact our results of operations in future periods.

Quantitative and Qualitative Disclosures About Market Risk

Market risk refers to the potential losses arising from changes in interest rates, foreign currency fluctuations and exchange rates, equity prices and commodity prices including the correlation among these factors and their volatility. We are primarily exposed to interest rate risk and foreign currency fluctuations and exchange risk.

Interest Rate Risk

Our Second Lien Term Loans currently bear interest at a fixed annual interest rate of 9.25%. Borrowings under the First Lien Revolving Credit Facility will be comprised of Base Rate Loans or SOFR Rate Loans (each as defined in the First Lien Credit Agreement), at our option, and accrue interest as follows: (A) for Revolving Loans that are Base Rate Loans, a rate ranging from 1.75% to 2.75% (depending on the total net leverage ratio in effect at such time) per annum, plus the greatest of, subject to a 0.00% floor: (a) the Prime Rate (as defined in the First Lien Credit Agreement) in effect on such day, (b) the Federal Funds Rate (as defined in the First Lien Credit Agreement) in effect on such day plus 0.50%, and (c) the Adjusted Term SOFR (as defined in the First Lien Credit Agreement) rate for a one month interest period on such day after giving effect to a floor of 0.00% per annum, plus 1.00% and (B) for Revolving Loans that are SOFR Rate Loans, a rate ranging from 2.75% to 3.75% (depending on the total net leverage ratio in effect at such time) per annum plus the Term SOFR (as defined in the First Lien Credit Agreement) rate, subject to a 0.00% floor, plus a credit spread adjustment of 0.10% per annum. Accordingly, changes in market interest rates may have a material impact on our results of operations and cash flows. See “*Liquidity and Capital Resources—Debt Agreements*” above.

Foreign Exchange Risk

Our financial instruments that can be affected by foreign currency exchange rate fluctuations consist primarily of cash and cash equivalents, trade receivables, trade payables and intercompany debt denominated in currencies other than the U.S. dollar or the functional currency of certain of our consolidated subsidiaries. We may in the future enter into spot and forward derivative financial instruments as a hedge against foreign currency denominated assets and liabilities, currency commitments, or to lock in desired interest rates. Spot derivative financial instruments are short-term in nature and settle within two business days. The fair value of spot derivatives approximates the carrying value due to the short-term nature of these instruments, and as a result, no gains or losses are recognized. The accounting for gains or losses on forward contracts is dependent on the nature of the risk being hedged and the effectiveness of the hedge. We had no spot or forward derivative financial instruments as of March 31, 2026 or December 31, 2025.

Other

Due to our international operations, we are exposed to foreign currency exchange rate fluctuations and exchange rate risks on all charter hire contracts denominated in foreign currencies. For some of our international contracts, a portion of the revenue and local expenses may be incurred in local currencies with the result that we are at risk of changes in the exchange rates between the U.S. dollar and foreign currencies. We generally do not hedge against any foreign currency rate fluctuations associated with foreign currency contracts that arise in the normal course of business, which exposes us to the risk of exchange rate losses. To minimize the financial impact of these items we attempt to contract a significant majority of our services in U.S. dollars. In addition, we attempt to minimize the financial impact of these risks by matching the currency of our operating costs with the currency of the revenue streams when considered appropriate. We continually monitor the currency exchange risks associated with all contracts not denominated in U.S. dollars.

MANAGEMENT FOLLOWING THE MERGERS

Composition of the Combined Company Board of Directors, Executive Officers and Directors

Pursuant to the terms of the merger agreement, after the effective time the combined company will consist of seven members, including (i) three Helix designees and (ii) four Hornbeck designees, one of whom will be the President and Chief Executive Officer of the combined company as of the effective time. The Chairperson of the Helix Board as of immediately prior to the effective time will serve as Chairperson of the combined company board as of the effective time through the combined company's 2028 annual meeting of stockholders (the "Governance Period"). All three of the Helix designees and at least one of the Hornbeck designees will meet the independence standards of the NYSE as may be applicable with respect to the combined company as of the effective time. Additionally, pursuant to the Securityholders Agreement, two of the Hornbeck designees will be individuals selected by the Ares Investor and one Hornbeck designee will be an individual selected by the Whitebox Investor.

At the effective time, the following individuals are expected to be appointed as executive officers of the combined company: Todd M. Hornbeck as President and Chief Executive Officer; Robert P. Adams as Executive Vice President and Chief Financial Officer; Samuel A. Giberga as Executive Vice President, General Counsel and Corporate Secretary; Scotty Sparks as Executive Vice President and Chief Operating Officer, Subsea Services and Well Intervention; and Ben Todd as Executive Vice President and Chief Operating Officer, Marine Transportation and Specialty.

The following table sets forth the name, age, position and class (if applicable) of each of the individuals who are expected, as of June 4, 2026, to serve as executive officers and directors of the combined company as of the effective time:

Name	Age	Position	Expected Director Class
<i>Executive Officers:</i>			
Todd M. Hornbeck	57	President and Chief Executive Officer and Director	Class
Robert P. Adams	49	Executive Vice President and Chief Financial Officer	—
Samuel A. Giberga	64	Executive Vice President, General Counsel and Corporate Secretary	—
Scotty Sparks	52	Executive Vice President and Chief Operating Officer, Subsea Services and Well Intervention	—
Ben Todd	56	Executive Vice President and Chief Operating Officer, Marine Transportation and Specialty	—
<i>Non-Employee Directors:</i>			
William L. Transier	71	Director and Chair of the Combined Company Board	Class
		Director	Class
		Director	Class
		Director	Class
		Director	Class
		Director	Class

Each executive officer will serve at the discretion of the combined company board and holds office until his or her successor is duly elected and qualified or until his or her earlier resignation or removal. There are no family relationships among any of the proposed combined company's directors or executive officers.

All of Helix's current directors, other than William L. Transier, and , are expected to resign from their positions as directors of Helix, effective as of the effective time.

Executive Officers of the Combined Company

Todd M. Hornbeck. Mr. Hornbeck founded Hornbeck in June 1997 and since has played a pivotal role in the development of Hornbeck from a small, private company into a large, global provider of technologically advanced offshore supply and multipurpose service vessels. Mr. Hornbeck currently serves as the Chairperson of the Hornbeck Board and Hornbeck's President and Chief Executive Officer, and he has served as Hornbeck's President and as a member of the Hornbeck Board since founding Hornbeck in 1997. Mr. Hornbeck also served as Hornbeck's Chief Operating Officer from June 1997 until February 2002, at which point he was appointed as Hornbeck's Chief Executive Officer. Mr. Hornbeck was

appointed as the Chairperson of the Hornbeck Board in May 2005. Prior to founding Hornbeck in 1997, Mr. Hornbeck was employed from 1991 to 1996 by the original Hornbeck Offshore Services, Inc. (“original Hornbeck”), a NASDAQ-listed publicly traded offshore service vessel company founded by his father, Mr. Larry Hornbeck, Hornbeck’s current Chairman Emeritus, with over 105 offshore supply vessels operating worldwide, serving in various positions relating to business strategy and development. Following original Hornbeck’s merger with Tidewater Inc. (“Tidewater”) in March 1996, Mr. Hornbeck accepted a position as Marketing Director-Gulf of America with Tidewater, where his responsibilities included managing relationships and overall business development in the U.S. Gulf region. He remained with Tidewater until Hornbeck’s formation in 1997. Mr. Hornbeck has served on the board of directors of the International Support Owners Association, the Offshore Marine Service Association and the National Ocean Industries Association. Mr. Hornbeck’s extensive experience in the offshore service vessel industry, coupled with his over 25 years of service leading Hornbeck since its founding, positions Mr. Hornbeck well to serve as the combined company’s President and Chief Executive Officer, as well as to serve as a member of the combined company board.

Robert P. Adams. Mr. Adams joined Hornbeck in October 2005 and currently serves as Hornbeck’s Senior Vice President of Finance, a role in which he has served since March 2020. Since joining Hornbeck in October 2005 as a Financial Analyst, Mr. Adams has served in various capacities primarily focused on financial planning and analysis, mergers and acquisitions, investor relations and capital structure. He was appointed as Corporate Finance Manager in March 2008, Director of Corporate Finance in March 2012, and served as Senior Director of Corporate Finance from March 2018 to March 2020. Prior to joining Hornbeck, Mr. Adams held positions of increasing responsibility at Accenture, specializing in budgeting and forecasting from March 2000 to October 2005, and ultimately serving as a Finance Specialist. Mr. Adams also served as an Access Cost Analyst at Excel Communications, a former Dallas-based telecommunications service provider. Mr. Adams received a Bachelor of Science degree in Finance from Louisiana State University.

Samuel A. Giberga. Mr. Giberga joined Hornbeck in January 2004 and currently serves as Hornbeck’s Executive Vice President, General Counsel and Corporate Secretary. Mr. Giberga has served as the General Counsel of Hornbeck since joining Hornbeck in January 2004. He was appointed Hornbeck’s Corporate Secretary in January 2021, appointed as Hornbeck’s Executive Vice President and Chief Compliance Officer in June 2011 and served as Senior Vice President beginning in February 2005. Prior to joining Hornbeck, Mr. Giberga was engaged in the private practice of law for 14 years. During his legal career, Mr. Giberga has worked extensively with marine and energy service companies in a variety of contexts with a concentration in general business, international and intellectual property matters.

Scotty Sparks. Mr. Sparks joined Helix in 2001 and currently serves as Helix’s Executive Vice President and Chief Operating Officer. From May 2015 to February 2016, Mr. Sparks served as Helix’s Executive Vice President – Operations, and he served as Helix’s Vice President – Commercial and Strategic Development from October 2012 to May 2015. Mr. Sparks has also served in various positions with Helix Robotics Solutions, Inc. (formerly known as Canyon Offshore, Inc.), including as Senior Vice President of Helix Robotics Solutions, Inc. from 2007 to September 2012. Including his experience with Helix, Mr. Sparks has over 36 years of experience in the subsea industry, including Operations Manager and Vessel Superintendent at Global Marine Systems and BT Marine Systems.

Ben Todd. Mr. Todd initially joined Hornbeck in January 2001 and currently serves as Hornbeck’s Senior Vice President of Maintenance and Repair, a role in which he has served since January 2026. Previously, Mr. Todd served as Hornbeck’s Vice President and General Manager of the MPSV and Government Operations Fleets from January 2001 to July 2012, where he was responsible for overseeing complex offshore vessel operations, program performance and strategic execution within the fleet. Prior to rejoining Hornbeck, Mr. Todd held senior leadership positions focused on operational strategy and execution at Beier Integrated Systems, a manufacturer and servicer of fully integrated marine systems, serving as the Vice President and Chief Operating Officer from July 2012 to March 2023 before being appointed as President of Beier in March 2023. Mr. Todd also served in the U.S. Navy as a surface electrical technician for surface ships and ground electronics for the naval air station.

Non-Employee Directors of the Combined Company

William L. Transier. Mr. Transier has served as a director on the Helix Board since October 2000, and served as Helix’s Lead Independent Director from March 2016 through July 2017 when he was appointed Chairperson of the Helix Board. Mr. Transier is the founder and Chief Executive Officer of Transier Advisors, LLC, an independent advisory firm providing services to companies facing financial distress, suboptimal operational situations, turnaround, restructuring or in need of interim executive or board leadership. Since August 2025, Mr. Transier has served as a director of GoHealth, Inc., a Nasdaq-listed publicly traded health insurance marketplace and Medicare-focused digital health company. From April 2024 to December 2025, Mr. Transier served as a director on the board of Express, Inc. In

February 2004, Mr. Transier co-founded Endeavour International Corporation (“Endeavour”), an international oil and gas exploration and production company, where he served as non-executive Chairman of Endeavour’s board of directors from December 2014 until November 2015. From September 2006 until December 2014, Mr. Transier served as Chairman, Chief Executive Officer and President of Endeavour, and he served as Endeavour’s Chairman and Co-Chief Executive Officer from its formation in February 2004 through September 2006. Prior to co-founding Endeavour in February 2004, Mr. Transier served as Executive Vice President and Chief Financial Officer of Ocean Energy, Inc. (“Ocean”) and its predecessor, Seagull Energy Corporation from May 1996 to April 2003. Before his tenure with Ocean, Mr. Transier served in various roles including as a partner in the audit department KPMG and head of KPMG’s Global Energy practice from June 1986 to April 1996. Mr. Transier served as the Chairman of the board of directors of Battalion Oil Corporation (formerly known as Halcón Resources Corporation) and as Chairman of its audit committee from October 2019 until May 2021. In October 2023, Mr. Transier was elected to the board of Tupperware Corporation. Previously, Mr. Transier has also served as a member of the boards of directors of M3-Brigade Acquisition III Corp (2022-2023), Exela Technologies (2022-2023), Sears Holding Corporation (2018-2020), Teekay Offshore Partners L.P. (2019-2020), Gastar Exploration, Inc. (2018-2019), CHC Group Ltd. (2016-2017) and Paragon Offshore plc (2014-2017). Mr. Transier has been recognized by the Dallas Business Journal as an Outstanding Director for excellence in corporate governance. Mr. Transier graduated from the University of Texas with a B.B.A. in accounting, has an M.B.A. from Regis University and earned an M.A. in Theological Studies from Dallas Baptist University. Mr. Transier was selected to serve as a director because of his extensive professional experience and extensive knowledge of international operations, the energy industry, leadership of complex organizations, financial restructuring, merger and acquisitions, and other aspects of operating a major corporation.

Composition of the Combined Company Board of Directors

The Helix Board currently consists of seven members and, in accordance with the Helix bylaws, is divided into three staggered classes of similar size, with one class to be elected at each successive annual meeting to serve for a three-year term. The staggered structure of the current Helix Board will remain in place for the combined company board following the completion of the mergers.

Committees of the Combined Company Board of Directors

At the effective time, (i) a Helix designee will be appointed and serve through the Governance Period as Chairperson of the Audit Committee of the combined company board, (ii) a Helix designee will be appointed and serve through the Governance Period as Chairperson of the Corporate Governance and Nominating Committee of the combined company board and (iii) _____ will be appointed and serve through the Governance Period as Chairperson of the Compensation Committee of the combined company board.

Audit Committee

Following the completion of the mergers, the members of the Audit Committee of the combined company board are expected to be _____, _____ and _____, each of whom is expected to be affirmatively determined by the combined company board to qualify as an independent director for audit committee purposes, as defined under the rules of the SEC and the applicable NYSE listing rules, and also is expected to have sufficient knowledge in financial and auditing matters to serve on the combined company’s Audit Committee. _____ is expected to chair the Audit Committee. In addition, the combined company board expects to determine that _____ qualifies as an “audit committee financial expert” as defined in Item 407(d)(5)(ii) of Regulation S-K promulgated under the Securities Act.

Nomination & Governance Committee

Following the completion of the mergers, the members of the Nomination and Governance Committee of the combined company board are expected to be _____, _____ and _____, each of whom is expected to be affirmatively determined by the combined company board to qualify as an independent director, as defined under applicable NYSE listing rules. _____ is expected to chair the Nomination and Governance Committee.

Compensation Committee

Following the completion of the mergers, the members of the Compensation Committee of the combined company board are expected to be _____, _____ and _____, each of whom is expected to be affirmatively determined by the combined company board to qualify as an independent director, as defined under applicable NYSE listing rules, and also is expected to meet the additional, heightened independence criteria applicable to members of the Compensation Committee. _____ is expected to chair the Compensation Committee.

UNAUDITED PRO FORMA CONDENSED COMBINED FINANCIAL STATEMENTS

The following unaudited pro forma condensed combined financial information and the accompanying notes (the “Pro Forma Financial Information”) are presented to illustrate the estimated effects of the mergers (as defined below) contemplated by the Agreement and plan of mergers, dated April 22, 2026 (the “merger agreement”), by and among Helix Energy Solutions Group, Inc., a Minnesota corporation (“Helix”), Odyssey Sub, Inc. (“Parent Sub”), Hercules Sub LLC (“LLC Sub”) and Hornbeck Offshore Services, Inc., a Delaware corporation (“Hornbeck”). Pursuant to the merger agreement, (i) Parent Sub will merge with and into Hornbeck (the “first merger”) and (ii) immediately thereafter, the surviving entity will merge with and into LLC Sub (the “second merger,” and together, the “mergers”). The mergers between Helix and Hornbeck are accounted for as a reverse acquisition, where Hornbeck, the legal acquiree, is determined to be the accounting acquirer of Helix. Refer to Note 1.

The following transactions are expected to occur in accordance with the merger agreement at the effective time of the mergers (the “effective time”):

- On a fully diluted basis, accounting for Hornbeck options and Jones Act Warrants (as defined below) that will be assumed by the combined company in connection with the mergers, it is anticipated that securityholders of Helix and Hornbeck immediately prior to the mergers will own, on an as converted basis, approximately 45% and 55%, respectively, of the combined company. Following the mergers, the name of Helix will be changed to Hornbeck Offshore Services, Inc. and its common stock will remain listed on the New York Stock Exchange.
- Each issued and outstanding share of Hornbeck common stock (“Hornbeck common stock”) will be converted into the right to receive 10.27167 shares (the “exchange ratio”), par value \$0.00001 per share, of Helix’s following the Conversion (the “Converted Helix Common Stock”). No fractional shares of the Converted Helix Common Stock will be issued; instead, shareholders will be entitled to receive a cash payment for the value of any fractional shares of Converted Helix Common Stock that would otherwise be payable.
- Outstanding Hornbeck restricted stock units (“RSUs”) and performance stock units (“PSUs”) will generally be vested and settled into shares of Converted Helix Common Stock. The number of shares underlying each award will be determined by multiplying the number of shares subject to such award by the exchange ratio. PSUs will be rounded up or down to the nearest whole share, while RSUs will be rounded down to the nearest whole share. Certain RSUs held by non-employee directors will be eligible for cash settlement in accordance with the applicable award agreements. A subset of executive RSUs and PSUs granted in connection with merger closing will remain outstanding and subject to ongoing vesting requirements post-close.
- Each outstanding Hornbeck option will be vested and converted into an option of the combined company, with the number of shares underlying the option determined by applying the exchange ratio rounded down to the nearest whole share, and the exercise price adjusted by dividing by the exchange ratio rounded up to the nearest whole cent. Certain of the converted options must be exercised upon the closing of the mergers in accordance with their terms and, accordingly, it is assumed such options will be exercised at closing of the mergers and the holder thereof will receive shares of Converted Helix Common Stock. The other converted options will remain outstanding and the holder will have the option to exercise such option in accordance with its terms and receive shares of Converted Helix Common Stock.
- Each Hornbeck warrant (each, a “Creditor Warrant”) issued pursuant to the Creditor Warrant Agreement, dated as of September 4, 2020, as amended, will be adjusted by the exchange ratio and settled into shares of Converted Helix Common Stock (subject to Jones Act requirements). For purposes of the Pro Forma Financial Information, it is assumed that any Creditor Warrants held by any individual or entity that is not a U.S. Citizen (as defined under the Jones Act) will be converted into Jones Act Warrants and will not be settled into shares of Converted Helix Common Stock.
- Each Hornbeck warrant (each, a “Jones Act Warrant”) issued pursuant to the Jones Act Warrant Agreement, dated as of September 4, 2020, as amended, will be assumed and subject to the applicable Jones Act restrictions in the certificate of incorporation of the combined company, exercisable into a number of shares of Converted Helix Common Stock at an exercise price per share of Converted Helix Common Stock equal to the exercise price per share of Hornbeck common stock issuable upon exercise of such Jones Act Warrant immediately prior to the effective time.

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- Each outstanding Helix RSU and PSU will be vested and generally settled into shares of Converted Helix Common Stock, with the number of shares based on the number of underlying Helix shares (and, for PSUs, based on the greater of target and actual performance through immediately prior to the effective time), subject to applicable rounding. The Helix Board may elect, prior to the effective time, in its discretion and after consultation with the Hornbeck Board, to settle such awards in cash based on the closing price of Helix common stock on the trading day immediately preceding the closing date.

The Pro Forma Financial Information also reflects the impact of the sale of Helix's Shallow Water Abandonment business ("Alliance Disposal"), which was completed on May 1, 2026.

The Pro Forma Financial Information has been prepared under the following assumptions:

- The unaudited pro forma condensed combined balance sheet of the combined company as of March 31, 2026 assumes that the mergers and Alliance Disposal had occurred on March 31, 2026.
- The unaudited pro forma condensed combined statements of operations of the combined company for the three months ended March 31, 2026 and for the year ended December 31, 2025 assumes that the mergers and Alliance Disposal had occurred on January 1, 2025, the beginning of the earliest period presented.

The Pro Forma Financial Information has been compiled using, and should be read in conjunction with the following:

- The unaudited condensed consolidated financial statements and notes of Helix as of and for the three months ended March 31, 2026 included in the Form 10-Q, filed by Helix with the Securities and Exchange Commission (the "SEC") on April 24, 2026, which are incorporated by reference in this proxy statement/prospectus.
- The audited consolidated financial statements and notes of Helix as of and for the year ended December 31, 2025 included in the Form 10-K, filed by Helix with the SEC on February 26, 2026, which are incorporated by reference in this proxy statement/prospectus.
- The unaudited condensed consolidated financial statements and notes of Hornbeck as of and for the three months ended March 31, 2026, included elsewhere in this proxy statement/prospectus.
- The audited consolidated financial statements and notes of Hornbeck as of and for the year ended December 31, 2025, included elsewhere in this proxy statement/prospectus.

The Pro Forma Financial Information is for informational purposes only and is not necessarily indicative of what the actual consolidated results of operations and financial position of the combined company would have been had the mergers taken place on the dates indicated, nor are they indicative of future consolidated results of operations or financial position of the combined company. The Pro Forma Financial Information is based on the information available to management at the time of preparation and assumptions that management believes are reasonable and supportable. The pro forma adjustments, which are described in the accompanying notes, may be revised as additional information becomes available and is evaluated. It is likely that the actual adjustments upon the completion of the mergers will differ from the pro forma adjustments, and it is possible the differences may be material.

Unaudited Pro Forma Condensed Combined Balance Sheet
As of March 31, 2026
(in thousands)

	Hornbeck As Adjusted (Note 3)	Helix As Adjusted (Note 3)	Alliance Disposal (Note 4)	Transaction Accounting Adjustments (Note 5)		Pro Forma Combined
ASSETS						
Current assets:						
Cash and cash equivalents	\$ 85,913	\$ 501,272	\$115,418	\$ (22,070)	(A)	\$ 680,533
Accounts receivable, net	178,024	230,112	(28,837)	(992)	(B)	378,307
Prepaid expenses	5,929	7,475	(247)	—		13,157
Other current assets	33,995	80,432	(9,838)	(13,736)	(C)	130,977
				40,124	(D)	
Total current assets	303,861	819,291	76,496	3,326		1,202,974
Property and equipment, net	759,091	1,320,078	(68,654)	(140,549)	(C)	1,869,966
Goodwill	—	—	—	81,633	(C)	81,633
Deferred recertification and dry dock costs, net	112,156	73,493	(10,819)	(62,674)	(C)	112,156
Operating lease right-of-use assets	17,263	302,926	(785)	12,450	(C)	331,854
Finance lease right-of-use assets	9,683	—	—	—		9,683
Other assets	16,982	52,301	(938)	(64)	(C)	55,739
				(11,611)	(D)	
				(931)	(E)	
Total assets	\$1,219,036	\$2,568,089	\$ (4,700)	\$ (118,420)		\$3,664,005
LIABILITIES AND STOCKHOLDERS' EQUITY						
Current liabilities:						
Accounts payable	90,012	138,412	(14,172)	(992)	(B)	213,260
Accrued payroll and benefits	18,904	34,806	(1,875)	(3,446)	(A)	47,121
				(1,268)	(C)	
Current maturities of long-term debt, net	33,734	9,394	—	—		43,128
Operating lease liabilities	3,528	64,112	(477)	—		67,163
Finance lease liabilities	4,841	—	—	—		4,841
Other current liabilities	23,127	34,331	12,485	51,414	(F)	121,357
Total current liabilities	174,146	281,055	(4,039)	45,708		496,870
Long-term debt, net	425,824	294,367	—	20,339	(C)	740,530
Operating lease liabilities	16,747	257,889	(308)	(5,514)	(C)	268,814
Finance lease liabilities	5,438	—	—	—		5,438
Deferred tax liabilities	—	104,972	(12,901)	(46,055)	(D)	46,016
Other long-term liabilities	7,594	72,950	—	—		80,544
Total long-term liabilities	455,603	730,178	(13,209)	(31,230)		1,141,342
Total liabilities	629,749	1,011,233	(17,248)	14,478		1,638,212
STOCKHOLDERS' EQUITY						
Common stock	—	1,220,461	—	(1,220,459)	(G)	2
Additional paid-in capital	259,327	—	—	1,511,797	(G)	1,771,124
Retained earnings (loss)	330,438	385,508	12,548	(18,624)	(A)	255,145
				17,524	(D)	
				(931)	(E)	
				(51,414)	(F)	
				(419,904)	(G)	
Accumulated other comprehensive income (loss)	(478)	(49,113)	—	49,113	(G)	(478)
Total stockholders' equity	589,287	1,556,856	12,548	(132,898)		2,025,793
Total liabilities and stockholders' equity	\$1,219,036	\$2,568,089	\$ (4,700)	\$ (118,420)		\$3,664,005

The accompanying notes are an integral part of the unaudited pro forma condensed combined financial statements.

Unaudited Pro Forma Condensed Combined Statements of Operations
Three Months Ended March 31, 2026
(in thousands, except per share data)

	Hornbeck As Adjusted (Note 3)	Helix As Adjusted (Note 3)	Alliance Disposal (Note 4)	Transaction Accounting Adjustments (Note 5)		Pro Forma Combined
Net revenues	\$172,721	\$287,946	\$(21,236)	\$ (420)	(AA)	\$439,011
Cost and expenses:						
Operating expense	91,030	235,478	(24,679)	(420)	(AA)	297,409
				(4,000)	(BB)	
Depreciation expense	12,025	33,622	(4,548)	(6,458)	(CC)	34,641
Amortization expense	12,775	10,242	(907)	(7,715)	(BB)	14,395
General and administrative expense	18,406	19,088	(1,655)	511	(DD)	36,350
Stock-based compensation expense	1,160	1,363	(10)	1,285	(EE)	3,798
Merger and integration costs	3,931	1,468	—	—		5,399
Total cost and expenses	139,327	301,261	(31,799)	(16,797)		391,992
Gain on sale of assets	979	—	—	—		979
Operating income (loss)	34,373	(13,315)	10,563	16,377		47,998
Other income (expense):						
Foreign currency gain (loss)	186	290	—	—		476
Royalty income and other	—	1,688	—	—		1,688
Interest expense	(9,259)	(8,200)	—	1,962	(FF)	(15,497)
Interest income	634	2,971	(180)	—		3,425
Other income (loss)	—	8	—	—		8
Total other income (expense)	(8,439)	(3,243)	(180)	1,962		(9,900)
Income (loss) before income taxes	25,934	(16,558)	10,383	18,339		38,098
Income tax expense (benefit)	6,831	(3,152)	2,219	4,768	(GG)	10,666
Net income (loss)	<u>\$ 19,103</u>	<u>\$ (13,406)</u>	<u>\$ 8,164</u>	<u>\$ 13,571</u>		<u>\$ 27,432</u>
Basic earnings (loss) per common share	\$ 1.24	\$ (0.09)				\$ 0.08
Diluted earnings (loss) per common share	\$ 1.09	\$ (0.09)				\$ 0.08
Weighted average common shares outstanding:						
Basic	15,439	147,163				328,982
Diluted	17,603	147,163				336,128

The accompanying notes are an integral part of the unaudited pro forma condensed combined financial statements.

Unaudited Pro Forma Condensed Combined Statements of Operations
Year Ended December 31, 2025
(in thousands, except per share data)

	Hornbeck As Adjusted (Note 3)	Helix As Adjusted (Note 3)	Alliance Disposal (Note 4)	Transaction Accounting Adjustments (Note 5)		Pro Forma Combined
Net revenues	\$719,830	\$1,291,474	\$(199,633)	\$ (920)	(AA)	\$1,810,751
Cost and expenses:						
Operating expense	376,291	945,859	(158,775)	(920)	(AA)	1,131,098
				(31,357)	(BB)	
Depreciation expense	41,554	134,538	(18,157)	(22,653)	(CC)	135,282
Amortization expense	43,815	52,844	(4,888)	(25,962)	(BB)	65,809
General and administrative expense	74,461	68,466	(6,891)	2,043	(DD)	156,703
				18,624	(II)	
Stock-based compensation expense	7,723	6,568	(64)	44,269	(EE)	58,496
Merger and integration costs	—	—	—	51,414	(HH)	51,414
Total cost and expenses	543,844	1,208,275	(188,775)	35,458		1,598,802
Long-lived asset Impairment	—	(18,064)	—	—		(18,064)
Gain on sale of assets	13,222	—	—	—		13,222
Operating income (loss)	189,208	65,135	(10,858)	(36,378)		207,107
Other income (expense):						
Loss on early extinguishment of debt	(67)	—	—	—		(67)
Foreign currency gain (loss)	(692)	(1,667)	—	—		(2,359)
Royalty income and other	—	1,512	—	—		1,512
Interest expense	(32,559)	(32,973)	—	7,703	(FF)	(57,829)
Interest income	6,518	10,196	(1,105)	—		15,609
Other income (loss)	—	277	(276)	—		1
Total other income (expense)	(26,800)	(22,655)	(1,381)	7,703		(43,133)
Income (loss) before income taxes	162,408	42,480	(12,239)	(28,675)		163,974
Income tax expense (benefit)	(10,982)	11,653	652	6,095	(GG)	7,418
Net income (loss)	<u>\$173,390</u>	<u>\$ 30,827</u>	<u>\$ (12,891)</u>	<u>\$(34,770)</u>		<u>\$ 156,556</u>
Basic earnings (loss) per common share	\$ 10.86	\$ 0.21				\$ 0.47
Diluted earnings (loss) per common share	\$ 9.60	\$ 0.21				\$ 0.46
Weighted average common shares outstanding:						
Basic	15,959	148,349				330,168
Diluted	18,055	148,349				337,314

The accompanying notes are an integral part of the unaudited pro forma condensed combined financial statements.

NOTES TO THE UNAUDITED PRO FORMA CONDENSED COMBINED FINANCIAL STATEMENTS

1. Basis of Presentation

The Pro Forma Financial Information has been prepared in accordance with Article 11 of Regulation S-X, as amended by the final rule, Release 33-10786 “Amendments to Financial disclosures about Acquired and Disposed Businesses” (“Article 11 of Regulation S-X”), and the assumptions set forth herein. The pro forma adjustments include transaction accounting adjustments, which reflect the application of required accounting for the mergers and other transactions contemplated by the merger agreement. Article 11 of Regulation S-X permits presentation of reasonably estimable synergies and dis-synergies that have occurred or are reasonably expected to occur (“Management’s Adjustments”). Hornbeck has elected not to present Management’s Adjustments as the specificity of the timing and nature of such items is still under evaluation as of the date of this proxy statement/prospectus.

All dollar figures in this section are presented in thousands, except per share information, unless otherwise stated.

Accounting for the mergers

The mergers are accounted for as a business combination and a reverse acquisition pursuant to Accounting Standards Codification Topic 805, *Business Combinations* (“ASC 805”), where Hornbeck, the legal acquiree, is determined to be the accounting acquirer of Helix based upon an evaluation of the following primary factors:

- On a fully diluted basis after accounting for Hornbeck options and warrants that will be assumed by the combined company in connection with the mergers, it is anticipated that securityholders of Helix and Hornbeck immediately prior to the mergers will own, on an as-converted basis, approximately 45% and 55%, respectively, of the combined company;
- The Ares Investor Group, the largest pre-combination stockholder of Hornbeck, is expected to hold the largest minority voting interest of approximately 11% in the combined company when the mergers are consummated, whereas Helix’s pre-combination ownership is widely dispersed among stockholders.
- It is expected that the combined company board will consist of seven directors, four of whom will be designated by Hornbeck, including the President and Chief Executive Officer of the combined company, and three of whom will be designated by Helix.
- Hornbeck’s existing senior management team will comprise the majority of the senior management of the combined company, including the positions already announced for President and Chief Executive Officer, Executive Vice President and Chief Financial Officer, Executive Vice President, General Counsel and Secretary, and Executive Vice President and Chief Operating Officer, Marine Transportation and Specialty.
- The combined company’s name will be Hornbeck Offshore Services, Inc., and the ticker symbol of the combined company will be “HOS.”

Under the reverse acquisition method of accounting, the assets and liabilities of Helix as of the closing date will be consolidated by Hornbeck at their respective fair values, and the excess or shortfall of the purchase price consideration over the fair value of Helix’s net assets will be recognized as goodwill or gain on bargain purchase, respectively. Fair value is defined in Accounting Standards Codification Topic 820, Fair Value Measurements and Disclosures (“ASC 820”) as “the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date.” Fair value measurements can be highly subjective, and it is possible the application of reasonable judgment could develop different assumptions resulting in a range of alternative estimates using the same facts and circumstances.

Preliminary purchase price consideration

The stock price of Helix, as an accounting acquiree, is used to measure the consideration transferred in this reverse acquisition, as Helix’s stock price is more reliably measurable than the value of the equity interest of the accounting acquirer Hornbeck, which is a privately held entity. The following table presents the calculation of preliminary purchase price consideration (in thousands, except stock price):

Helix shares issued and outstanding as of March 31, 2026	147,296
Remove Helix director restricted stock	(127)
Helix shares issued and outstanding	147,169
Helix stock price ⁽¹⁾	\$ 10.05

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Total share consideration	\$1,479,048
Acquisition date fair value attributable to:	
Helix legacy PSUs	\$ 7,087
Helix legacy RSUs	2,992
Helix legacy director restricted stock	824
Total share based awards	10,903
Total preliminary purchase price consideration	<u>\$1,489,951</u>

(1) The Helix stock price on May 15, 2026 at closing is used as a proxy for the market price of the Helix shares on the closing date.

The purchase price consideration applied in the Pro Forma Financial Information is preliminary and subject to modification based on the final purchase price, which includes any changes to the value of Helix's common stock and the number of vested Helix's stock-based compensation awards when the mergers are consummated. This will likely result in a difference from the preliminary purchase consideration calculated above and that difference may be material. For example, with other assumptions held constant, an increase or decrease of 20% in the price per Helix common stock will produce the following purchase price consideration and the corresponding gain on bargain purchase or goodwill (in thousands, except stock price):

	Helix Stock Price	Purchase Price Consideration	Goodwill
As presented	\$10.05	\$1,489,951	\$81,633
20% increase	12.06	1,787,941	97,960
20% decrease	8.04	1,191,961	65,306

Preliminary purchase price allocation

The allocation of the purchase price consideration, including any related tax effects, is preliminary and pending finalization of various estimates, inputs and analyses used in the valuation assessment of the specifically identifiable tangible and intangible assets acquired. This preliminary determination is subject to further assessment and adjustments pending additional information sharing between the parties, more detailed third-party appraisals, and other potential adjustments.

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

	Estimated Fair Value
Cash and cash equivalents	\$ 616,690
Accounts receivable, net	201,275
Prepaid expenses	7,228
Other current assets	79,458
Property, plant and equipment, net	1,110,875
Operating lease right-of-use assets	314,591
Other assets	51,299
Total assets acquired	2,381,416
Accounts payable	124,240
Accrued payroll and benefits	31,663
Current maturities of long-term debt, net	9,394
Operating lease liabilities	63,635
Other current liabilities	46,816
Long-term debt, net	314,706
Operating lease liabilities	252,067
Deferred tax liabilities	57,627
Other long-term liabilities	72,950
Total liabilities assumed	973,098
Net assets acquired	1,408,318
Goodwill	81,633
Total preliminary purchase price allocation	<u>\$1,489,951</u>

2. Accounting Policies

Upon consummation of the mergers, management will perform a comprehensive review of the two entities' accounting policies. As a result of the review, management may identify differences between the accounting policies of the two entities which, when confirmed, could have a material impact on the combined financial statements of the combined company. Based on an initial analysis, management did not identify differences that would have a material impact on the Pro Forma Financial Information, except for the presentation reclassifications further discussed in Note 3.

3. Reclassification

Balance Sheets as of March 31, 2026

The table below summarizes reclassifications made to Hornbeck's historical balance sheet to conform to the presentation that will be adopted for the combined company as of March 31, 2026 (in thousands):

Financial Statement Line Item	Historical Hornbeck Presentation	Hornbeck As Adjusted
Assets held for sale	\$ 461	\$ —
Taxes receivable	18,897	—
Other current assets	14,637	33,995
Total	33,995	33,995
Deferred charges, net	117,470	—
Deferred tax assets, net	11,611	—
Deferred recertification and dry docking costs, net	—	112,156
Other assets	57	16,982
Total	129,138	129,138
Accrued interest	3,660	—
Accrued taxes payable	9,393	—
Deferred revenue	5,709	—
Other current liabilities	4,365	23,127
Total	\$ 23,127	\$ 23,127

The table below summarizes reclassifications made to Helix's historical balance sheet to conform to the presentation that will be adopted for the combined company as of March 31, 2026 (in thousands):

Financial Statement Line Item	Historical Helix Presentation	Helix As Adjusted
Other current assets	\$87,907	\$80,432
Prepaid expenses	—	7,475
Total	87,907	87,907
Accrued liabilities	69,137	—
Accrued payroll and benefits	—	34,806
Other current liabilities	—	34,331
Total	\$69,137	\$69,137

Statements of Operations for the Three Months Ended March 31, 2026

The table below summarizes reclassifications made to Hornbeck's historical statements of operations to conform to the presentation that will be adopted for the combined company for the three months ended March 31, 2026 (in thousands):

Financial Statement Line Item	Historical Hornbeck Presentation	Hornbeck As Adjusted
Vessel revenues	\$160,367	\$ —
Non-vessel revenues	12,354	—
Net revenues	—	172,721
Total	\$172,721	\$172,721

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The table below summarizes reclassifications made to Helix's historical statement of operations to conform to the presentation that will be adopted for the combined company for the three months ended March 31, 2026 (in thousands):

Financial Statement Line Item	Historical Helix Presentation	Helix As Adjusted
Cost of sales	\$279,118	\$ —
General and administrative expense	22,143	19,088
Operating expense	—	235,478
Depreciation expense	—	33,622
Amortization expense	—	10,242
Stock-based compensation expense	—	1,363
Merger and integration costs	—	1,468
Total	301,261	301,261
Net interest expense	(5,229)	—
Interest expense	—	(8,200)
Interest income	—	2,971
Total	(5,229)	(5,229)
Other income (loss)	298	8
Foreign currency gain (loss)	—	290
Total	\$ 298	\$ 298

Statements of Operations for the Year Ended December 31, 2025

The table below summarizes reclassifications made to Hornbeck's historical statement of operations to conform to the presentation that will be adopted for the combined company for the year ended December 31, 2025 (in thousands):

Financial Statement Line Item	Historical Hornbeck Presentation	Hornbeck As Adjusted
Vessel revenues	\$669,004	\$ —
Non-vessel revenues	50,826	—
Net revenues	—	719,830
Total	\$719,830	\$719,830

The table below summarizes reclassifications made to Helix's historical statement of operations to conform to the presentation that will be adopted for the combined company for the year ended December 31, 2025 (in thousands):

Financial Statement Line Item	Historical Helix Presentation	Helix As Adjusted
Cost of sales	\$1,132,336	\$ —
General and administrative expense	75,939	68,466
Operating expense	—	945,859
Depreciation expense	—	134,538
Amortization expense	—	52,844
Stock-based compensation expense	—	6,568
Total	1,208,275	1,208,275
Net interest expense	(22,777)	—
Interest expense	—	(32,973)
Interest income	—	10,196
Total	(22,777)	(22,777)
Other income (loss)	(1,390)	277
Foreign currency gain (loss)	—	(1,667)
Total	\$ (1,390)	\$ (1,390)

4. Alliance Disposal

Reflects the removal of the historical financial position and results of operations attributable to the Alliance business, which was disposed of by Helix on May 1, 2026, and the corresponding tax impact of the removal. Balances and activities of the Alliance business will not be part of the combined company upon consummation of the mergers. The unaudited pro forma condensed combined balance sheet adjustment as of March 31, 2026 also reflects a total estimated sales price of \$135.4 million, including an estimated working capital adjustment of \$27.9 million and net of estimated transaction costs of \$2.1 million from the Alliance Disposal.

5. Transaction Accounting Adjustments

Explanations of the adjustments to the unaudited condensed combined pro forma financial statements are as follows:

Unaudited Pro Forma Condensed Combined Balance Sheet

- (A) Represents the estimated cash payment at closing and settlement of historical accruals related to the long-term incentive compensation programs at both Helix and Hornbeck as well as retention bonuses in connection with the mergers.
- (B) Represents the elimination of Accounts receivable, net and Accounts payable resulting from transactions between Helix and Hornbeck, as if Hornbeck and Helix were consolidated affiliates.
- (C) Represents preliminary fair value adjustments to Helix's historical financial position, including property, plant and equipment, net; U.S Maritime Administration ("MARAD") Debt; Senior Notes due 2029; operating leases; oil and gas reserves; and goodwill, as well as the write-off of certain balances, including unamortized debt issuance costs, RSU liabilities and prepaid or deferred amounts without future benefit to the combined company, in connection with the application of the acquisition method of accounting and the preliminary purchase price allocation described in Note 1.
- (D) Represents the pro forma adjustments to income tax related accounts on the balance sheet as a result of the mergers. The net decrease in Deferred tax liabilities, is primarily driven by the tax effect from the fair value adjustments resulting from the preliminary purchase price allocation discussed in Note (C). The tax impact of the transaction and compensation costs payable at closing are recorded to the tax receivables included in Other current assets.
- (E) Reflects the removal of the remaining unamortized deferred financing costs associated with Helix's asset-based lending ("ABL") Credit Facility, which is expected to be terminated in connection with the mergers.
- (F) Represents the accrual of additional transaction costs directly attributable to the mergers that are expected to be incurred by Hornbeck subsequent to March 31, 2026.
- (G) Additional transaction accounting adjustments in the stockholders' equity represent the following:

(in thousands)	Removal of Helix Historical Equity, Net of Alliance Disposal ⁽¹⁾	Hornbeck Stock-based Compensation Accelerated Vesting ⁽²⁾	Fair value of purchase price consideration ⁽³⁾	Total Adjustments
Common stock	\$(1,220,461)	\$ —	\$ 2	\$(1,220,459)
Additional paid-in capital	—	21,848	1,489,949	1,511,797
Retained earnings (loss)	(398,056)	(21,848)	—	(419,904)
Accumulated other comprehensive income (loss)	49,113	—	—	49,113
Total stockholders' equity	\$(1,569,404)	\$ —	\$1,489,951	\$ (79,453)

- (1) To remove the historical equity of Helix, the accounting acquiree, as a result of the reverse acquisition by Hornbeck.
- (2) To record the accelerated vesting of Hornbeck's stock-based compensation assuming all RSUs are settled in shares. For non-employee directors of Hornbeck, RSUs may be settled, in whole or in part, in cash in accordance with the applicable award agreement. If the RSUs held by non-employee directors are settled in cash, the impact on the pro forma statements would be a reduction of approximately 1.1 million shares of Converted Helix Common Stock issued and outstanding and an incremental cash outflow of approximately \$11.4 million.
- (3) To recognize the fair value of the purchase price consideration paid by Hornbeck in the reverse acquisition of Helix, which includes the impacts to purchase price consideration from the conversion of Helix's legacy stock-based compensation. Refer to Note 1 for the components of the purchase price consideration. The Helix Board of Directors may elect, in its discretion after consultation with the Hornbeck Board, to settle Helix RSUs and PSUs in cash. The amounts presented on the pro forma balance sheet assume all Helix stock-based awards are settled in shares. If all of Helix's RSUs and PSUs are settled in cash, the impact on the pro forma statements would be a reduction of approximately 2.7 million shares of Converted Helix Common Stock issued and outstanding and an incremental cash outflow of approximately \$26.9 million.

Unaudited Pro Forma Condensed Combined Statements of Operations

- (AA) Represents the elimination of Net revenues and Operating expense from the transactions between Hornbeck and Helix as if Hornbeck and Helix were consolidated affiliates.
- (BB) Reflects the removal of amortization for deferred dry docking costs and amortization of deferred mobilization costs associated with capitalizable balances as of January 1, 2025 as such costs were written off in connection with the application of the acquisition method of accounting and the preliminary purchase price allocation described in Note 1. Any remaining amortization relates solely to capitalizable costs incurred after January 1, 2025.
- (CC) Reflects the decrease to Depreciation expense based on the preliminary fair value adjustment and the estimated weighted average useful lives of the acquired Property, plant and equipment, net.
- (DD) Reflects the recognition of employee compensation expense associated with cash-based retention and continuity awards granted in connection with the mergers. The awards have an aggregate value of approximately \$4.1 million and are subject to both the occurrence of the closing date and a service condition of two years after the grant date on May 18, 2026. For pro forma purposes, the associated compensation cost is recognized ratably over the requisite service period of two years, resulting in estimated compensation expense of \$0.5 million and \$2.0 million for the three months ended March 31, 2026 and the year ended December 31, 2025, respectively.
- (EE) Reflects the accelerated vesting and settlement of RSUs, PSUs, Helix legacy director restricted stock and certain option awards of Hornbeck in connection with the consummation of the mergers.
- (FF) Reflects (1) the removal of the historical amortization of deferred financing costs associated with Helix's ABL Credit Facility, which is expected to be terminated in connection with the mergers; (2) the removal of historical amortization of deferred financing costs related to the Helix's MARAD debt and Senior Notes due 2029 which are assumed by Hornbeck with remaining unamortized deferred financing costs written-off, in connection with the application of the acquisition method of accounting and the preliminary purchase price allocation described in Note 1; and (3) the amortization of the premium related to the MARAD debt and Senior Notes due 2029.
- (GG) Represents the pro forma income tax effect of the adjustments related to the mergers calculated by applying an estimated 26% overall global effective tax rate for the combined company, adjusted for permanent non-deductible transaction and compensation differences, where applicable. Management believes this approach provides a reasonable basis for the pro forma income tax adjustments; however, the effective tax rate of the combined company could be significantly different depending on the mix of activities. This preliminary estimate is subject to further assessment and adjustments as additional information becomes available.
- (HH) Represents the estimated transaction costs of \$51.4 million to be incurred by Hornbeck subsequent to March 31, 2026, primarily consisting of investment, banking, legal, and accounting advisory fees directly attributable to the mergers. These transaction costs are nonrecurring and will not affect the combined company's statements of operations beyond twelve months after the closing of the mergers. Transaction costs of \$3.9 million are included in the historical statements of operations of Hornbeck for the three months ended March 31, 2026. Hornbeck incurred minimal transaction costs for the year ended December 31, 2025. Transaction costs of \$1.2 million related to the mergers are included in the historical statements of operations of Helix for the three months ended March 31, 2026. Helix did not incur transaction costs for the year ended December 31, 2025.
- (II) Reflects the recognition of compensation expense associated with the settlement of long-term incentive programs at both Helix and Hornbeck, as well as retention bonuses in connection with the mergers.

6. Earnings per Share

As the unaudited pro forma condensed combined statements of operations assumes that the mergers had occurred at January 1, 2025, the beginning of the earliest period presented, the calculation of weighted average shares outstanding for basic and diluted earnings per share assumes that the shares issuable relating to the mergers have been outstanding for the entirety of the periods presented. Diluted earnings per share assumes (i) converted options that remain eligible for exercise post-close remain outstanding, and (ii) performance stock units are achieved at target.

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The table below presents the components of the pro forma earnings per share calculation (in thousands):

	Three Months Ended March 31, 2026	Year Ended December 31, 2025
Pro forma net income	\$ 27,432	\$156,556
Basic shares:		
Helix historical weighted average shares outstanding	147,163	148,349
Shares issued due to the vesting of Helix stock-based compensation awards	2,677	2,677
Shares issued in exchange for Hornbeck shares outstanding	54,142	54,142
Shares issued in exchange for certain Hornbeck Creditor Warrants ⁽¹⁾	1,549	1,549
Shares issued due to the vesting of Hornbeck share-based compensation awards	10,154	10,154
Conversion of Hornbeck Jones Act Warrants into Combined Company Jones Act Warrants	103,637	103,637
Conversion of certain Hornbeck Creditor Warrants into Combined Company Jones Act Warrants ⁽¹⁾	9,660	9,660
Pro forma weighted average common shares outstanding, basic	328,982	330,168
Diluted shares:		
Pro forma weighted average shares outstanding, basic	328,982	330,168
Dilutive impact due to options	5,489	5,489
Dilutive impact due to restricted stock units and performance stock units	1,657	1,657
Pro forma weighted average common shares outstanding, diluted	336,128	337,314
Earnings per share, basic	\$ 0.08	\$ 0.47
Earnings per share, diluted	\$ 0.08	\$ 0.46

- (1) The Creditor Warrant conversion utilizes the average closing price per share of Converted Helix Common Stock over the ten trading days immediately preceding the second business day prior to the closing date, with the May 15, 2026 Helix stock price used as a proxy for pro forma purposes.

RELATED PARTY TRANSACTIONS OF DIRECTORS AND EXECUTIVE OFFICERS OF HORNBECK

The following is a discussion of transactions between Hornbeck and its executive officers and directors who will serve as a director and/or executive officer of the combined company. Hornbeck believes that the terms of each of these transactions are at least as favorable as could have been obtained in similar transactions with unaffiliated third parties.

Hornbeck has entered into a separate indemnity agreement with each of its officers and directors that provides, among other things, that Hornbeck will indemnify such director, under the circumstances and to the extent provided in the agreement, for expenses, damages, judgments, fines and settlements he or she may be required to pay in actions or proceedings which he or she is or may be made a party by reason of his or her position as an executive officer or director of Hornbeck, and otherwise to the fullest extent permitted under Delaware law and Hornbeck's amended and restated bylaws. These agreements are in addition to the indemnification provided to Hornbeck's officers and directors under its amended and restated bylaws and in accordance with Delaware law.

For the past 29 years, Larry D. Hornbeck's family has personally supported the development of Hornbeck by hosting numerous events at the Hornbeck Family Ranch (the "Ranch"), located in Houston County, Texas, including constructing at their own expense a hunting lodge and related facilities and providing access to 4,700 acres adjoining the lodge and related facilities. The Ranch and related facilities have been used for functions intended to foster client and vendor relations, management retreats, Hornbeck Board meetings and special Hornbeck promotional events. The Ranch also plays a vital role in Hornbeck's business continuity plan in the event Hornbeck's corporate headquarters is impacted by a natural disaster. Until December 31, 2005, these facilities were used by Hornbeck without charge. Hornbeck has determined that the use of the Ranch in the past and going forward has been and is beneficial to Hornbeck's business. On September 4, 2020, Hornbeck entered into an Amended and Restated Facilities Use Agreement and implemented the Second Amended and Restated Indemnification Agreement (the "Indemnification Agreement") with Larry D. Hornbeck, as well as certain other indemnitees, regarding the Ranch.

The Indemnification Agreement provides for indemnification by Hornbeck of Larry D. Hornbeck, as well as certain other indemnitees, including Hornbeck's Chairman, President and Chief Executive Officer, Todd M. Hornbeck, for any claims, demands, causes of action and damages that may arise out of Hornbeck's use of the Ranch and related facilities and premises. The Indemnification Agreement also provides that Hornbeck shall secure and maintain insurance coverage of the types and amounts sufficient to provide adequate protection against the liabilities that may arise under the Indemnification Agreement. The Indemnification Agreement was acknowledged by the independent members of the Hornbeck Board on September 9, 2020.

The agreements govern Hornbeck's use of the Ranch and related facilities. The Facilities Use Agreement will remain in effect until December 31, 2026 unless it is terminated or extended by its terms. The Facilities Use Agreement automatically renews on an annual basis unless either party provides the other party 30 days' prior written notice of termination. The Facilities Use Agreement also provides that Hornbeck will pay Mr. Larry Hornbeck an annual use fee for Hornbeck's use of the facilities and provides for an operating budget to reimburse Mr. Larry Hornbeck for certain variable costs related to Hornbeck's use of the Ranch facilities and to replenish expendable goods used by Hornbeck invitees to the facilities. For 2022, the operating budget set by the Hornbeck Board was \$325,000, inclusive of an annual use fee of \$75,000. In the fall of 2022, in light of relaxed COVID-19 restrictions and market recovery, Hornbeck fully reopened the lodge facilities, and the audit committee and the Hornbeck Board adjusted the operating budget to \$415,000, inclusive of an annual use fee of \$112,500. For 2023, the operating budget was set at \$452,500, inclusive of an annual use fee of \$150,000. For 2024, the operating budget was set at \$450,000, inclusive of an annual use fee of \$150,000. For 2025, the operating budget was set at \$480,000, inclusive of an annual use fee of \$150,000.

In 2006, Larry D. Hornbeck transferred ownership of the land on which the Ranch is located to a family limited partnership in which trusts on behalf of the children of Todd M. Hornbeck and Troy A. Hornbeck are the limited partners. The general partner of the family limited partnership is controlled by Todd M. Hornbeck and Troy A. Hornbeck. The family limited partnership has entered into a long-term lease of the property to Larry Hornbeck and acknowledged and agreed to Hornbeck's use of the Ranch and related facilities under the Facilities Use Agreement and the Indemnification Agreement.

Hornbeck has provided, and may, from time to time in the future at its own expense and with Mr. Larry Hornbeck's prior approval, provide additional amenities for its representatives and invitees. Certain of these amenities may, by their nature, remain with the property should Hornbeck ever cease to use the Ranch. In approving the Facilities Use

Agreement and establishing the use fee amount, the audit committee and independent members of the Hornbeck Board considered the costs of comparable third-party facilities and determined that the combined facilities use fee and anticipated reimbursement of variable costs were substantially lower than costs for the use of such comparable facilities.

Mr. Larry Hornbeck has also agreed, among other things, to make himself available to Hornbeck, the Chief Executive Officer of Hornbeck, the Hornbeck Board or any committee of the Hornbeck Board to assist in the assessment of potential targets for acquisitions, to travel for Hornbeck projects, to attend industry meetings and to aid in other ways, in exchange for consideration of \$20,333 per month paid as consulting fees pursuant to a consulting agreement dated as of September 4, 2020. This consulting agreement automatically renews on an annual basis unless either party provides the other party 30 days' prior written notice of termination.

Third and Fourth Amended and Restated License Agreement

Pursuant to the Third A&R License Agreement, Hornbeck is required to make quarterly payments to HFR, which is owned by Todd M. Hornbeck and his brother Troy A. Hornbeck, of \$250,000 (\$1.0 million annually) for use of the Hornbeck Brands plus the Performance Fee. Hornbeck made payments of \$2.0 million, \$2.0 million and \$2.0 million to HFR during each of the years ended December 31, 2025, 2024 and 2023, respectively. In addition, Hornbeck paid (i) \$1.0 million in March of 2026 for the Performance Fee earned in 2025, and (ii) an aggregate of \$500,000 for quarterly payments associated with the use of the Hornbeck Brands for fourth quarter of 2025 and for the first quarter of 2026. On April 23, 2026, Hornbeck and HFR executed the Fourth A&R License Agreement, which will become effective only upon closing of the mergers. Pursuant to the Fourth A&R License Agreement, the combined company will have an exclusive license to use the various Hornbeck Brands in connection with the existing Hornbeck business and the recently-merged Helix business. The Fourth A&R License Agreement eliminates the quarterly payments of \$250,000 (\$1.0 million annually) for use of the Hornbeck Brands and Performance Fee under the Third A&R License in exchange for a single one-time payment of \$17.4 million paid to HFR plus any amounts earned under the Third A&R License Agreement that remain due and payable through the closing of the mergers. The Fourth A&R License Agreement will continue until the later of the seventh (7th) anniversary of the closing of the mergers and the second (2nd) anniversary of the date that Todd M. Hornbeck is no longer Hornbeck's President and Chief Executive Officer (other than for Todd M. Hornbeck's resignation as President while he remains Chief Executive Officer). For additional details and risks associated with the Fourth A&R License Agreement, see "*Risk Factors—We do not own the Hornbeck Brands, but may use the Hornbeck Brands pursuant to the terms of a license granted by HFR, and our business may be materially harmed if we breach our license agreement or it is terminated.*"

COMPARISON OF STOCKHOLDERS' RIGHTS

Hornbeck stockholders will receive shares of Converted Helix Common Stock in the mergers. Helix is currently a Minnesota corporation subject to the MBCA, and Hornbeck is a Delaware corporation subject to the DGCL. Under the terms of the merger agreement, immediately prior to the first merger, Helix will convert from a Minnesota corporation to a Delaware corporation in accordance with Section 265 of the DGCL and Section 302A.682 of the MBCA pursuant to the plan of conversion. If the mergers and the other transactions contemplated by the merger agreement, including the Conversion, are completed, the rights of Helix stockholders, as stockholders of a Delaware corporation following the Conversion, and the rights of Hornbeck stockholders who become Helix stockholders through the receipt of Converted Helix Common Stock pursuant to the merger agreement will be governed by the DGCL and the combined company's certificate of incorporation and bylaws (each as amended in connection with the transactions). The following description summarizes the current rights of Hornbeck stockholders, the current rights of Helix shareholders and the rights of the combined company's stockholders under the combined company's certificate of incorporation and bylaws upon completion of the mergers.

The following summary is not a complete statement of the rights of current Helix shareholders, current Hornbeck stockholders or the stockholders of the combined company upon completion of the mergers. This summary does not purport to be a complete description of the specific provisions referred to below and is qualified in its entirety by reference to the MBCA and the DGCL and Helix's, Hornbeck's and the combined company's governing corporate documents, which Helix shareholders and Hornbeck stockholders should read. For information on how copies of these documents may be obtained, please see the section of this proxy statement/prospectus titled "Where You Can Find More Information."

Existing Helix Rights	Existing Hornbeck Rights	Combined Company Rights
Authorized Capital Stock		
Helix has authority to issue 245,000,000 shares of capital stock, consisting of common stock, without par value, and 5,000,000 shares of preferred stock, par value \$0.01 per share.	Hornbeck has authority to issue 50,000,000 shares of capital stock, consisting of 50,000,000 shares of common stock, par value \$0.00001 per share.	The combined company will have authority to issue 410,000,000 shares of capital stock, consisting of (i) up to 400,000,000 shares of common stock, par value \$0.00001 per share, and (ii) 10,000,000 shares of preferred stock, par value \$0.00001 per share. See the section of this proxy statement/prospectus titled "The Authorized Share Increase Proposal" for a description and reasons for the proposed increase.

Voting Rights

The MBCA provides that each stockholder is entitled to one vote for each share entitled to vote and held as of the record date, unless otherwise provided in the articles of incorporation. The MBCA requires cumulative voting unless the articles of incorporation provide there shall be no cumulative voting.

The DGCL provides that each stockholder must be entitled to one vote for each share of capital stock held by such stockholder, unless otherwise provided in a corporation's certificate of incorporation.

Helix's articles of incorporation provide that each holder of Common Stock shall be entitled to one vote for each share held. No shareholder of

Hornbeck's certificate of incorporation and bylaws provide that, unless otherwise required by law, each Hornbeck stockholder shall

The combined company's certificate of incorporation and bylaws will provide that, unless otherwise required by law, each stockholder of

Existing Helix Rights	Existing Hornbeck Rights	Combined Company Rights
Helix shall be entitled to cumulative voting rights.	be entitled to one vote for each share of common stock held by such stockholder. The holders of shares of Hornbeck common stock do not have cumulative voting rights.	the combined company shall be entitled to one vote for each share of capital stock entitled to vote on the subject matter under consideration held by such stockholder. The holders of shares of common stock of the combined company will not have cumulative voting rights.
Subject to the discussions in “— <i>Amendment of Governing Documents</i> ” below, unless otherwise provided in Helix’s articles of incorporation or Helix’s bylaws, or the MBCA, the affirmative vote of the holders of a majority of the voting power of the shares present and entitled to vote on a matter shall be the act of Helix’s shareholders. Abstentions shall be counted as votes against.	Subject to the discussions in “— <i>Nominations/Election of Directors</i> ” and “— <i>Amendment of Governing Documents</i> ” below, unless otherwise required by the Hornbeck’s certificate of incorporation, Hornbeck’s bylaws, Hornbeck’s Securityholders Agreement, or the DGCL, in all matters other than the election of directors, the affirmative vote of the holders of a majority of the votes cast at the meeting on the subject matter shall be the act of the stockholders. Abstentions shall not be counted as votes cast.	Except as otherwise provided in the combined company’s certificate of incorporation or required by applicable law, the holders of common stock of the combined company will vote together as a single class (or, if the holders of one or more series of preferred stock are entitled to vote together with the holders of common stock, as a single class with the holders of such series of preferred stock) on all matters submitted to a vote of the stockholders generally. Under the combined company’s certificate of incorporation, the voting rights of the holders of any preferred stock designated by the combined company board will be determined by resolution of the combined company board.
		Subject to the discussions in “— <i>Nominations/Election of Directors</i> ” and “— <i>Amendment of Governing Documents</i> ” below, unless otherwise required by the combined company’s certificate of incorporation, the combined company’s bylaws, the rules or regulations of any stock exchange applicable to the combined company, or applicable law, in all matters other than the election of directors, the affirmative vote of the holders of a majority of the shares present in person or represented by proxy and entitled to vote on the matter will be the act of the stockholders.

Existing Helix Rights	Existing Hornbeck Rights	Combined Company Rights
Number of Directors and Size of Board		
The MBCA provides that the board of directors of a Minnesota corporation shall consist of one or more directors as fixed in the manner set forth in the bylaws or the articles of incorporation.	The DGCL provides that the board of directors of a Delaware corporation must consist of one or more directors as fixed by the corporation's certificate of incorporation or bylaws.	
Helix's articles of incorporation and provide that the number of directors shall be fixed as provided for in the bylaws. Helix's bylaws provide that the number of directors of the Helix Board shall be fixed from time to time by the Helix Board or Helix's shareholders pursuant to Helix's bylaws.	Hornbeck's Securityholders Agreement provides that the number of directors of the Hornbeck Board will be nine or such greater number approved by the Hornbeck Board and the Appointing Persons (as defined in Hornbeck's Securityholders Agreement). Hornbeck's Securityholders Agreement provides that the Hornbeck Board will consist of (i) four directors designated by Ares (for so long as Ares is an Appointing Person), (ii) two directors designated by Whitebox (for so long as Whitebox is an Appointing Person), (iii) two directors designated by Highbridge (for so long as Highbridge is an Appointing Person) and (iv) the duly-appointed and acting Chief Executive Officer of Hornbeck. If any seats on the Hornbeck Board remain unfilled after the exercise of the foregoing Director Designation Rights (as defined in Hornbeck's Securityholders Agreement), candidates for such additional seats will be nominated by the Hornbeck Board and will be subject to election by the holders of common stock.	The combined company's certificate of incorporation will provide that, subject to the rights granted to any holders of any one or more series of preferred stock then-outstanding or the rights granted pursuant to the combined company's Securityholders Agreement, the number of directors which shall constitute the combined company board shall be fixed from time to time pursuant to resolutions of the combined company board. No more than a minority of the number of directors necessary to constitute a quorum of the combined company board shall be non-U.S. Citizens. See the section of this proxy statement/prospectus titled "<i>The D&O Citizenship Matters Proposal</i>" for a description and reasons for this proposed requirement. Under the combined company's Securityholders Agreement, the Ares Investor (as defined in the combined company's Securityholders Agreement) shall have the right to designate for nomination two Ares Investor Directors (as defined in the combined company's Securityholders Agreement) during any time that the Ares Investor Group (as defined in the combined company's Securityholders Agreement) beneficially owns at least 20% of the outstanding common stock (including any common stock issuable pursuant to the Jones Act Warrants and the Creditor Warrants) and one Ares Investor Director during any time that the Ares Investor Group beneficially owns at least 10% but

Existing Helix Rights	Existing Hornbeck Rights	Combined Company Rights
		less than 20% of the outstanding common stock. The Whitebox Investor shall have the right to designate for nomination one Whitebox Investor Director during any time that the Whitebox Investor Group beneficially owns at least 10% of the outstanding common stock.

Classified Board/Term of Directors

The MBCA provides that directors of a Minnesota corporation may, by the corporation's articles of incorporation or bylaws, be divided into classes.

The DGCL provides that directors of a Delaware corporation may, by the corporation's certificate of incorporation or by the corporation's bylaws, be divided into one, two or three classes.

Helix's bylaws provide that the directors shall be classified into three classes, as nearly equal in number as possible. At each annual meeting of shareholders, the successors of the class of directors whose term expires at the meeting shall be elected to hold office for a term expiring at the annual meeting held in the third year following the year of their election. Each director shall hold office until his or her death, resignation, removal or his or her successor is elected and qualified.

Hornbeck's bylaws provide that each director will serve for a term ending on the first annual meeting following the annual meeting at which such director was elected. Hornbeck's certificate of incorporation and bylaws provide that each director shall hold office until his successor shall have been duly elected and qualified or until his earlier death, resignation or removal.

The combined company's certificate of incorporation will provide that the directors of the combined company, other than those who may be elected by the holders of any series of preferred stock, shall be divided into three classes, as nearly equal in number as possible, designated Class I, Class II, and Class III. The term of office of the initial Class II directors shall expire at the first annual meeting of stockholders following the mergers, the term of office of the initial Class I directors shall expire at the second annual meeting of stockholders after the mergers, and the term of office of the initial Class III directors shall expire at the third annual meeting of the stockholders after the mergers.

At each annual meeting of stockholders, directors elected to replace those of a class whose terms expire at such annual meeting shall be elected to hold office until the third succeeding annual meeting after their election and until their respective successors shall have been duly elected and qualified.

Nominations/Election of Directors

Helix's bylaws provide that nominations of persons for election to the Helix Board may be made at a

Hornbeck's bylaws provide that nominations of persons for election to the Hornbeck Board or the proposal

The combined company's bylaws will provide that, subject to the rights of the holders of any class or series of

Existing Helix Rights	Existing Hornbeck Rights	Combined Company Rights
meeting of shareholders (a) by or at the direction of the Helix Board or (b) by any shareholder of Helix who is a shareholder of record at the time of giving of notice and who is entitled to vote for the election of directors at the meeting and who complies with the advance notice procedures set forth in Helix's bylaws. Such nominations, other than those made by or at the direction of the Helix board, shall be made pursuant to timely notice in writing to Helix's Corporate Secretary. To be timely, a shareholder's notice must be delivered to the principal executive offices of Helix not less than 90 days prior to the anniversary date of the immediately preceding annual meeting. With respect to a special meeting of Helix's shareholders, Helix's articles of incorporation and bylaws provide that notice must be delivered not later than the close of business on the tenth day following the first to occur of (x) the date on which notice of the date of the special meeting was mailed to shareholders or (y) the date on which public disclosure of the date was made.	of other business to be transacted by the stockholders at an annual meeting of stockholders may be made only (A) pursuant to Hornbeck's notice of meeting (or any supplement thereto), (B) by or at the direction of the Hornbeck Board or any nominating committee thereof, or (C) as may be provided in Hornbeck's certificate of incorporation. If the election of directors is included as business to be brought before a special meeting in Hornbeck's notice of meeting, nominations of persons for election to the Hornbeck Board at a special meeting of stockholders may be made (x) by or at the direction of the Hornbeck Board or any committee thereof and (y) by any stockholder who is a stockholder of record at the time of giving of notice and at the time of the special meeting, who shall be entitled to nominate one or more persons for election to the Hornbeck Board pursuant to Hornbeck's Securityholders Agreement at such time. Directors designated as Board Designees (as defined in Hornbeck's Securityholders Agreement) by the Appointing Persons (as described under "<i>Number of Directors and Size of Board</i>" above) shall be elected to the Hornbeck Board, and Hornbeck and each securityholder shall take all necessary action to ensure such designees are elected. Directors shall be elected by a majority of the votes cast by holders of the shares of Hornbeck's common stock present in person or represented by proxy at the meeting and entitled to vote on the election of directors.	preferred stock, unless otherwise required by law, each director nominee shall be elected by a majority of the votes cast by the shares present in person or represented by proxy and entitled to vote on the election of directors; <i>provided</i> that director nominees shall be elected by a plurality of the votes cast in the case of a contested election. The combined company bylaws will contain detailed advance notice provisions for stockholder nominations, requiring that a Proposing Stockholder (as defined in the combined company's bylaws) deliver timely written notice to the Secretary, including specified information regarding the proposed nominee and the nominating stockholder.
Helix's articles of incorporation provide that any director or the entire Helix Board may be removed, but only by the affirmative vote of the	Hornbeck's bylaws provide that, subject to the Hornbeck Securityholders Agreement, no director may be removed from office	The combined company's certificate of incorporation will provide that, subject to the rights granted pursuant to the combined company's

Existing Helix Rights	Existing Hornbeck Rights	Combined Company Rights
holders of 68% of the shares then entitled to vote at an election of directors.	by the stockholders except with the affirmative vote of the holders of not less than a majority of the total voting power of all outstanding securities of Hornbeck generally entitled to vote in the election of directors, voting together as a single class.	Securityholders Agreement, any or all of the directors may be removed at any time with or without cause, but only by the affirmative vote of stockholders representing at least 68% of the voting power of all then-outstanding shares of stock of the combined company entitled to vote thereon, voting as a single class.

Vacancies

The MBCA provides that, unless otherwise provided in the articles of incorporation or bylaws, vacancies may be filled by the affirmative vote of a majority of the remaining directors, even if less than a quorum. The MBCA also provides that each newly created directorship may be filled by affirmative vote of a majority of directors serving at the time of election.

The DGCL provides that, unless otherwise provided in the certificate of incorporation or bylaws, vacancies and newly created directorships may be filled by a majority vote of the directors then in office, even if the number of directors then in office is less than a quorum.

Helix's bylaws provide that newly created directorships resulting from any increase in the number of directors and any vacancies on the Helix Board resulting from death, resignation, disqualification, removal or other cause shall be filled by the affirmative vote of a majority of the remaining directors then in office, even though less than a quorum of the Helix Board. Any director so elected shall hold office for the remainder of the full term of the class of directors in which the new directorship was created or the vacancy occurred and until such director's successor shall have been elected and qualified. No decrease in the number of directors constituting the Helix Board shall shorten the term of any incumbent director.

Hornbeck's certificate of incorporation provides that any vacancy on the Hornbeck Board that results from an increase in the number of directors shall be filled in accordance with the terms of Hornbeck's Securityholders Agreement.

Hornbeck's bylaws and Securityholders Agreement provide that, in the event that a vacancy is created on the Hornbeck Board at any time due to the death, disability, retirement, resignation or removal of a director, then: (a) with respect to any Appointing Person Director, the Appointing Person with the right to appoint such Director at such time shall have the exclusive right to designate an individual to fill such vacancy, and Hornbeck and each Securityholder shall take all necessary action to elect or appoint such designee to fill such vacancy on the Hornbeck Board; provided that if the applicable Appointing Person fails to designate a replacement within sixty days after notice from

The combined company's certificate of incorporation will provide that, subject to the rights of any holders of any one or more series of preferred stock then-outstanding or the rights granted pursuant to the combined company's Securityholders Agreement, any newly created directorship on the combined company board that results from an increase in the number of directors and any vacancy occurring in the combined company board (whether by death, resignation, retirement, disqualification, removal or other cause) shall be filled only by a majority of the directors then in office, even if less than a quorum, or by a sole remaining director (and not by stockholders).

Under the combined company's Securityholders Agreement, if at any time an Investor Director (as defined in the combined company's Securityholders Agreement) serving on the combined company board ceases to serve on the combined company board and the applicable

Existing Helix Rights	Existing Hornbeck Rights	Combined Company Rights
	Hornbeck, the vacancy shall be filled by the remaining directors then in office; provided that such individual shall be removed from such position if such Appointing Person so directs and simultaneously designates a new Board Designee to serve in such position on the Hornbeck Board; (b) with respect to any Other Director (as defined in the Hornbeck's Securityholders Agreement), such vacancy shall be filled by a majority vote of the Hornbeck Board, and such replacement Other Director so appointed shall fill such vacancy until the next meeting of stockholders following such Other Director's appointment; and (c) if the person serving as Chief Executive Officer of Hornbeck ceases to be a Director, the director position on the Hornbeck Board reserved for the Chief Executive Officer of Hornbeck shall remain vacant until a successor Chief Executive Officer is duly appointed by the Hornbeck Board, at which time such successor Chief Executive Officer shall automatically fill such vacancy and become a director.	Investor (as defined in the combined company's Securityholders Agreement) remains entitled to designate for nomination an Investor Director, the combined company board shall take all necessary action to fill such resulting vacancy with such replacement designated by the applicable Investor as promptly as practicable. Under the combined company's bylaws, any director elected to fill a vacancy shall serve for the unexpired term of his or her predecessor in office and until his or her successor shall be elected and qualified, or until his or her earlier death, resignation, retirement, disqualification or removal. Any director elected to fill a position resulting from an increase in the number of directors shall hold office until the next election of the class for which such director shall have been elected and until his or her successor shall be elected and qualified, or until his or her earlier death, resignation, retirement, disqualification or removal.
Board Meetings		
Helix's bylaws provide that the Helix Board may, pursuant to a standing resolution of the Helix Board, provide for Board meetings to be held at regular intervals. Special meetings of the Helix Board may be called by any two directors by giving ten days' notice to all directors of the date, time, place and purpose of the meeting. Any action required or permitted to be taken at any meeting of the Helix Board or of any committee thereof may be taken without a meeting by a written action signed by all of the directors then in office.	Hornbeck's bylaws provide that the Hornbeck Board shall hold its meetings at such time as may be determined from time to time by the Hornbeck. Special meetings of the Hornbeck Board may be called by the Chairman of the Hornbeck Board, the Chief Executive Officer, or a majority of the members of the Hornbeck Board. Notice of special meetings shall be given to each director at least three days before the date of the meeting. Any action required or permitted to be taken at any meeting of the Hornbeck Board or of any committee thereof may be taken without a meeting, if all members of the Hornbeck Board or committee, as the	The combined company's bylaws will provide that the board of the combined company shall hold its meetings at such time as may be determined from time to time by the combined company board. Special meetings of the combined company board may be called by (i) the Chairperson of the combined company board, (ii) the Chief Executive Officer, (iii) the Lead Independent Director, (iv) the President, or (v) at least two members of the combined company board. Notice of special meetings of the combined company board shall be given to each director at least two days before the date of the meeting.

Existing Helix Rights	Existing Hornbeck Rights	Combined Company Rights
	case may be, consent thereto in writing.	Any action required or permitted to be taken at any meeting of the combined company board or of any committee thereof may be taken without a meeting, if all members of the combined company board or committee, as the case may be, consent thereto in writing.

Quorum for Board Meetings

The MBCA provides that a majority of the directors currently holding office is a quorum for the transaction of business unless a larger or smaller proportion is provided for in the articles or bylaws.

The DGCL provides that in no case will a quorum be less than one-third of the authorized number of directors.

Helix's bylaws provide that the presence of a majority of the directors shall constitute a quorum for the transaction of business at any meeting of the Helix Board, and the act of a majority of the directors present at a meeting at which a quorum is present shall be the act of the Helix Board. If a quorum is present when a duly called or held meeting is convened, the directors present may continue to transact business until adjournment, even though the withdrawal of a number of directors originally present leaves less than a quorum.

Hornbeck's bylaws provide that five directors of the Hornbeck Board (without regard to vacancies; provided that if there are fewer than five directors then in office, a quorum shall be all then serving directors) shall constitute a quorum of the Hornbeck Board for the transaction of business at any meeting of the Hornbeck Board, and the act of a majority of the directors present at a meeting at which a quorum is present shall be the act of the Hornbeck Board.

The combined company bylaws provide that the presence of a majority of the total number of directors on the combined company board shall be necessary and sufficient to constitute a quorum for the transaction of business at any meeting of the combined company, and the act of a majority of the directors present at a meeting at which a quorum is present shall be the act of the combined company board.

Annual Meetings of Stockholders

Under the MBCA, a regular meeting of shareholders may be held on annual or other less frequent basis, but need not be held unless required by the articles of incorporation or bylaws. If a regular meeting has not been held during the immediately preceding 15 months, a shareholder or shareholders holding 3% or more of the voting power of all shares entitled to vote may demand a regular meeting and such meeting shall be held in the county where the principal executive office of the corporation is located. To the extent authorized in the articles or bylaws, the board of

Under the DGCL, if a corporation does not hold an annual meeting to elect directors within the thirteen-month period following its last annual meeting, the Delaware Court of Chancery may summarily order a meeting to be held upon the application of any stockholder or director.

Existing Helix Rights	Existing Hornbeck Rights	Combined Company Rights
directors may determine that a regular meeting of the shareholders shall be held solely by means of remote communication.		
Helix's bylaws provide that regular meetings of shareholders for the purpose of election of directors and transaction of such other business as may properly come before the meeting may be held annually at the principal executive office of Helix or at such other place within or without the State of Minnesota or Texas as the Helix Board may designate, on the second Tuesday in May of each year at 10:00 a.m., or at such date and time as the Helix Board may from time to time designate. Only such business as has been properly brought before the meeting in accordance with the advance notice procedures set forth in Helix's bylaws shall be conducted at annual meetings.	Hornbeck's bylaws provide that an annual meeting of the stockholders for the election of directors to succeed those whose terms expire and for the transaction of such other business as may properly come before the meeting, shall be held at such place, within or without the State of Delaware, on such date, and at such time as the board of directors shall fix. The Hornbeck Board may determine that a meeting of stockholders shall not be held at any place, but may instead be held solely by means of remote communication in the manner authorized by the DGCL.	The combined company's bylaws will provide that an annual meeting of the stockholders for the election of directors to succeed those whose terms expire and for the transaction of such other business as may properly come before the meeting, shall be held at such place, within or without the State of Delaware, on such date, and at such time as the board of directors shall fix. The combined company's board may determine that a meeting of stockholders shall not be held at any place, but may instead be held solely by means of remote communication in the manner authorized by the DGCL.

Quorum for Stockholder Meetings

Under the MBCA, unless otherwise provided in a corporation's articles or bylaws, the holders of a majority of the voting power of the shares entitled to vote shall constitute a quorum at all meetings of the shareholders for the transaction of business.	Under the DGCL, unless otherwise provided in a corporation's organizational documents, the holders of a majority of the stock issued and outstanding and entitled to vote, present in person or represented by proxy, shall constitute a quorum at all meetings of the stockholders for the transaction of business.	
Helix's bylaws provide that the presence, in person or by proxy, of the holders of a majority of the outstanding shares entitled to vote thereat shall constitute a quorum for the transaction of business at all meetings of shareholders.	Hornbeck's bylaws provide that the holders of a majority in voting power of the then-outstanding shares of stock of Hornbeck entitled to vote at the meeting, present in person or represented by proxy, shall constitute a quorum at any meeting of the stockholders.	The combined company bylaws provide that at each meeting of the stockholders, a majority in voting power of the then-outstanding shares of stock of the combined company entitled to vote at the meeting, present in person or represented by proxy, shall constitute a quorum.

Notice of Annual and Special Meeting of Stockholders

Under the MBCA, notice of any meeting of shareholders must be given not less than 10 nor more than 60 days before the date of the meeting to each shareholder entitled to vote at the meeting.	Under the DGCL, notice of any meeting of stockholders must be sent not less than 10 nor more than 60 days before the date of the meeting to each stockholder entitled to vote at the meeting.	

Existing Helix Rights	Existing Hornbeck Rights	Combined Company Rights
Helix's bylaws provide that written notice of shareholders' meetings, whether regular or special, shall be mailed to all shareholders entitled to vote at least 10 days, and not more than 60 days, before the date of the meeting. The notice shall contain the date, time and place of the meeting and, in the case of a special meeting, a statement of the purposes thereof.		

Calling Special Meetings of Stockholders

The MBCA provides that special meetings may be called by the chief executive officer, the chief financial officer, two or more directors, a person authorized in the articles or bylaws to call special meetings or a shareholder or shareholders holding 10% or more of the voting power of all shares entitled to vote, except that a special meeting for the purpose of considering any action to directly or indirectly facilitate or effect a business combination, including any action to change or otherwise affect the composition of the board of directors for that purpose, must be called by 25% or more of the voting power of all shares entitled to vote.

The DGCL provides that special meetings may be called by the board of directors or by such person as may be authorized by the certificate of incorporation or by the bylaws.

Helix's bylaws provide that special meetings of the shareholders may be called for any purpose at any time by the Chief Executive Officer or a majority of the Helix Board.

Hornbeck's bylaws and certificate of incorporation provide that a special meeting of stockholders of Hornbeck may be called only, (i) by the Hornbeck Board pursuant to a resolution adopted by a majority of the Hornbeck Board and (ii) by the stockholders acting pursuant to a resolution adopted by the securityholders holding at least 20% of the Fully Diluted Securities (as defined in Hornbeck's Securityholders Agreement).

The combined company's certificate of incorporation provides that, except as otherwise required by law and subject to the rights of the holders of any series of preferred stock, special meetings of the stockholders of the combined company for any purpose or purposes may be called at any time only by or at the direction of the combined company board or the Chairperson.

Stockholders Action by Written Consent

The MBCA provides that, unless otherwise provided in a corporation's articles of incorporation, any action required or permitted to be taken at a meeting of shareholders may be taken

The DGCL provides that, unless otherwise provided in a corporation's certificate of incorporation or bylaws, any action required or permitted to be taken at any annual or special meeting of stockholders may be taken without a meeting, without prior notice and without a vote, if a consent or consents in writing, setting forth the action so taken, are signed by the holders of issued and

Existing Helix Rights	Existing Hornbeck Rights	Combined Company Rights
by written action signed, without a meeting, by all of the shareholders who would be entitled to vote on that action.	outstanding stock having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all shares entitled to vote thereon were present and voted.	
Helix's articles of incorporation provide that action shall not be taken by written consent of the shareholders, but in all cases shall be taken at a meeting of the shareholders. Helix's bylaws similarly provide that action shall not be taken by written consent of the shareholders but, in all cases, shall be taken at a meeting of the shareholders.	Hornbeck's bylaws provide that any action required to be taken at any annual or special meeting of Hornbeck stockholders, or any action which may be taken at any annual or special meeting of Hornbeck stockholders, may be taken without a meeting, without prior notice and without a vote, if a consent or consents in writing, setting forth the action so taken, shall be signed by the holders of outstanding stock having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all shares entitled to vote thereon were present and voted and shall be delivered to Hornbeck. Every written consent shall bear the date of signature of each stockholder who signs the consent and no written consent shall be effective to take the corporate action referred to therein unless, within 60 days of the earliest dated consent delivered to Hornbeck, a written consent or consents signed by a sufficient number of holders to take action are delivered to Hornbeck.	The combined company's certificate of incorporation will provide that any action required or permitted to be taken by the stockholders of the combined company must be effected at a duly called annual or special meeting of such holders and may not be effected by any consent in writing by such holders; provided, however, that any action required or permitted to be taken by the holders of preferred stock, voting separately as a series or separately as a class with one or more other such series, may be taken without a meeting, without prior notice and without a vote, to the extent expressly so provided by the applicable certificate of designation relating to such series of preferred stock.

Amendment of Governing Documents

Under the MBCA, amendments to a corporation's articles of incorporation generally must be approved by the board of directors and by the holders of a majority of the voting power of all shares present and entitled to vote thereon, unless the articles require a greater proportion.	Under the DGCL, amendments to a corporation's certificate of incorporation generally must be approved by the board of directors of such corporation and by holders of a majority of the outstanding shares of stock entitled to vote on the amendment, and, if applicable, by a majority of the outstanding shares of stock of each class or series entitled to vote on the amendment as a class or series.	
Helix's articles of incorporation provide that the Helix Board is expressly authorized to adopt, amend or repeal Helix's bylaws without any action on the part of Helix's shareholders; provided that no such adoption, amendment or repeal shall	Subject to the requirements of the Hornbeck Securityholders Agreement, a proposed amendment to the Hornbeck certificate of incorporation must be approved by holders of outstanding Hornbeck stock as required under the DGCL.	The combined company's certificate of incorporation provides that the combined company board is expressly authorized to make, repeal, alter, amend and rescind, in whole or in part, the combined company bylaws without the assent or vote of

Existing Helix Rights	Existing Hornbeck Rights	Combined Company Rights
be valid with respect to bylaw provisions which have been adopted, amended, or repealed by the shareholders. Bylaws adopted or amended by the Helix Board and any powers thereby conferred may be amended, altered, or repealed by the shareholders. In addition, the affirmative vote of the holders of at least 80% of the voting power of the then-outstanding shares of voting stock, voting together as a single class, is required to amend provisions of Helix's articles of incorporation or bylaws relating to: (i) the taking of less than unanimous shareholder action without a meeting; (ii) the right of shareholders to call a special meeting; (iii) the number, election and term of Helix's directors; (iv) the procedures for the removal of directors or filling vacancies on the Helix Board; and (v) fixing a quorum for meetings of shareholders (for purposes of this discussion, the "supermajority approval requirement"). The affirmative vote of at least 90% of the voting power of the then-outstanding shares of voting stock, voting together as a single class, is required to amend the provisions of Helix's articles of incorporation relating to Sections 302A.671 or 302A.673 of the MBCA.	Hornbeck's certificate of incorporation provides that the Hornbeck Board is expressly authorized to adopt, amend or repeal Hornbeck's bylaws. Hornbeck's certificate of incorporation further provides that Hornbeck reserves the right to amend, alter, change or repeal any provision contained in Hornbeck's certificate of incorporation, in the manner now or hereafter prescribed by statute, and all rights conferred upon stockholders are granted subject to this reservation. Subject to the requirements of the Hornbeck Securityholders Agreement, all amendments to Hornbeck's bylaws must be approved by the affirmative vote of a majority of the total voting power of all outstanding securities of Hornbeck, generally entitled to vote in the election of directors, voting together as a single class, or by a majority of the Hornbeck Board. Hornbeck's Securityholders Agreement provides that certain actions constitute "Majority Appointing Person Actions" requiring the prior written consent of at least two Appointing Persons (or, if there is only one Appointing Person, the sole Appointing Person), and certain actions constitute "Unanimous Appointing Person Actions" requiring the prior written consent of each Appointing Person. Any amendment to Hornbeck's certificate of incorporation or bylaws is subject to any applicable consent rights set forth in Hornbeck's Securityholders Agreement.	the stockholders in any manner not inconsistent with the laws of the State of Delaware or the combined company's certificate of incorporation. Stockholders of the combined company may only alter, amend, repeal or rescind, in whole or in part, any provision of the bylaws or adopt any provision inconsistent therewith with the affirmative vote of the holders of at least 66 2/3% in voting power of all the then-outstanding shares of stock entitled to vote thereon, voting together as a single class. In addition, the following provisions of the combined company's certificate of incorporation, including any relevant definitions, may be amended, altered, repealed or rescinded, in whole or in part, or any provision inconsistent therewith may be adopted, only by the affirmative vote of the holders of at least 66 2/3% in voting power of all the then-outstanding shares of stock entitled to vote thereon, voting together as a single class: Articles VI (Management), VII (Liability of Directors and Officers), IX (Corporate Opportunities), X (Meetings of Stockholders), XI (Business Combinations), XII (Amendment), XIV (Submission to Jurisdiction) and XV (Jones Act Compliance). See the section of this proxy statement/prospectus titled "<i>The Removal of Supermajority Approval Requirement Proposal</i>" for a description and reasons for the proposed removal, as compared to Helix's current articles of incorporation, of the supermajority approval requirement. Under the combined company's Securityholders Agreement, until the applicable combined company board Designation Expiration Date (as defined in the combined company's

Existing Helix Rights	Existing Hornbeck Rights	Combined Company Rights
		Securityholders Agreement) for each Investor, the combined company shall not amend, or propose to amend, the organizational documents in any manner that is inconsistent with or would nullify or supersede any of the terms of the combined company Securityholders Agreement or would prevent any party from complying with its obligations thereunder unless such proposed amendment is approved by such Investor. To the extent any such proposed amendment would uniquely and adversely affect the rights, obligations, or interests of any particular Securityholder or its Investor Group (each, as defined in the combined company's Securityholders Agreement) in a manner that is disproportionate to the effect on the other Securityholders or Investor Group, such proposed amendment shall also require the prior written consent of such adversely affected Securityholder.

Limitation on Liability of Directors

The MBCA permits corporations to eliminate or limit the personal liability of a director to the corporation or its shareholders for monetary damages for breach of fiduciary duty as a director in the articles of incorporation. However, such a provision shall not eliminate or limit the liability of a director for a breach of the duty of loyalty to the corporation or its shareholders, for acts or omissions not in good faith or that involve intentional misconduct or a knowing violation of law, for the payment of an improper dividend or improper repurchase of the corporation's stock, or for any transaction from which the director derived a material improper personal benefit.

Delaware has adopted a law that allows corporations to limit or eliminate the personal liability of directors to corporations and their stockholders for monetary damages for breach of directors' fiduciary duty of care. An amendment, repeal or elimination of such a provision shall not affect its application with respect to an act or omission by a director occurring before such amendment, repeal or elimination unless the provision provides otherwise at the time of such act or omission. The duty of care requires that, when acting on behalf of the corporation, directors must exercise an informed business judgment based on all material information reasonably available to them. Absent the limitations allowed by the law, directors are accountable to corporations and their stockholders for monetary damages for acts of gross negligence. Although the Delaware law does not change directors' duty of care, it allows corporations to limit available relief to equitable remedies such as injunction or rescission.

Helix's articles of incorporation limit the liability of its directors to the fullest extent permitted by this law. Specifically, Helix's articles of

Hornbeck's certificate of incorporation limits the liability of its directors to the fullest extent permitted by this law.

The combined company's certificate of incorporation will limit the liability of its directors to the fullest extent permitted by this law.

Existing Helix Rights	Existing Hornbeck Rights	Combined Company Rights
incorporation provide that a director shall not be personally liable to Helix or its shareholders for monetary damages for breach of fiduciary duty as a director, except for (i) liability based on a breach of the duty of loyalty to Helix or its shareholders, (ii) liability for acts or omissions not in good faith or that involve intentional misconduct or a knowing violation of law, (iii) liability based on the payment of an improper dividend or an improper repurchase of stock under Minnesota Statutes Section 302A.559, or on material violations of federal or state securities laws, (iv) liability for any transaction from which the director derived a material improper personal benefit, or (v) liability for any act or omission occurring prior to the effective date of such provision.		

Limitation of Liability of Officers

Helix's articles of incorporation and bylaws do not currently provide for exculpation of officers of Helix.	Hornbeck's certificate of incorporation and bylaws do not currently provide for exculpation of officers of Hornbeck.	Similar to the limitation of liability of directors described above, the combined company's certificate of incorporation will provide that no officer of the combined company shall be personally liable to the combined company or any of its stockholders for monetary damages for breach of fiduciary duty as an officer. See the section of this proxy statement/prospectus titled "<i>The Officer Exculpation Proposal</i>" for a description and reasons for the proposed adoption of provisions in the combined company's certificate of incorporation providing for officer exculpation.

Indemnification of Directors and Officers

Helix's bylaws generally provide that Helix shall indemnify a person made or threatened to be made a party to a proceeding by reason of the former or present official capacity of the person with Helix against judgments,	Hornbeck's certificate of incorporation and bylaws generally provide that Hornbeck shall, to the fullest extent permitted by applicable law, indemnify and hold harmless any person who was or is made or is	The combined company's certificate of incorporation will provide that each person who was or is made a party to or is threatened to be made a party to or is otherwise involved in any threatened, pending or completed

Existing Helix Rights	Existing Hornbeck Rights	Combined Company Rights
penalties, fines (including excise taxes assessed with respect to an employee benefit plan), settlements, and reasonable expenses (including attorneys' fees and disbursements) incurred by the person in connection with the proceeding, if the person: (a) has not been indemnified by another organization for the same matter; (b) acted in good faith; (c) received no improper personal benefit; (d) in the case of a criminal proceeding, had no reasonable cause to believe the conduct was unlawful; and (e) reasonably believed that the conduct was in the best interests of Helix. Helix shall pay or reimburse the reasonable expenses (including attorneys' fees) incurred by such person in advance of the final disposition of the proceeding (a) upon receipt by Helix of a written affirmation by the person of a good faith belief that the statutory criteria for indemnification have been satisfied and a written undertaking by the person to repay all amounts so paid or reimbursed if it is ultimately determined that the criteria for indemnification have not been satisfied, and (b) after a determination that the facts then known to those making the determination would not preclude indemnification as described above.	threatened to be made a party or is otherwise involved in any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that he or she is a director, advisory director, board observer or officer of Hornbeck or, while a director, advisory director, board observer or officer of Hornbeck, is or was serving at the request of Hornbeck as a director, advisory director, board observer, officer, employee or agent of another corporation or of a partnership, limited liability company, joint venture, trust, enterprise or nonprofit entity, including service with respect to an employee benefit plan, against all liability, expense and loss (including attorneys' fees, judgments, fines, ERISA taxes or penalties and amounts paid or to be paid in settlement) actually and reasonably incurred or suffered by such indemnitee, but only if such indemnitee acted in good faith and in a manner such indemnitee reasonably believed to be in or not opposed to the best interests of Hornbeck, and with respect to any criminal proceeding, had no reasonable cause to believe such indemnitee's conduct was unlawful. Hornbeck shall pay the expenses (including attorneys' fees) incurred by such indemnitee in defending any proceeding in advance of its final disposition; provided, however, that Hornbeck may require that such payment of expenses in advance of the final disposition shall be made only upon receipt of an undertaking by the indemnitee to repay all amounts advanced if it should be ultimately determined that the indemnitee is not entitled to be indemnified.	action, suit or proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that he or she is or was a director, advisory director, board observer or officer of the combined company or, while a director, advisory director, board observer or officer of the combined company, is or was serving at the request of the combined company as a director, advisory director, board observer, officer, employee or agent of another corporation or of a partnership, joint venture, trust or other enterprise, including service with respect to an employee benefit plan, shall be indemnified and held harmless by the combined company to the fullest extent authorized by applicable law against all expense, liability and loss (including attorneys' fees and related disbursements, judgments, fines, excise taxes or penalties under ERISA, and any other penalties and amounts paid or to be paid in settlement) actually and reasonably incurred by such indemnitee in connection therewith; provided, however, that the person acted in good faith and in a manner the person reasonably believed to be in or not opposed to the best interests of the combined company, and, with respect to any criminal action or proceeding, had no reasonable cause to believe the person's conduct was unlawful. In addition, an indemnitee shall also have the right, to the fullest extent not prohibited by law, to be paid by the combined company the expenses incurred in defending any such proceeding in advance of its final disposition; provided, however, that if and to the extent that Delaware law requires, an advance of expenses shall be made only upon delivery to the combined company of an undertaking, by or on behalf of such indemnitee, to repay all amounts so advanced if it shall ultimately be determined by final judicial decision from which there is no further right to

Existing Helix Rights	Existing Hornbeck Rights	Combined Company Rights
		appeal that such indemnitee is not entitled to be indemnified for such expenses.
Renouncement of Corporate Opportunities		
Helix’s articles of incorporation and bylaws do not contain provisions addressing the renouncement of corporate opportunities. Under the MBCA, directors owe fiduciary duties to the corporation, including the duty of loyalty with respect to corporate opportunities.	Hornbeck’s certificate of incorporation and bylaws provide that, notwithstanding any duty otherwise existing at law or in equity, to the fullest extent permitted by the DGCL, any of the Securityholders (as defined in Hornbeck’s Securityholders Agreement) who are not employed by, or do not serve as a director of, Hornbeck or any of its subsidiaries, each director who is employed by an Appointing Person or any of its Affiliates, any of the foregoing persons’ respective Affiliates, and any one or more of the respective managers, directors, principals, officers, employees and other representatives of such persons or their respective Affiliates (collectively, “Identified Persons”) may now engage, may continue to engage, or may, in the future, engage in the same or similar activities or lines of business as those in which Hornbeck or any of its Affiliates, directly or indirectly, now engage or may engage or other business activities that overlap with, are complementary to, or compete with those in which Hornbeck or any of its Affiliates, directly or indirectly, now engage or may engage. No Identified Person shall, as a result of its capacity as such, have any duty to refrain, directly or indirectly, from engaging in any such opportunity or otherwise competing with Hornbeck or any of its Affiliates. Pursuant to the Hornbeck certificate of incorporation, no Identified Person shall, as a result of its capacity as such, have any duty or obligation to refer or offer to Hornbeck or any of its Affiliates any opportunity, except for any Identified Person who is a director, who shall have the duty to	The combined company’s certificate of incorporation will provide that, to the fullest extent permitted by applicable law, each of the Investors, each of the Investor Directors, and any member of the Investor Group (each, as defined in the combined company’s Securityholders Agreement), and any one or more of the respective managers, directors, principals, officers, employees and other representatives of each such person or their respective affiliates (collectively, “Identified Persons”) may engage in the same or similar activities or lines of business as those in which the combined company or any of its affiliates, directly or indirectly, now engage or may engage or other business activities that overlap with, are complementary to, or compete with those in which the combined company or any of its affiliates now engage or may engage (any such activity or line of business, an “Opportunity”). No Identified Person shall have any obligation to communicate or offer any Opportunity to the combined company, and no Identified Person shall be liable to the combined company or any of its affiliates or stockholders for breach of any fiduciary duty solely by reason of the fact that any Identified Person engages in or pursues any such Opportunity; provided that each Identified Person who is a director shall have the duty to communicate or offer to the combined company any Opportunity that is expressly first presented in writing to such director in his or her capacity as a director or if knowledge of such Opportunity is first acquired by such director solely as a result of such director’s position as a director.

Existing Helix Rights	Existing Hornbeck Rights	Combined Company Rights
	refer or offer to Hornbeck any opportunity that is expressly first presented in writing to such director in his or her capacity as a director or if knowledge of such opportunity is first acquired by such director solely as a result of such director's position as a director, and Hornbeck renounces any interest or expectancy of Hornbeck in, or in being offered, an opportunity to participate in any other opportunity which may be a corporate (or analogous) or business opportunity for Hornbeck or any of its Affiliates.	See the section of this proxy statement/prospectus titled " <i>The Corporate Opportunities Proposal</i> " for a description and reasons for the proposed adoption of provisions in the combined company's certificate of incorporation permitting, subject to the requirements described in the preceding paragraph, Identified Persons to engage in any Opportunity.
Anti-Takeover Provisions		
Section 302A.671 of the MBCA, subject to certain limitations, generally provides that shares acquired in a "control share acquisition" have no voting rights unless approved by a majority vote of the disinterested shareholders. A Minnesota corporation may opt out of the control share acquisition statute in its articles or bylaws.	In general, Section 203 of the DGCL, subject to certain limitations, prohibits "business combinations," including certain mergers, sales and leases of assets, issuances of securities and similar transactions by a corporation or a subsidiary with an "interested stockholder" who beneficially owns 15% or more of a corporation's voting stock, within three years after the person or entity becomes an interested stockholder, unless: (1) the transaction that will cause the person to become an interested stockholder is approved by the board of directors prior to the transaction, (2) after the completion of the transaction in which the person becomes an interested stockholder, the interested stockholder holds at least 85% of the voting stock of not including (a) shares held by officers and directors of the interested stockholder and (b) shares held by specified employee benefit plans, or (3) at or subsequent to such time the person becomes an interested stockholder, the business combination is approved by the board of directors and holders of at least 66 2/3% of the outstanding voting stock, excluding shares held by the interested stockholder.	
Section 302A.673 of the MBCA generally prohibits certain business combinations between an issuing public corporation and an "interested shareholder" (generally a 10% shareholder) for a period of four years after the interested shareholder's share acquisition date, unless approved by a committee of disinterested directors before the share acquisition.		
Helix's articles of incorporation provide that Helix expressly elects not to be governed by the provisions of Section 302A.671 of the MBCA. Helix's articles of incorporation do not opt out of Section 302A.673 of the MBCA. Helix's articles of incorporation and bylaws also contain certain provisions that could discourage potential takeover attempts and make more difficult attempts by shareholders to change	Hornbeck's certificate of incorporation provides that Hornbeck is not subject to Section 203 of the DGCL.	The combined company's certificate of incorporation will provide that the combined company is not subject to Section 203 of the DGCL. The combined company's certificate of incorporation and bylaws will contain certain provisions that could discourage potential takeover attempts and make more difficult attempts by stockholders to change management, including (i) a

Existing Helix Rights	Existing Hornbeck Rights	Combined Company Rights
management, including (i) a classified board of directors as described above under “— <i>Classified Board/Term of Directors</i> ,” (ii) the supermajority (68%) vote requirement for removal of directors as described above under “— <i>Removal of Directors</i> ,” (iii) the prohibition of shareholder action by written consent as described above under “— <i>Stockholders Action by Written Consent</i> ,” and (iv) the supermajority (80%) vote requirements for amendment of certain provisions of Helix’s charter and bylaws as described above under “— <i>Amendment of Governing Documents</i> .”		classified board of directors as described above under “— <i>Classified Board/Term of Directors</i> ,” (ii) the advance notice requirements for stockholder nominations and proposals as described above under “— <i>Nominations/Election of Directors</i> ,” (iii) the limitations on calling special meetings of stockholders as described above under “— <i>Calling Special Meetings of Stockholders</i> ,” (iv) the prohibition of stockholder action by written consent as described above under “— <i>Stockholders Action by Written Consent</i> ,” (v) the supermajority vote requirement for removal of directors as described above under “— <i>Removal of Directors</i> ,” and (vi) the supermajority vote requirements for amendment of the combined company’s certificate of incorporation and bylaws as described above under “— <i>Amendment of Governing Documents</i> .”

Exclusive Forum

Helix’s articles of incorporation and bylaws do not contain an exclusive forum provision.

Hornbeck’s certificate of incorporation provides that, unless Hornbeck consents in writing to the selection of an alternative forum, the Court of Chancery in the State of Delaware shall be the sole and exclusive forum for any stockholder to bring (i) any derivative action or proceeding brought on behalf of Hornbeck, (ii) any action asserting a claim of breach of fiduciary duty owed by any director, advisory director, board observer, officer or other employee of Hornbeck to Hornbeck or Hornbeck’s stockholders, (iii) any action asserting a claim against Hornbeck, its directors, advisory directors, board observers, officers or employees arising pursuant to any provision of the DGCL, Hornbeck’s certificate of incorporation or bylaws, or (iv) any action asserting a claim against Hornbeck, its directors,

The combined company’s certificate of incorporation will provide that, unless the combined company consents in writing to the selection of an alternative forum, the Court of Chancery in the State of Delaware shall be the sole and exclusive forum for any stockholder to bring (i) any derivative action or proceeding brought on behalf of the combined company (including any action or proceeding brought under the Securities Act or the Exchange Act), (ii) any action asserting a claim of breach of fiduciary duty owed by any director, advisory director, board observer, officer or other employee of the combined company to the combined company or the combined company’s stockholders, (iii) any action asserting a claim against the combined company, its directors, advisory directors, board observers, officers or employees arising pursuant to any provision of the DGCL, the combined company’s

Existing Helix Rights	Existing Hornbeck Rights	Combined Company Rights
	advisory directors, board observers, officers or employees governed by the internal affairs doctrine, except for, as to each of (i) through (iv) above, any claim as to which the Court of Chancery determines that there is an indispensable party not subject to the jurisdiction of the Court of Chancery (and the indispensable party does not consent to the personal jurisdiction of the Court of Chancery within ten days following such determination), which is vested in the exclusive jurisdiction of a court or forum other than the Court of Chancery, or for which the Court of Chancery does not have subject matter jurisdiction.	certificate of incorporation or the combined company bylaws, (iv) any action asserting a claim against the combined company, its directors, advisory directors, board observers, officers or employees governed by the internal affairs doctrine, or (v) any action asserting an “internal corporate claim” as that term is defined in Section 115 of the DGCL, except for, as to each of (i) through (iv) above, any claim as to which the Court of Chancery determines that there is an indispensable party not subject to the jurisdiction of the Court of Chancery, which is vested in the exclusive jurisdiction of a court or forum other than the Court of Chancery, or for which the Court of Chancery does not have subject matter jurisdiction, in which case a federal district court of the United States located in the State of Delaware shall be the exclusive forum. See the section of this proxy statement/prospectus titled “<i>The Exclusive Forum Proposal</i>” for a description and reasons for the proposed adoption of an exclusive forum provision in the combined company’s certificate of incorporation.

Appraisal Rights

Under the MBCA, stockholders of Minnesota corporations have dissenters’ rights provided by Section 302A.471. Helix shareholders are not entitled to dissenters’ rights or appraisal rights in connection with the Conversion any of the required merger proposals and any of the optional vote matters. For a discussion of appraisal rights or dissenters’ rights in connection with the mergers, please see the section of this proxy statement/prospectus titled “*The Mergers—Appraisal Rights or Dissenters’ Rights.*”

Under the DGCL, the stockholders of Delaware corporations have appraisal rights provided by Section 262 of the DGCL, to the extent applicable, provided they satisfy the special criteria and conditions set forth in Section 262 of the DGCL. For a discussion of appraisal rights or dissenters’ rights in connection with the mergers, please see the section of this proxy statement/prospectus titled “*The Mergers—Appraisal Rights and Dissenters’ Rights.*”

PRINCIPAL SHAREHOLDERS OF HELIX

The following table sets forth the number of shares of Helix common stock beneficially owned directly or indirectly as of June 3, 2026 or as otherwise indicated below by (i) each of Helix's directors, director nominees and executive officers, (ii) all directors, director nominees and executive officers as a group and (iii) each person who is known to Helix to own beneficially more than 5% of Helix common stock.

Under SEC rules, beneficial ownership includes any shares over which the person or entity has sole or shared voting power or investment power regardless of economic interest, and also any shares that the person or entity can acquire within 60 days of June 3, 2026 through the exercise or settlement of stock options or other rights. Except as described in the footnotes below and subject to applicable community property laws and similar laws, Helix believes that each person listed below has sole voting and investment power with respect to such shares.

The beneficial ownership of Helix common stock is based on 147,382,447 shares of Helix common stock issued and outstanding as of June 3, 2026.

Name of Beneficial Owner ⁽¹⁾	Amount of Beneficial Ownership	
	Number of Shares	Percent of Helix Common Stock
Owen Kratz	7,766,696	5.27%
Scotty Sparks	301,042	*
Erik Staffeldt	659,969	*
Ken Neikirk	260,061	*
Diana Glassman ⁽²⁾	61,704	*
Paula Harris ⁽²⁾	95,630	*
T. Mitch Little ⁽²⁾	121,135	*
John V. Lovoi ⁽²⁾	392,827	*
Amy H. Nelson ⁽²⁾	121,663	*
William L. Transier ⁽²⁾	211,775	*
All current directors and executive officers as a group (10 persons) ⁽³⁾	9,992,502	6.78%
BlackRock, Inc. 55 East 52nd Street New York, NY 10055	21,194,762 ⁽⁴⁾	14.38%
The Vanguard Group 100 Vanguard Boulevard Malvern, PA 19355	13,214,641 ⁽⁵⁾	8.97%
Dimensional Fund Advisors LP 6300 Bee Cave Road, Building One Austin, TX 78746	8,858,123 ⁽⁶⁾	6.01%

* Indicates ownership of less than 1% of the outstanding shares of Helix's common stock.

- (1) Except as indicated in the footnotes to this table and pursuant to applicable community property laws and similar laws, the persons named in the table have sole voting and investment power with respect to all shares of common stock. The address of each such person, unless otherwise provided, is in care of Helix Energy Solutions Group, Inc., 3505 West Sam Houston Parkway North, Suite 400, Houston, Texas 77043.
- (2) Includes shares of unvested restricted stock held directly by the following persons, over which such persons have voting power, in the amounts shown: 20,690 shares by Ms. Glassman, 23,708 shares by Ms. Harris, 20,690 shares by Mr. Little, 20,690 shares by Mr. Lovoi, 20,690 shares by Ms. Nelson and 20,690 shares by Mr. Transier.
- (3) Includes Owen Kratz, Scotty Sparks, Erik Staffeldt, Ken Neikirk, Diana Glassman, Paula Harris, T. Mitch Little, John V. Lovoi, Amy H. Nelson and William L. Transier.
- (4) Number of shares based solely on Amendment No. 18 to Schedule 13G filed with the SEC on July 18, 2025. Such filing indicates that BlackRock, Inc. has the sole power to vote 20,754,556 shares of Helix common stock beneficially owned by it and the sole power to dispose of 21,194,762 shares of Helix common stock beneficially owned by it.
- (5) Number of shares based solely on Amendment No. 13 to Schedule 13G filed with the SEC on February 13, 2024. Such filing indicates that The Vanguard Group has the sole power to vote none of the shares of Helix common stock beneficially owned by it, the shared power to vote 102,903 shares of Helix common stock beneficially owned by it, the sole power to dispose of 12,979,453 shares of Helix common stock beneficially owned by it and the shared power to dispose of 235,008 shares of Helix common stock beneficially owned by it. On March 27, 2026, The Vanguard Group filed Amendment No. 14 to Schedule 13G with the SEC indicating that on January 12, 2026, The Vanguard Group

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went through an internal realignment and certain subsidiaries or business divisions of subsidiaries of The Vanguard Group that formerly had, or were deemed to have, beneficial ownership with The Vanguard Group will report beneficial ownership separately (on a disaggregated basis) from The Vanguard Group and The Vanguard Group no longer has, or is deemed to have, beneficial ownership over securities beneficially owned by such subsidiaries and/or business divisions.

- (6) Number of shares based solely on Amendment No. 2 to Schedule 13G (the “Dimensional Schedule 13G”) filed with the SEC on October 9, 2025 by Dimensional Fund Advisors LP. Dimensional Fund Advisors LP, an investment advisor registered under Section 203 of the Investment Advisers Act of 1940, furnishes investment advice to four investment companies registered under the Investment Company Act of 1940, and serves as investment manager or sub-advisor to certain other commingled funds, group trusts and separate accounts (such investment companies, trusts and accounts, collectively referred to as the “Funds”). In its role as investment advisor, sub-adviser and/or manager, Dimensional Fund Advisors LP or its subsidiaries (collectively, “Dimensional”) may possess voting and/or investment power over the securities of Helix that are owned by the Funds, and may be deemed to be the beneficial owner of the shares of Helix held by the Funds. However, all securities reported in the Dimensional Schedule 13G are owned by the Funds. Dimensional disclaims beneficial ownership of those securities. Of such reported shares, the sole power to vote is with respect to 8,629,004 shares of common stock and the sole power to dispose is with respect to 8,858,123 shares of common stock.

PRINCIPAL STOCKHOLDERS OF HORNBECK

The following table sets forth the beneficial ownership of Hornbeck common stock as of June 3, 2026, owned by:

- each person known to Hornbeck to beneficially own more than 5% of any class of Hornbeck’s outstanding voting securities;
- each director and named executive officer of Hornbeck; and
- all of Hornbeck’s directors and executive officers as a group.

A person is a “beneficial owner” of a security if that person has or shares “voting power,” which includes the power to vote or to direct the voting of the security, or “investment power,” which includes the power to dispose of or to direct the disposition of the security or has the right to acquire such powers within 60 days.

To Hornbeck’s knowledge, unless otherwise noted in the footnotes to the following table, and subject to applicable community property laws, the persons named in the table have sole voting and investment power with respect to their beneficially owned common stock.

Securities subject to option grants and restricted stock unit awards that have vested or will vest, and settled, or will settle, within 60 days are deemed outstanding for calculating the percentage ownership of the person holding such options or restricted stock units, but are not deemed outstanding for calculating the percentage ownership of any other person.

Except as otherwise indicated in the footnotes below, the address of each beneficial owner is c/o Hornbeck Offshore Services, Inc., 103 Northpark Boulevard, Suite 300, Covington, Louisiana 70433.

Name of Beneficial Owner	Shares Beneficially Owned	
	Amount of Beneficial Ownership	Percentage of Total ⁽¹⁾
Greater than 5% Stockholders:		
Funds, investment vehicles or accounts managed or advised by Ares or its affiliates ⁽²⁾	6,964,337	41.32%
Entities affiliated with Whitebox ⁽³⁾	3,724,032	22.09%
Entities affiliated with Highbridge ⁽⁴⁾	1,763,106	10.46%
Entities affiliated with Merced ⁽⁵⁾	1,169,889	6.94%
Named Executive Officers, Directors and Director Nominees⁽⁶⁾:		
Todd M. Hornbeck ⁽⁷⁾	719,441	4.27%
Carl G. Annessa ⁽⁸⁾	240,499	1.43%
James O. Harp, Jr. ⁽⁹⁾	240,506	1.43%
Samuel A. Giberga ⁽¹⁰⁾	240,500	1.43%
John S. Cook ⁽¹¹⁾	240,460	1.43%
Kurt M. Cellar ⁽¹²⁾	94,613	*
Evan Behrens ⁽¹³⁾	21,325	*
Bobby Jindal ⁽¹⁴⁾	22,882	*
L. Don Miller ⁽¹⁵⁾	20,592	*
Sylvia Jo Sydow Kerrigan ⁽¹⁶⁾	7,035	*
Jacob Mercer	—	*
Aaron Rosen	—	*
James McConeghy	—	*
All directors and executive officers as a group (13 persons) ⁽¹⁷⁾		10.96%

* Less than one percent.

(1) For purposes of calculating each person’s percentage ownership, all shares of common stock underlying all Jones Act Warrants and Creditor Warrants have been deemed outstanding. Based on a total of 5,270,969 shares of common stock outstanding, 10,089,644 shares of common stock underlying outstanding Jones Act Warrants, and 1,494,064 shares of common stock underlying Creditor Warrants, in each case as of June 3, 2026. The warrants are immediately exercisable but are subject to certain citizenship rules and limitations on exercise, sale, transfer or other disposition.

(2) Includes: (a) (i) 1,393,581 shares of common stock held of record by ASSF IV HOS AIV 1, L.P., (ii) 282,932 shares of common stock and 2,082,455 shares of common stock issuable upon the exercise of Jones Act Warrants held of record by ASSF IV HOS AIV 2, L.P., (iii) 7,059 shares

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of common stock and 215,002 shares of common stock issuable upon the exercise of Jones Act Warrants held of record by ASSF IV AIV B, L.P. and (iv) 1,118 shares of common stock, 7,773 shares of common stock issuable upon the exercise of Jones Act Warrants and 298,163 shares of common stock issuable upon the exercise of Creditor Warrants held of record by ASSF IV AIV B Holdings III, L.P. (the entities referred to in clause (a) collectively, the “Ares SSF Holders”); (b) (i) 462,342 shares of common stock held of record by ASOF HOS AIV 1, L.P., (ii) 182,176 shares of common stock and 1,607,067 shares of common stock issuable upon the exercise of Jones Act Warrants held of record by ASOF HOS AIV 2, L.P., (iii) 4,063 shares of common stock, 106,616 shares of common stock issuable upon the exercise of Jones Act Warrants and 129,499 shares of common stock issuable upon the exercise of Creditor Warrants held of record by ASOF Holdings I, L.P., (iv) 5,462 shares of common stock and 72,847 shares of common stock issuable upon the exercise of Jones Act Warrants held of record by and ASOF II Holdings I, L.P. and (v) 984 shares of common stock and 13,132 shares of common stock issuable upon the exercise of Jones Act Warrants held of record by ASOF II A (DE) Holdings I, L.P. (the entities referred to in clause (b) collectively, the “Ares SOF Holders”); and (c) 10,698 shares of common stock, 74,516 shares of common stock issuable upon the exercise of Jones Act Warrants and 6,852 shares of common stock issuable upon the exercise of Creditor Warrants held of record by two accounts managed or subadvised by Ares Management LLC with respect to which the Ares Entities (as defined below) may be deemed to have shared voting or dispositive power with the owner of such account (the “Ares Managed Accounts” and, such shares, the “Ares Managed Shares”). The Ares SSF Holders, the Ares SOF Holders and the Ares Managed Accounts are collectively referred to as the “Ares Holders.” The Ares Entities disclaim beneficial ownership of the Ares Managed Shares for purposes of Section 16 and this registration statement shall not be deemed an admission that any of the Ares Entities are the beneficial owner of the Ares Managed Shares for purposes of Section 16 or for any other purpose.

Ares Partners Holdco LLC (“Ares Partners”) is the sole member of each of Ares Voting LLC and Ares Management GP LLC, which are respectively the holders of the Class B and Class C common stock of Ares Management Corporation (“Ares Management”), which common stock allows them, collectively, to generally have the majority of the votes on any matter submitted to the stockholders of Ares Management if certain conditions are met. Ares Management is the sole member of Ares Holdco LLC, which is the general partner of Ares Management Holdings L.P., which is the sole member of Ares Management LLC, which is (x) the general partner of ASSF Operating Manager IV, L.P., which is the manager of each of the Ares SSF Holders, (y) the sole member of ASOF Investment Management LLC, which is the manager of each of the Ares SOF Holders (we refer to all of the foregoing entities collectively as the Ares Entities) and (z) the investment manager or investment subadvisor of each of the Ares Managed Accounts.

Accordingly, each of the Ares Entities may be deemed to share beneficial ownership of the securities held of record by the Ares Holders, but each disclaims any such beneficial ownership of securities not held of record by them.

Ares Partners is managed by a board of managers, which is composed of Michael J Arougheti, R. Kipp deVeer, David B. Kaplan, Antony P. Ressler and Bennett Rosenthal (collectively, the “Ares Board Members”). Mr. Ressler generally has veto authority over Ares Board Members’ decisions. Each of these individuals disclaims beneficial ownership of the securities that may be deemed to be beneficially owned by Ares Partners. The address for each of the Ares Entities is 1800 Avenue of the Stars, Suite 1400, Los Angeles, CA 90067.

- (3) Included in the total number of shares shown as beneficially owned are 699,660 shares of common stock, 2,885,061 shares issuable upon the exercise of Jones Act Warrants and 139,331 shares issuable upon exercise of Creditor Warrants. Whitebox is the investment manager of its affiliated entities (each, a “Whitebox Entity” and collectively, the “Whitebox Entities”) that own shares of Hornbeck’s common stock and has voting and disposition control over the shares of common stock owned by the Whitebox Entities. Whitebox Advisors LLC is owned by the following members: Robert Vogel, Jacob Mercer, Nick Stukas, Brian Lutz, Paul Roos and Blue Owl GP Stakes II (A), LP, a non-voting member, and such individuals and entity disclaim beneficial ownership of the securities held by the Whitebox Entities, except to the extent of such individual or entity’s pecuniary interest therein, if any. The business address of Whitebox Advisors LLC and of each Whitebox Entity is 3033 Excelsior Blvd., Suite 500, Minneapolis, MN 55416.
- (4) Included in the total number of shares shown as beneficially owned are 209,645 shares of common stock and 1,553,461 shares issuable upon the exercise of Jones Act Warrants. Highbridge Capital Management, LLC is the trading manager of certain entities (collectively, the “Highbridge Entities”) that own shares. The Highbridge Entities disclaim beneficial ownership over these shares. The address of Highbridge Capital Management, LLC is 390 Madison Avenue 28th Floor, New York, NY 10017, and the address of the Highbridge Entities is c/o Maples Corporate Services Limited, #309 Ugland House, South Church Street, George Town, Grand Cayman KY1-1104, Cayman Islands.
- (5) Included in the total number of shares shown as beneficially owned are 1,065,457 shares of common stock and 104,432 shares issuable upon exercise of Creditor Warrants. Merced Capital, L.P. (“Merced”) is the general partner of and/or investment adviser to certain entities (collectively, the “Merced Entities”) that directly hold shares of Hornbeck’s common stock and Creditor Warrants. Merced is managed by Series E of Merced Capital Partners, LLC (“Merced Capital Partners”), a series of a Delaware limited liability company. David A. Ericson, Vincent C. Vertin, and Stuart B. Brown collectively have voting control over the interests in Merced Capital Partners. In such capacities, each of Merced, Merced Capital Partners, Mr. Ericson, Mr. Vertin, and Mr. Brown may be deemed to share voting and investment control over the shares of common stock reported in the table; however, each of Mr. Ericson, Mr. Vertin, and Mr. Brown disclaim beneficial ownership of the shares of common stock reported in the table. The business address for Merced, Merced Capital Partners, Mr. Ericson, Mr. Vertin, Mr. Brown, and each of the Merced Entities is 701 Carlson Parkway, Suite 1110, Minnetonka, MN, 55305.
- (6) The number of shares reported includes shares covered by options and restricted stock units that are exercisable or may be settled within 60 days.
- (7) Included in the total number of shares shown as beneficially owned are 195,056 shares of common stock, 212,195 shares of common stock under vested but unsettled restricted stock units, 295,149 shares of common stock under stock options, restricted stock units or performance stock units that may vest in the event of a “change of control” (as defined in the 2020 Management Incentive Plan) if certain performance criteria are met or in connection with the mergers and 17,401 shares of common stock under options that are exercisable.
- (8) Included in the total number of shares shown as beneficially owned are 33,735 shares of common stock, 88,415 shares of common stock under vested but unsettled restricted stock units, 111,782 shares of common stock under stock options, restricted stock units or performance stock units that may vest in the event of a change of control if certain performance criteria are met or in connection with the mergers and 6,567 shares of common stock under options that are exercisable.
- (9) Included in the total number of shares shown as beneficially owned are 33,742 shares of common stock, 88,415 shares of common stock under vested but unsettled restricted stock units, 111,782 shares of common stock under stock options, restricted stock units or performance stock units that may vest in the event of a change of control if certain performance criteria are met or in connection with the mergers and 6,567 shares of common stock under options or restricted stock units that are exercisable.
- (10) Included in the total number of shares shown as beneficially owned are 33,736 shares of common stock, 88,415 shares of common stock under vested but unsettled restricted stock units, 111,782 shares of common stock under stock options, restricted stock units or performance stock units that may vest in the event of a change of control if certain performance criteria are met or in connection with the mergers and 6,567 shares of common stock under options that are exercisable.

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- (11) Included in the total number of shares shown as beneficially owned are 33,696 shares of common stock, 88,415 shares of common stock under vested but unsettled restricted stock units, 111,782 shares of common stock under stock options, restricted stock units or performance stock units that may vest in the event of a change of control if certain performance criteria are met or in connection with the mergers and 6,567 shares of common stock under options or restricted stock units that are exercisable.
- (12) Included in the total number of shares shown as beneficially owned are 72,092 shares of common stock, 21,355 shares of common stock under vested but unsettled restricted stock units and 1,166 shares of common stock under restricted stock units that may vest in the event of a change of control or in connection with the mergers.
- (13) Included in the total number of shares shown as beneficially owned are 3,019 shares of common stock, 17,307 shares of common stock under vested but unsettled restricted stock units and 999 shares of common stock under restricted stock units that may vest in the event of a change of control or in connection with the mergers.
- (14) Included in the total number of shares shown as beneficially owned are 4,576 shares of common stock, 17,307 shares of common stock under vested but unsettled restricted stock units and 999 shares of common stock under restricted stock units that may vest in the event of a change of control or in connection with the mergers.
- (15) Included in the total number of shares shown as beneficially owned are 4,840 shares of common stock, 14,753 shares of common stock under vested but unsettled restricted stock units and 999 shares of common stock under restricted stock units that may vest in the event of a change of control or in connection with the mergers.
- (16) Included in the total number of shares shown as beneficially owned are 6,036 shares of common stock and 999 shares of common stock under restricted stock units that may vest in the event of a change of control or in connection with the mergers.
- (17) Included in the total number of shares shown as beneficially owned are 420,528 shares of common stock, 636,577 shares of common stock under vested but unsettled restricted stock units, 747,439 shares of common stock under stock options, restricted stock units or performance stock units that may vest in the event of a change of control if certain performance criteria are met or in connection with the mergers and 43,309 shares of common stock under options or restricted stock units that are exercisable.

LEGAL MATTERS

The legality of the shares of Converted Helix Common Stock issuable in the first merger will be passed upon for Helix Energy Solutions Group, Inc. by Baker Botts L.L.P. Certain U.S. federal income tax consequences relating to the mergers will be passed upon for Hornbeck Offshore Services, Inc. by Kirkland & Ellis LLP.

EXPERTS

Helix Energy Solutions Group, Inc.

The consolidated financial statements of Helix Energy Solutions Group, Inc. as of December 31, 2025 and 2024, and for each of the years in the three-year period ended December 31, 2025, and management's assessment of the effectiveness of internal control over financial reporting as of December 31, 2025, have been incorporated by reference herein in reliance upon the reports of KPMG LLP, an independent registered public accounting firm, and upon the authority of said firm as experts in accounting and auditing.

Hornbeck Offshore Services, Inc.

The consolidated financial statements of Hornbeck Offshore Services, Inc. at December 31, 2025 and 2024, and for each of the three years in the period ended December 31, 2025, appearing in this proxy statement/prospectus and Registration Statement have been audited by Ernst & Young LLP, independent registered public accounting firm, as set forth in their report thereon appearing elsewhere herein, and are included in reliance upon such report given on the authority of such firm as experts in accounting and auditing.

SHAREHOLDER PROPOSALS

Helix or the combined company, as applicable, will hold a regular annual meeting of shareholders in 2027 (the “2027 annual meeting”) regardless of whether the mergers are completed.

Shareholder Proposals for the 2027 Annual Meeting

In order to be included in Helix’s or the combined company’s proxy materials, as applicable, for the 2027 annual meeting, eligible proposals of shareholders intended to be presented at the 2027 annual meeting must be delivered to the Corporate Secretary of Helix or the combined company in writing and comply with requirements of Rule 14a-8 of the Exchange Act. Accordingly, such proposals must be received, as applicable, (x) if the mergers are completed, by the combined company at 103 Northpark Boulevard, Suite 300, Covington, Louisiana 70433, Attn: Corporate Secretary or (y) if the mergers are not completed for any reason, by Helix at 3505 West Sam Houston Parkway North, Suite 400, Houston, Texas 77043, in each case, on or before December 2, 2026.

Advance Notice Required for Shareholder Nominations and Proposals

If the mergers are completed, the combined company’s shareholder proposal procedures will be governed by the bylaws of the combined company and the bylaws of the combined company. If the mergers are not completed for any reason, Helix will continue as a stand-alone company, and its shareholder proposal procedures will be governed by the Helix charter and the Helix bylaws. The Helix bylaws and the bylaws of the combined company each require timely advance written notice of shareholder nominations of director candidates and of any other proposals to be presented at an annual meeting of shareholders (but not for inclusion in the proxy statement). In the case of director nominations and other proposals by shareholders, the Helix bylaws and the bylaws of the combined company each require that advance written notice be delivered to Helix or the combined company, as applicable, not later than the close of business on the ninetieth (90th) day prior to the first (1st) anniversary of the preceding year’s annual meeting, and that such notice provide the information set forth in the Helix bylaws or the bylaws of the combined company (each of which require inclusion of the information required under Rule 14a-19 with respect to nominations), as applicable.

Advance Notice if the Mergers are Completed. A copy of the bylaws of the combined company, which set forth the requirements for the nomination of director candidates and the requirements for proposals, in each case, by shareholders of the combined company, are attached as *Annex D* to this proxy statement/prospectus. Under the bylaws of the combined company, for purposes of the combined company’s 2027 annual meeting, the combined company’s preceding year’s annual meeting is deemed to have occurred on May 13, 2026. Accordingly, if the mergers are completed, in order for director nominations and shareholder proposals to be properly submitted for presentation at the 2027 annual meeting, notice must be received by the combined company at 103 Northpark Boulevard, Suite 300, Covington, Louisiana 70433, Attn: Corporate Secretary, not later than the close of business on February 11, 2027.

Advance Notice if the Mergers are not Completed. A copy of the Helix bylaws, which set forth the requirements for the nomination of director candidates by shareholders and the requirements for proposals by shareholders, may be obtained from Helix’s Corporate Secretary at Corporate Secretary at 3505 West Sam Houston Parkway North, Suite 400, Houston, Texas 77043. If the mergers are not completed for any reason, in order for director nominations and shareholder proposals to be properly submitted for presentation at the 2027 annual meeting, notice must be received by Helix’s Corporate Secretary at the address set forth above not later than the close of business on February 11, 2027.

HOUSEHOLDING OF PROXY MATERIALS

The SEC has adopted rules that permit companies and intermediaries, such as brokers and banks, to provide notice to an address shared by two or more shareholders by delivering a single notice to those shareholders. This procedure is referred to as “householding.” Helix does not, and the combined company does not expect to, household its notice with respect to its shareholders of record. However, if you hold your shares in street name, your intermediary, such as a broker or bank, may rely on householding and you may receive a single notice if you share an address with another shareholder.

Once you have received notice from your broker that they will be householding materials to your address, householding will continue until you are notified otherwise or until you revoke your consent. If, at any time, you no longer wish to participate in householding and would prefer to receive a separate copy of the notice, or if you are receiving multiple copies of the notice and wish to receive only one, please notify your broker. Shareholders who currently receive multiple notices at their address and would like to request “householding” of their communications should contact their broker.

Requests for additional copies of this proxy statement/prospectus should be directed to:

Helix Energy Solutions Group, Inc.
Attn: General Counsel
3505 West Sam Houston Pkwy North, Suite 400
Houston, Texas 77043
(281) 618-0400

WHERE YOU CAN FIND MORE INFORMATION

Helix files annual, quarterly and current reports, proxy statements and other information with the SEC under the Exchange Act. The SEC maintains a website that contains reports, proxy and information statements, and other information regarding issuers, including Helix, who file electronically with the SEC. The address of that site is www.sec.gov. Investors may also consult Helix's website for more information about Helix. Helix's website is www.helixesg.com. Information included on Helix's website is not incorporated by reference into this proxy statement/prospectus.

Helix has filed with the SEC a registration statement on Form S-4, of which this proxy statement/prospectus forms a part. The registration statement registers the issuance of shares of Converted Helix Common Stock in the first merger. The registration statement, including the attached exhibits, contains additional relevant information about Helix and Hornbeck. The rules and regulations of the SEC allow Helix to omit certain information included in the registration statement from this proxy statement/prospectus.

In addition, the SEC allows Helix to disclose important information to you by referring you to other documents filed separately with the SEC. This information is considered to be a part of this proxy statement/prospectus, except for any information that is superseded by information included directly in this proxy statement/prospectus or incorporated by reference subsequent to the date of this proxy statement/prospectus as described below. This proxy statement/prospectus also contains summaries of certain provisions contained in some of the Helix or Hornbeck documents described herein, but reference is made to the actual documents for complete information. All of the summaries are qualified in their entirety by reference to the actual documents. Some documents or information, such as that called for by Item 2.02 and 7.01 of Form 8-K, or the exhibits related thereto under Item 9.01 of Form 8-K, are deemed furnished and not filed in accordance with SEC rules. None of those documents and none of that information is incorporated by reference into this proxy statement/prospectus.

This proxy statement/prospectus incorporates by reference the documents listed below that Helix has previously filed with the SEC. These documents contain important information about Helix, its financial condition and other matters.

- Annual Report on [Form 10-K](#) for the fiscal year ended December 31, 2025, filed February 26, 2026;
- Quarterly Report on [Form 10-Q](#) for the fiscal quarter ended March 31, 2026, filed April 24, 2026;
- Current Reports on Form 8-K, filed [February 13, 2026](#), [April 24, 2026](#), [May 5, 2026](#) and [May 13, 2026](#) (other than the portions of those documents not deemed to be filed);
- Definitive Proxy Statement on [Schedule 14A](#), filed April 1, 2026, to the extent incorporated by reference into Helix's Annual Report on [Form 10-K](#) for the fiscal year ended December 31, 2025; and
- the description of capital stock contained in [Exhibit 4.1](#) to Helix's Annual Report on [Form 10-K](#) for the fiscal year ended December 31, 2024, filed February 27, 2025, and any subsequent amendment thereto.

In addition, Helix incorporates by reference any future filings it makes with the SEC under Section 13(a), 13(c), 14, or 15(d) of the Exchange Act (i) after the date of the initial filing and prior to the effectiveness of the registration statement on Form S-4 of which this proxy statement/prospectus forms a part and (ii) after the date of this proxy statement/prospectus and prior to the date of the special meeting (other than information furnished pursuant to Item 2.02 or Item 7.01 of any Current Report on Form 8-K, unless expressly stated otherwise therein). Such documents are considered to be a part of this proxy statement/prospectus, effective as of the date such documents are filed.

You can obtain any of these documents from the SEC, through the SEC's website at the address described above, or Helix will provide you with copies of these documents, without charge, upon written or oral request to:

Helix Energy Solutions Group, Inc.
Attn: General Counsel
3505 West Sam Houston Parkway North, Suite 400
Houston, Texas 77043
(281) 618-0400

In the event of conflicting information in this proxy statement/prospectus in comparison to any document incorporated by reference into this proxy statement/prospectus, or among documents incorporated by reference, the information in the latest filed document controls.

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You should rely only on the information contained in or incorporated by reference into this proxy statement/prospectus. Neither Helix nor Hornbeck has authorized anyone to provide you with information that is different from that contained in, or incorporated by reference into, this proxy statement/prospectus. This proxy statement/prospectus is dated _____, 2026, and you should assume that the information contained in this proxy statement/prospectus is accurate only as of such date.

Further, you should also assume that the information incorporated by reference into this proxy statement/prospectus is accurate only as of the date of the incorporated document. Neither the mailing of this proxy statement/prospectus to Helix shareholders nor the issuance by Helix of shares of Converted Helix Common Stock pursuant to the merger agreement will create any implication to the contrary.

This proxy statement/prospectus contains a description of the representations and warranties that each of Helix and Hornbeck made to the other in the merger agreement. Representations and warranties made by Helix, Hornbeck and other applicable parties are also set forth in contracts and other documents that are attached or filed as exhibits to this proxy statement/prospectus or are incorporated by reference into this proxy statement/prospectus. These materials are included or incorporated by reference to provide you with information regarding the terms and conditions of the agreements. Accordingly, the representations and warranties and other provisions of the merger agreement and the contracts and other documents that are attached to or filed as exhibits to this proxy statement/prospectus or are incorporated by reference into this proxy statement/prospectus should not be read alone, but instead should be read only in conjunction with the other information provided elsewhere in this proxy statement/prospectus or incorporated by reference into this proxy statement/prospectus.

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HORNBECK OFFSHORE SERVICES, INC. AND SUBSIDIARIES
CONSOLIDATED BALANCE SHEETS
(in thousands, except per share data)

	March 31, 2026 (Unaudited)	December 31, 2025 (Audited)
ASSETS		
Current assets:		
Cash and cash equivalents	\$ 85,913	\$ 54,167
Accounts receivable, net of allowance for credit losses of \$7,793 and \$7,511, respectively	178,024	164,695
Prepaid expenses	5,929	4,941
Assets held for sale	461	—
Taxes receivable	18,897	19,026
Other current assets	14,637	14,180
Total current assets	303,861	257,009
Property, plant and equipment, net	759,091	754,135
Deferred charges, net	117,470	97,234
Deferred tax assets, net	11,611	16,034
Operating lease right-of-use assets	17,263	17,802
Finance lease right-of-use assets	9,683	10,516
Other assets	57	57
Total assets	<u>\$1,219,036</u>	<u>\$1,152,787</u>
LIABILITIES AND STOCKHOLDERS' EQUITY		
Current liabilities:		
Accounts payable	\$ 90,012	\$ 58,251
Accrued interest	3,660	3,571
Accrued payroll and benefits	18,904	24,429
Current maturities of long-term debt, net of original issue discount of \$1,015 and \$1,021, and deferred financing costs of \$332 and \$334, respectively	33,734	30,259
Operating lease liabilities	3,528	3,532
Finance lease liabilities	4,841	4,809
Accrued taxes payable	9,393	9,363
Deferred revenue	5,709	3,918
Other current liabilities	4,365	4,137
Total current liabilities	174,146	142,269
Long-term debt, net of original issue discount of \$4,495 and \$4,742, and deferred financing costs of \$2,182 and \$1,618, respectively	425,824	410,352
Operating lease liabilities	16,747	17,245
Finance lease liabilities	5,438	6,195
Other long-term liabilities	7,594	8,364
Total long-term liabilities	455,603	442,156
Total liabilities	<u>629,749</u>	<u>584,425</u>
STOCKHOLDERS' EQUITY		
Common stock: \$0.00001 par value; 50,000 shares authorized; 5,266 and 5,232 shares issued and outstanding, respectively	—	—
Additional paid-in capital	259,327	259,166
Retained earnings	330,438	311,337
Accumulated other comprehensive loss	(478)	(2,141)
Total stockholders' equity	<u>589,287</u>	<u>568,362</u>
Total liabilities and stockholders' equity	<u>\$1,219,036</u>	<u>\$1,152,787</u>

HORNBECK OFFSHORE SERVICES, INC. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF OPERATIONS
(in thousands, except per share data)

	Three Months Ended March 31,	
	2026	2025
	(Unaudited)	
Revenues:		
Vessel revenues	\$160,367	\$127,452
Non-vessel revenues	12,354	12,373
	172,721	139,825
Costs and expenses:		
Operating expense	91,030	96,829
Depreciation expense	12,025	10,007
Amortization expense	12,775	9,827
General and administrative expense	18,406	15,542
Stock-based compensation expense	1,160	1,114
Merger and integration costs	3,931	—
	139,327	133,319
Gain on sale of assets	979	43
Operating income	34,373	6,549
Interest expense	9,259	8,002
Interest income	634	1,283
Net interest expense	8,625	6,719
	25,748	(170)
Other income (expense):		
Foreign currency gain	186	32
	186	32
Income (loss) before income taxes	25,934	(138)
Income tax expense (benefit)	6,831	(244)
Net income	\$ 19,103	\$ 106
Basic earnings per common share	\$ 1.24	\$ 0.01
Diluted earnings per common share	\$ 1.09	\$ 0.01

HORNBECK OFFSHORE SERVICES, INC. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME
(in thousands)

	Three Months Ended	
	March 31,	
	2026	2025
	(Unaudited)	
Net income	\$19,103	\$ 106
Other comprehensive income:		
Foreign currency translation income, net	1,663	2,880
Total comprehensive income	<u>\$20,766</u>	<u>\$2,986</u>

HORNBECK OFFSHORE SERVICES, INC. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF CHANGES IN STOCKHOLDERS' EQUITY
(in thousands)

	Three Months Ended March 31, 2026						
	(Unaudited)						
	Common Shares	Warrants	Common Stock	Additional Paid-In Capital	Retained Earnings	Accumulated Other Comprehensive Income (Loss)	Total Stockholders Equity
Balance at January 1, 2026	5,232	11,584	\$—	\$259,166	\$311,337	\$(2,141)	\$568,362
Issuance of common stock and warrants	34	—	—	—	—	—	—
Stock-based compensation expense	—	—	—	1,160	—	—	1,160
Shares withheld for employee withholding taxes	—	—	—	(999)	—	—	(999)
Common stock, Jones Act Warrants, and Creditor Warrants repurchased	—	—	—	—	(2)	—	(2)
Net income	—	—	—	—	19,103	—	19,103
Foreign currency translation income, net	—	—	—	—	—	1,663	1,663
Balance at March 31, 2026	<u>5,266</u>	<u>11,584</u>	<u>\$—</u>	<u>\$259,327</u>	<u>\$330,438</u>	<u>\$ (478)</u>	<u>\$589,287</u>

	Three Months Ended March 31, 2025						
	(Unaudited)						
	Common Shares	Warrants	Common Stock	Additional Paid-In Capital	Retained Earnings	Accumulated Other Comprehensive Income (Loss)	Total Stockholders Equity
Balance at January 1, 2025	5,367	12,024	\$—	\$264,869	\$176,761	\$(7,488)	\$434,142
Issuance of common stock and warrants	49	—	—	—	—	—	—
Stock-based compensation expense	—	—	—	1,000	—	—	1,000
Shares withheld for employee withholding taxes	—	—	—	(1,397)	—	—	(1,397)
Net income	—	—	—	—	106	—	106
Foreign currency translation income, net	—	—	—	—	—	2,880	2,880
Balance at March 31, 2025	<u>5,416</u>	<u>12,024</u>	<u>\$—</u>	<u>\$264,472</u>	<u>\$176,867</u>	<u>\$(4,608)</u>	<u>\$436,731</u>

HORNBECK OFFSHORE SERVICES, INC. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF CASH FLOWS
(in thousands)

	Three Months Ended March 31,	
	2026	2025
	(Unaudited)	
CASH FLOWS FROM OPERATING ACTIVITIES:		
Net income	\$ 19,103	\$ 106
Adjustments to reconcile net income to net cash provided by operating activities:		
Depreciation expense	12,025	10,007
Amortization expense	12,775	9,827
Stock-based compensation expense	1,160	1,114
Provision for (recovery of) credit losses	282	(1,433)
Deferred tax expense (benefit)	—	(1,975)
Amortization of deferred financing costs & OID	492	231
Amortization of deferred contract-specific costs of sales	32	90
Gain on sale of assets	(979)	(43)
Changes in operating assets and liabilities:		
Accounts receivable	(13,206)	28,764
Deferred drydocking charges	(23,599)	(19,193)
Other current and long-term assets	1,874	(1,592)
Accounts payable	26,674	(4,341)
Accrued interest	89	3,006
Accrued liabilities and other liabilities	(4,797)	(6,195)
Net cash provided by operating activities	<u>31,925</u>	<u>18,373</u>
CASH FLOWS FROM INVESTING ACTIVITIES:		
Maintenance capital improvements	(7,850)	(6,405)
Growth capital expenditures	(2,604)	(23,390)
Commercial capital expenditures	(7,978)	(8,940)
Non-vessel capital expenditures	(324)	(40)
Net proceeds from sale of assets	1,055	72
Net cash used in investing activities	<u>(17,701)</u>	<u>(38,703)</u>
CASH FLOWS FROM FINANCING ACTIVITIES:		
Principal payments on second-lien term loans	(5,744)	—
Proceeds from first lien revolving credit facility	25,000	—
Deferred financing costs	—	33
Cash paid for withholding taxes on net share settlements	(999)	(1,397)
Principal payments under finance lease obligations	(937)	(133)
Other cash flows from financing activities	—	(111)
Net cash provided by (used in) financing activities	<u>17,320</u>	<u>(1,608)</u>
Effects of foreign currency exchange rate changes on cash	<u>202</u>	<u>683</u>
Net increase (decrease) in cash and cash equivalents	<u>31,746</u>	<u>(21,255)</u>
Cash, cash equivalents and restricted cash at beginning of period	<u>54,167</u>	<u>81,568</u>
Cash, cash equivalents and restricted cash at end of period	<u>\$ 85,913</u>	<u>\$ 60,313</u>
SUPPLEMENTAL DISCLOSURES OF CASH FLOW ACTIVITIES:		
Cash paid for interest	<u>\$ 10,517</u>	<u>\$ 7,588</u>
Cash paid for income taxes, net of refunds	<u>\$ 4,324</u>	<u>\$ 5,610</u>

HORNBECK OFFSHORE SERVICES, INC. AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
(unaudited)

1. Basis of Presentation

The accompanying unaudited consolidated financial statements reflect the financial position, results of operations, comprehensive income, cash flows, and changes in stockholders' equity of Hornbeck Offshore Services, Inc., a Delaware corporation, and its consolidated subsidiaries, collectively referred to as "Hornbeck," "Company," "we," "us," or "our".

The accompanying unaudited consolidated financial statements have been prepared in accordance with United States (U.S.) generally accepted accounting principles (GAAP) for interim financial information. Accordingly, certain information and footnote disclosures normally included in our annual financial statements have been condensed or omitted. These unaudited consolidated financial statements should be read in conjunction with our audited consolidated financial statements and notes thereto as of and for the year ended December 31, 2025. In the opinion of management, the accompanying financial information reflects all normal recurring adjustments necessary to fairly state our results of operations, financial position and cash flows for the periods presented and are not indicative of the results that may be expected for a full year.

Our financial statements have been prepared on a consolidated basis. Under this basis of presentation, our financial statements consolidate all subsidiaries (entities in which we have a controlling financial interest), and all intercompany accounts and transactions have been eliminated.

2. Recent Accounting Pronouncements

The following table provides a brief description of recent accounting pronouncements that could have a material effect on the Company's financial statements:

Standard	Description	Date of Adoption	Effect on the financial statements and other significant matters
<i>Standards that have not been adopted:</i>			
<i>ASU No. 2024-03, Income Statement - Reporting Comprehensive Income - Expense Disaggregation Disclosures (Subtopic 220-40): Disaggregation of Income Statement Expenses</i>	This standard improves the disclosures about an entity's expenses and addresses requests from investors for more detailed information about the types of expenses in commonly presented expense captions. ASU No. 2024-03 may be applied prospectively or retrospectively. Early adoption is permitted.	Effective for fiscal years beginning after December 15, 2026, and interim periods within fiscal years beginning after December 15, 2027.	The Company will adopt the annual reporting requirements of ASU No. 2024-03 on January 1, 2027 and the interim disclosure requirements on January 1, 2028 and elect to apply the standard prospectively. The Company does not believe that the implementation of this guidance will have a material impact on its consolidated financial statements.
<i>ASU No. 2025-11, Interim Reporting (Topic 270): Narrow-Scope Improvements</i>	This standard improves the navigability of the required interim disclosures and clarifies when ASC 270 is applicable and what disclosures need to be provided in interim reporting. ASU No. 2025-11 may be applied prospectively or retrospectively. Early adoption is permitted.	Effective for interim reporting periods within annual reporting periods beginning after December 15, 2027.	The Company will adopt the interim reporting requirements of ASU No. 2025-11 on January 1, 2028 and elect to apply the standard prospectively. The Company does not believe that the implementation of

Standard	Description	Date of Adoption	Effect on the financial statements and other significant matters
			this guidance will have a material impact on its consolidated financial statements.
<i>ASU No. 2025-12, Codification Improvements</i>	This standard contains targeted improvements to the Codification covering a broad range of topics. The amendments in this update represent changes to the Codification that clarify, correct errors or make minor improvements. The amendments make the Codification easier to understand and apply. ASU No. 2025-12 may be applied prospectively or retrospectively. Early adoption is permitted.	Effective for annual reporting periods beginning after December 15, 2026, and interim reporting periods within those annual reporting periods.	The Company will adopt the reporting requirements of ASU No. 2025-12 on January 1, 2027 and elect to apply the standard prospectively. The Company does not believe that the implementation of this guidance will have a material impact on its consolidated financial statements.

3. Allowance for Credit Losses

The Company's customers are primarily major and independent, domestic and international, oil and oilfield service companies, as well as national oil companies, the U.S. military and offshore wind companies. The Company's customers are granted credit on a short-term basis and related credit risks are considered minimal. The Company usually does not require collateral but does occasionally require letters of credit or payment-in-advance if undue credit risk is determined to exist with a particular contract or customer. The Company provides an estimate for credit losses based primarily on management's judgment using the relative age of customer balances, historical losses, current economic conditions and individual evaluations of each customer to record an allowance for credit losses. Direct write-offs of receivables only occur when amounts are deemed uncollectible and all options for collection have been exhausted.

Activity in the allowance for credit losses was as follows (in thousands):

	Three Months Ended March 31,	
	2026	2025
Balance at January 1	\$7,511	\$ 7,929
Current period provision for (recovery of) credit losses	282	(1,433)
Write-offs	—	—
Balance at March 31	<u>\$7,793</u>	<u>\$ 6,496</u>

4. Revenues from Contracts with Customers

As of March 31, 2026, the Company had certain remaining performance obligations representing contracted vessel revenues for which work had not been performed and such contracts had an original expected duration of more than one year. As of March 31, 2026, the aggregate amount of the transaction price allocated to remaining performance obligations for such contracts totaled \$357.2 million, of which \$120.2 million is expected to be fully recognized in 2026, \$121.4 million in 2027, and \$115.6 million in years beyond 2027. These amounts are a result of multi-year vessel charters that commenced between 2024 and 2026.

As of March 31, 2026, we had \$5.7 million of deferred revenue included in current liabilities related to unsatisfied performance obligations that will be recognized during the remainder of 2026 and 2027.

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Disaggregation of Revenues

The Company recognized revenues as follows (in thousands):

	Three Months Ended March 31,	
	2026	2025
Vessel revenues	\$160,367	\$127,452
Vessel management revenues	11,965	11,719
Shore-based facility revenues	389	654
	<u>\$172,721</u>	<u>\$139,825</u>

Revenues by geographic region⁽¹⁾ were as follows (in thousands, except for % of Total):

	Three Months Ended March 31,			
	2026	% of Total	2025	% of Total
United States	\$119,586	69.2%	\$ 91,737	65.6%
International ⁽²⁾	53,135	30.8%	48,088	34.4%
	<u>\$172,721</u>	<u>100.0%</u>	<u>\$139,825</u>	<u>100.0%</u>

- (1) The Company attributes revenues to individual geographic regions based on the location where services are performed.
- (2) International revenues of \$25.3 million, \$16.7 million, and \$7.5 million were attributed to services performed in Brazil, Mexico, and Colombia, respectively, for the three months ended March 31, 2026 and international revenues of \$29.1 million, \$7.3 million, and \$8.8 million were attributed to services performed in Brazil, Mexico, and Colombia, respectively, for the three months ended March 31, 2025. Revenues attributed to other countries were not individually material for the periods presented.

Major Customers

Revenues from the following customers represented 10% or more of consolidated revenues:

	Three Months Ended March 31,	
	2026	2025
Customer A	15%	20%
Customer B	n/a ⁽¹⁾	14%
Customer C	n/a ⁽¹⁾	14%

- (1) Customer represented less than 10% of consolidated revenues in such period.

5. Earnings Per Share

Basic earnings per common share was calculated by dividing net income by the weighted-average number of common shares and Jones Act Warrants outstanding during the period. Diluted earnings per common share was calculated by dividing net income by the weighted-average number of common shares and Jones Act Warrants outstanding during the period plus the effect of dilutive Creditor Warrants, dilutive stock options and restricted stock unit awards. Weighted-average number of common shares outstanding was calculated by using the sum of the shares and Jones Act Warrants determined on a daily basis divided by the number of days in the period.

The table below reconciles the Company's earnings per share (in thousands, except for per share data):

	Three Months Ended March 31,	
	2026	2025
Net income	\$19,103	\$ 106
Weighted-average number of shares of common stock outstanding ⁽¹⁾⁽²⁾	15,439	15,967
Add: Net effect of dilutive stock options, restricted stock units, and Creditor Warrants ⁽³⁾⁽⁴⁾⁽⁵⁾	2,164	2,079
Weighted-average number of dilutive shares of common stock outstanding	<u>17,603</u>	<u>18,046</u>

	Three Months Ended March 31,	
	2026	2025
Earnings per common share:		
Basic earnings per common share	\$1.24	\$0.01
Diluted earnings per common share	\$1.09	\$0.01

- (1) The Company included 10,090 and 10,494 Jones Act Warrants in the weighted-average number of shares of common stock outstanding for the three months ended March 31, 2026 and 2025, respectively, which represents the weighted-average number of Jones Act Warrants existing at each period-end.
- (2) Includes 105 fully vested, equity-settled restricted stock units that will be settled on the earlier of the occurrence of a contractually-designated event and the passage of a certain period of time for the three months ended March 31, 2026 and 2025, respectively.
- (3) Includes 144 and 110 unvested restricted stock units and 619 and 631 contingently-exercisable, vested restricted stock units in the weighted average calculation for the three months ended March 31, 2026 and 2025, respectively.
- (4) Includes 461 and 461 dilutive unvested stock options granted under the MIP in the weighted-average calculation for the three months ended March 31, 2026 and 2025, respectively. Dilutive unvested stock options issued by the Company are expected to fluctuate from quarter to quarter depending on the Company's performance compared to a predetermined set of performance criteria.
- (5) Includes 940 and 877 of in-the-money Creditor Warrants in the weighted-average calculation for the three months ended March 31, 2026 and 2025, respectively.

6. Deferred Charges

The Company's vessels are required by regulation to be recertified after certain periods of time. The Company defers the drydocking costs incurred due to regulatory marine inspections and amortizes the costs on a straight-line basis over the period to be benefited from such expenditures (typically between 24 and 36 months).

The amounts reported for deferred charges on the consolidated balance sheets as of March 31, 2026 and December 31, 2025, include costs associated with ongoing drydockings. Included in such capital costs are accruals for vendor costs incurred but not yet invoiced and paid. These accrual amounts totaling \$14.1 million and \$7.2 million as of March 31, 2026 and December 31, 2025, respectively, are excluded from cash flows from operating activities on the consolidated statement of cash flows as non-cash items for the periods presented.

7. Property, Plant and Equipment

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

	March 31, 2026	December 31, 2025
Offshore support vessels and multi-purpose support vessels	\$ 792,482	\$ 787,262
Non-vessel related property, plant and equipment	16,118	16,007
Less: Accumulated depreciation	(157,424)	(145,267)
	651,176	658,002
Construction in progress ⁽¹⁾	107,915	96,133
	<u>\$ 759,091</u>	<u>\$ 754,135</u>

- (1) Includes \$2.5 million and \$2.6 million of accrued accounts payable as of March 31, 2026 and December 31, 2025, respectively. These amounts were excluded from the consolidated statement of cash flows as non-cash items for the respective periods.

In March 2026, the Company consummated the sale of one Vanuatu-flagged HOS 200 class DP-1 OSV for net proceeds totaling \$1.0 million, resulting in a net gain of \$0.9 million. Prior to the sale, such 1999-built vessel was classified as held for sale on the Company's consolidated balance sheet at a carrying value of \$0.1 million.

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The table below presents net book value of property, plant and equipment by geographic regions⁽¹⁾ (in thousands, except for % of Total):

	March 31, 2026	% of Total	December 31, 2025	% of Total
United States	\$682,104	89.9%	\$678,216	89.9%
International ⁽²⁾	76,987	10.1%	75,919	10.1%
	<u>\$759,091</u>	<u>100.0%</u>	<u>\$754,135</u>	<u>100.0%</u>

(1) Book values are attributed to geographic regions based on the country of domicile of the specific asset-owning subsidiary of the Company, not the physical operating location of the asset as of any of the dates presented.

(2) International property, plant and equipment of \$64.3 million and \$65.4 million were owned by certain Mexican subsidiaries of the Company as of March 31, 2026 and December 31, 2025, respectively. Property, plant and equipment attributed to other countries were not individually material as of any of the dates presented.

8. Long-Term Debt

As of the dates indicated below, the Company had the following outstanding long-term debt (in thousands):

	March 31, 2026	December 31, 2025
First Lien Revolving Credit Facility due 2029, net of deferred financing costs of \$655	\$ 24,345	\$ —
Second Lien Term Loans due 2033, net of original issue discount of \$5,509 and \$5,763 and deferred financing costs of \$1,860 and \$1,952, respectively	435,213	440,611
	<u>\$459,558</u>	<u>\$440,611</u>
Less: Current maturities	(33,734)	(30,259)
	<u>\$425,824</u>	<u>\$410,352</u>

The table below summarizes the Company's cash interest payments (in thousands):

	Cash Interest Payments	Payment Dates
First Lien Revolving Credit Facility due 2029	\$ 146	Variable (based on interest election) ⁽¹⁾⁽²⁾
Second Lien Term Loans due 2033	3,337	First day of each month

(1) Interest payments related to the currently-drawn \$25.0 million are due every 30 days.

(2) The First Lien Revolving Credit Facility is subject to an unused fee of 1.0% per annum, paid quarterly, on the remaining undrawn balance, which is currently \$50.0 million.

First Lien Revolving Credit Facility

On August 13, 2024, the Company entered into a first-lien revolving credit facility pursuant to that certain Credit Agreement with DNB Bank ASA, New York Branch, as administrative agent, Wilmington Trust, National Association, as collateral agent, and the lenders party thereto, or the First Lien Revolving Credit Facility. The current aggregate commitments for the revolving loans, or the Revolving Loans, under the First Lien Revolving Credit Facility total \$75.0 million. The First Lien Revolving Credit Facility also provides for a customary uncommitted incremental facility in an amount up to \$50.0 million. The Company's ability to borrow under the First Lien Revolving Credit Facility is subject to customary conditions precedent, including no default or event of default, representations and warranties being true and correct in all material respects, and pro forma compliance with the financial covenants therein.

The First Lien Revolving Credit Facility will mature on August 13, 2029. Borrowings under the First Lien Revolving Credit Facility will be comprised of Base Rate Loans or SOFR Rate Loans, at the option of the Company, and accrue interest as follows: (A) for Revolving Loans that are Base Rate Loans, a rate ranging from 1.75% to 2.75% (depending on the total net leverage ratio in effect at such time) per annum, plus the greatest of: (a) the Prime Rate in effect on such day, (b) the Federal Funds Rate in effect on such day plus 0.50%, and (c) the Adjusted Term SOFR rate

for a one month interest period on such day after giving effect to a floor of 0.00% per annum, plus 1.00% and (B) for Revolving Loans that are SOFR Rate Loans, a rate ranging from 2.75% to 3.75% (depending on the total net leverage ratio in effect at such time) per annum plus the Term SOFR rate, subject to a 0.00% floor, plus a credit spread adjustment of 0.10% per annum.

The First Lien Revolving Credit Facility has customary affirmative and negative covenants, including restrictions on our ability to incur additional indebtedness, incur liens, make restricted payments, make optional prepayments on junior financings, and make asset sales, in each case, subject to customary exceptions and baskets. The First Lien Revolving Credit Facility is subject to financial covenants that require us to have (i) a maximum revolving credit facility net leverage ratio (measured by Revolving Loans outstanding, net of unrestricted cash and cash equivalents of up to \$25.0 million) of no more than 1.00 to 1.00, (ii) minimum liquidity (measured by unrestricted cash and cash equivalents, together with undrawn Revolving Loan commitments) of \$25.0 million, (iii) a collateral coverage ratio (measured by total first and second lien debt outstanding) of no less than 1.50 to 1.00, and (iv) a revolving credit facility collateral coverage ratio (measured by total Revolving Loan commitments, whether or not drawn) of no less than 3.00 to 1.00, in each case, tested on the facility closing date, and thereafter at the end of each fiscal quarter, beginning with our first full fiscal quarter ending after the facility closing date. However, failure to meet such financial covenants will not result in a default or event of default at any time when no Revolving Loans are outstanding and will instead prohibit us from borrowing any Revolving Loans under the First Lien Revolving Credit Facility until certain conditions precedent to borrowing are satisfied. To the extent the financial covenants under the First Lien Revolving Credit Facility are not met as of the end of any fiscal quarter, we will have the opportunity to cure such financial covenant shortfall by making a mandatory prepayment of the Revolving Loans in an amount such that compliance with such financial covenants would be met on a pro forma basis following such prepayment prior to the occurrence of any default or event of default thereunder.

The Company incurred \$2.9 million in deferred financing costs paid to third parties related to the First Lien Revolving Credit Facility, of which \$2.2 million was recorded in deferred charges and \$0.7 million was recorded in long-term debt on the consolidated balance sheet. On March 4, 2026, the Company drew \$25.0 million of cash borrowings under such facility. The 30-day SOFR interest rate related to these borrowings was 7.01% as of March 31, 2026.

Second Lien Term Loans due 2033

On December 27, 2024, the Company entered into a second-lien term loan credit agreement with Stonebriar Commercial Finance, LLC, as administrative agent, and Wilmington Trust, National Association, as collateral trustee, and the lenders party thereto, resulting in \$450.0 million of second-lien term loans with a maturity date of January 1, 2033, or the Second Lien Term Loans due 2033. The Company received proceeds of \$443.3 million, net of a 1.5% origination fee, and utilized such proceeds to (i) repay in full the then-outstanding \$349.0 million, including accumulated paid-in-kind interest, of Second Lien Term Loans due 2026, (ii) pay \$7.0 million of related accrued cash interest, (iii) pay a \$5.1 million associated redemption fee, (iv) pay \$2.0 million in non-lender fees and expenses, and (v) partially fund the repurchase of \$78.4 million of certain equity securities and \$7.1 million of outstanding stock-based compensation awards associated with tender offers to purchase for cash such equity instruments in December 2024.

The Second Lien Term Loans due 2033 are scheduled to be repaid in (i) 12 consecutive equal monthly installments of interest, payable on the first day of each month commencing after January 1, 2025, (ii) followed by 84 consecutive equal monthly payments of principal and interest, payable on the first day of each consecutive month, and (iii) a final balloon payment in the amount of all unpaid principal, accrued and unpaid interest and any other amounts that may become due under the Second Lien Term Loan Credit Agreement on the maturity date of January 1, 2033. Borrowings bear interest at a fixed rate of 9.25% per annum. The Company may fully prepay all amounts due under the Second Lien Term Loan Agreement at any time prior to maturity, subject to the prepayment fee schedule set forth below. The Company is permitted to partially prepay between \$50.0 million and \$100.0 million prior to June 30, 2026 in connection with an initial public offering (directly or indirectly) and may make additional partial prepayments not to exceed \$100.0 million in the aggregate at any time during the term of the Second Lien Term Loans due 2033. In the event of any prepayment (in whole or in part), the Company is subject to a prepayment fee equal to (i) 4.00% of the prepaid principal amount prior to December 27, 2025, (ii) 3.00% of the prepaid principal amount after December 27, 2025 but on or prior to December 27, 2026, (iii) 2.00% of the prepaid principal amount after December 27, 2026 but on or prior to December 27, 2027, and (iv) 1.00% of the prepaid principal amount thereafter.

The Second Lien Term Loans due 2033 are guaranteed by certain of the Company's domestic and foreign subsidiaries and are secured by a second priority security interest in, and lien on, all the Company's U.S.-flagged

vessels. The credit agreement contains customary representations and warranties, covenants and events of default, but only one financial maintenance covenant, which is a \$25.0 million minimum cash liquidity requirement.

9. Stock-Based Compensation

The Company's 2020 Management Incentive Plan, or MIP, provides for the issuance of a maximum of 2.2 million shares of common stock for the Company to grant as incentive awards in the form of stock options, stock appreciation rights, restricted stock units, restricted stock and other stock-based and cash-based awards to certain eligible individuals. As of March 31, 2026, there were 0.3 million shares issued or redeemed, 1.5 million shares reserved for issuance related to granted awards and 0.4 million shares available for future grants to eligible individuals under the MIP. There were no new grants of stock-based compensation instruments during the three months ended March 31, 2026 and 2025.

The financial impact of stock-based compensation expense related to the MIP on the Company's operating results is reflected in the table below (in thousands, except for per share data):

	Three Months Ended March 31,	
	2026	2025
Income before taxes	\$1,160	\$1,114
Net income (loss)	\$ 854	\$ (856)
Earnings (loss) per common share:		
Basic	\$ 0.06	\$(0.05)
Diluted	\$ 0.05	\$(0.05)

10. Income Taxes

The Company's effective income tax expense (benefit) rate for the three months ended March 31, 2026 and 2025 was 26.3% and (176.8%), respectively. The Company's current income tax expense reflects its current U.S. and foreign tax liabilities and certain deferred tax liabilities that could not be offset with a reduction in the valuation allowance. The tax rate for the current period is lower than the benefit rate for the prior year period due to the prior year's amplified effect of the permanent book tax differences on the Company's relatively small pre-tax book loss.

The Company is no longer subject to tax audits being initiated by U.S. federal, state, local or foreign taxing authorities for years prior to 2021. The Company has ongoing examinations by various foreign tax authorities for earlier periods, but does not believe that the results of these examinations will have a material adverse effect on the Company's financial position or results of operations.

Mexico Tax Audits

The Company is subject to audit by various Mexican statutory bodies, including the Mexican tax authorities, or SAT. In recent years, SAT has initiated several audits of the Company's Mexican subsidiaries for tax years between 2015 and 2021. In November 2018, SAT commenced an audit of a Mexican subsidiary's 2015 tax return and asserted certain positions that disallowed a significant portion of the Company's deductible expenses, which resulted in additional taxes, interest and penalties being assessed. As a result, the Company engaged in non-binding mediation proceedings, which concluded in 2021 without resolution. In April 2022, the Company received an official assessment from SAT and subsequently initiated an appeal process through the Mexican tax judicial system in June 2022. In April 2024, the Company initiated a separate non-binding mediation related to a Mexican subsidiary's tax returns from 2017 through 2021, which concluded in February 2025 without resolution and resulted in an additional assessment by SAT in July 2025. The Company filed an administrative appeal of the assessment as we believe SAT has attempted to retroactively apply a change in Mexican tax law that did not become effective until 2022, subsequent to the tax periods that are being assessed. In September 2025, the Company received additional tax assessments for another Mexican subsidiary related to tax returns from 2018 and 2020 with similarly egregious positions as previously asserted by SAT. The Company filed administrative appeals for both assessments in October 2025.

As of March 31, 2026, the Company had accrued a liability totaling \$2.7 million for potential losses from additional taxes, interest and penalties resulting from the 2015 tax assessment and no liabilities for the other

assessments for 2017 through 2021 based upon estimates developed in collaboration with its Mexican tax and legal advisors for the ongoing audits and appeals. The Company believes it has properly applied the applicable tax laws for all periods audited by SAT and has reasonably supported its positions.

The Company does not believe that the final outcome of these tax assessments, appeals process and other ongoing tax audits will have a material adverse effect on the Company's financial position or results of operations. Final resolution of these matters will likely require several years, and the Company believes it is remote that any developments in the next 12 months would adversely affect its positions or reduce its confidence in a favorable outcome. An unexpected adverse final outcome in any of the pending appeals could have a material impact on the Company's financial position and operating results. The Company will continue to update its estimates related to these pending proceedings as new information warrants.

11. Commitments and Contingencies

Vessel Construction

In October 2023, the Company entered into a final settlement of a dispute with Zurich American Insurance Company and Fidelity & Deposit Company of Maryland, together the Surety, and Gulf Island Shipyards, LLC, or Gulf Island, related to the construction of two MPSV newbuilds. Pursuant to the settlement agreement, Gulf Island released all claims asserted against the Company and the Company released its claims against Gulf Island and the Surety. Further, the Surety agreed to take over and complete the construction of the two U.S.-flagged, Jones Act-qualified, HOS 400 class MPSVs at a shipyard acceptable to the Company. In December 2023, Eastern Shipbuilding Group, Inc., or Eastern, was mutually selected by the parties and contracted by the Surety to complete the construction of the two MPSVs. The Company was obligated to pay only the remaining portion of the original shipyard contract price for the two MPSVs, which then-amounted to \$53.8 million in the aggregate on the settlement date, but was subsequently reduced to \$42.6 million for liquidated damages resulting from shipyard delays. The Surety is required to cure all defaults of Gulf Island and pay all completion costs in excess of the \$42.6 million remaining original contract price, excluding any approved change orders arising after the settlement date. There is no cap on the Surety's completion costs. As of March 31, 2026, the Company has fulfilled its \$42.6 million contractual obligation and all remaining construction costs are to be paid by the Surety to Eastern.

Following physical delivery by Eastern, which is expected in 2027, each vessel will undergo crane and other system installations, which should make both vessels available for commercial service in 2027. In addition to the previously paid \$42.6 million contractual obligation, the Company expects to incur an additional \$89.0 million in the aggregate for outfitting, engineering, overhead and the post-delivery discretionary enhancements, of which \$65.4 million solely relates to the purchase and installation of the cranes. As of March 31, 2026, the Company had incurred \$31.3 million of such incremental amounts, excluding capitalized interest.

Contingencies

In the normal course of its business, the Company becomes involved in various claims and legal proceedings in which monetary damages are sought. It is management's opinion that the Company's liability, if any, under such claims or proceedings would not materially affect the Company's financial position or results of operations. The Company insures against losses relating to its vessels, pollution and third party liabilities, including claims by employees under Section 33 of the Merchant Marine Act of 1920. Third party liabilities and pollution claims that relate to vessel operations are covered by the Company's entry in a mutual protection and indemnity association, or P&I Club, as well as by marine liability policies in excess of the P&I Club's coverage. The Company provides reserves for any individual claim deductibles for which the Company remains responsible by using an estimation process that considers Company-specific and industry data, as well as management's experience, assumptions and consultation with outside counsel. As additional information becomes available, the Company will assess the potential liability related to its pending claims and revise its estimates. Although historically revisions to such estimates have not been material, changes in estimates of the potential liability could materially impact the Company's results of operations, financial position or cash flows. The Company had accrued \$0.6 million and \$0.6 million for potential insurance deductibles or losses associated with such claims as of March 31, 2026 and December 31, 2025, respectively.

Brazil Importation Tax Assessment

In April 2021, the Company received notification from the Brazilian tax authorities of an importation tax assessment against the *HOS Achiever* with respect to the vessel's services contract in Brazil from February 2019 to January 2020. At the time of the *HOS Achiever*'s importation, the Company was granted a statutorily available tax

exemption based on the vessel's functional capabilities and intended use under the services contract. The tax authorities are now asserting that the *HOS Achiever* does not qualify for the applicable exemption. The Company believes the *HOS Achiever* does, in fact, meet the criteria set forth under the applicable law and intends to defend its position in a Brazilian court. While the final outcome of this assessment is uncertain and could possibly result in the payment and loss of an estimated \$6.0 million to \$12.0 million in related importation taxes and penalties, the Company believes there is a high likelihood that its position will prevail and the exemption will be granted in accordance with the law. Furthermore, the Company believes that any amounts that may become due in connection with this matter should be recoverable from its customer under the terms of the vessel's services contract. Accordingly, the Company has not accrued any liability for potential losses that may result from this matter.

12. Reportable Segment

The Company has one reportable segment, which encompasses all aspects of its marine transportation services business. Revenues from customers are derived from the chartering of the Company's vessels, providing vessel management services to external vessel owners, and providing shore-based port facility services. As the chief operating decision maker, the Company's Chief Executive Officer evaluates operating results on a consolidated basis to assess performance and allocate resources. While the Company's vessels operate in various geographic regions and end-customer markets, they are centrally managed, share multiple forms of common costs, provide similar or complementary marine transportation services, are manned by crews that may move from location to location or market to market as needed, and are marketed on a portfolio basis with the goal of maximizing net income, Adjusted EBITDA and Adjusted Free Cash Flow and generating the highest possible rate of return on invested capital without a permanent commitment of any particular vessel to any specific geographic region or customer market.

The revenues, expenses and net income of the Company's one reportable segment, as reviewed and assessed by the chief operating decision maker, are equal to and categorized consistently with the amounts reflected in the consolidated statements of operations for the periods ended March 31, 2026 and 2025. The measure of segment assets is reported on the consolidated balance sheet as total assets as of March 31, 2026 and December 31, 2025.

The chief operating decision maker utilizes net income, as reflected in the consolidated statements of operations, and net cash flows provided by operating activities, as reflected in the consolidated statements of cash flows, to measure profitability and liquidity, as well as to calculate supplemental non-GAAP financial metrics, such as EBITDA, Adjusted EBITDA and Adjusted Free Cash Flow, primarily for planning and forecasting overall expectations and for evaluating actual results against such expectations; for short-term cash bonus incentive compensation purposes; to compare to such metrics of other companies when evaluating potential acquisitions; to assess the Company's ability to service existing fixed charges and incur additional indebtedness; and to purchase, convert or construct additional vessels.

13. Related Party Transactions

Pursuant to the terms of the Trade Name and Trademark License Agreement entered into by and between the Company and HFR, LLC, the Company made payments of \$1.3 million during each of the three months ended March 31, 2026 and 2025 for licensing fees associated with the use of Hornbeck trade names, trademarks, and related logos. HFR, LLC is a Texas Limited Liability Company owned by Todd M. Hornbeck and Troy A. Hornbeck. Todd M. Hornbeck serves as the Company's Chairman of the Board of Directors, President and Chief Executive Officer. Troy A. Hornbeck is the brother of Todd M. Hornbeck and serves as the Company's Director of Vendor Relations. As of March 31, 2026 and December 31, 2025, the Company had accrued amounts payable to HFR, LLC totaling \$0.5 million and \$1.3 million, respectively.

On October 1, 2022, a member of the Company's Board of Directors assumed an officer role with an existing Hornbeck customer. For the three months ended March 31, 2026 and 2025, the Company generated \$11.8 million, or 6.8%, and \$19.0 million, or 13.6%, of revenues, respectively, from contracts with such customer. The Company had outstanding accounts receivable from this customer totaling \$5.6 million and \$4.9 million as of March 31, 2026 and December 31, 2025, respectively.

14. Subsequent Events

On April 23, 2026, the Company entered into a definitive agreement to merge with Helix Energy Solutions Group, Inc., or Helix, in an all-stock transaction, whereby the Company's existing shareholders will own approximately 55% and Helix's existing shareholders will own 45% of the combined company on a fully diluted basis. The transaction is

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expected to close in the second half of 2026, subject to approval by Helix shareholders, the receipt of applicable regulatory approvals and the satisfaction of other customary closing conditions. Post closing the combined company will operate under the Hornbeck Offshore Services name and trade on the New York Stock Exchange under the ticker symbol “HOS.”

In conjunction with this agreement, the Company postponed plans to launch an initial public offering. As a result, the Company recorded a charge of \$3.4 million in its second quarter of 2026 results for expenses incurred in connection with the terminated equity offering process.

The Company has evaluated all subsequent events through May 8, 2026, which represents the date its financial statements were available to be issued and determined that all materially relevant information known through this date has been appropriately addressed within the consolidated financial statements and notes.

Report of Independent Registered Public Accounting Firm

To the Stockholders and the Board of Directors of Hornbeck Offshore Services, Inc.

Opinion on the Financial Statements

We have audited the accompanying consolidated balance sheets of Hornbeck Offshore Services, Inc. and subsidiaries (the Company) as of December 31, 2025 and 2024, the related consolidated statements of operations, comprehensive income, changes in stockholders' equity and cash flows for each of the three years in the period ended December 31, 2025 and the related notes (collectively referred to as the "consolidated financial statements"). In our opinion, the consolidated financial statements present fairly, in all material respects, the financial position of the Company at December 31, 2025 and 2024, and the results of its operations and its cash flows for each of the three years in the period ended December 31, 2025, in conformity with U.S. generally accepted accounting principles.

Basis for Opinion

These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on the Company's financial statements based on our audits. We are a public accounting firm registered with the Public Company Accounting Oversight Board (United States) (PCAOB) and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audits in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether due to error or fraud. The Company is not required to have, nor were we engaged to perform, an audit of its internal control over financial reporting. As part of our audits, we are required to obtain an understanding of internal control over financial reporting but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control over financial reporting. Accordingly, we express no such opinion.

Our audits included performing procedures to assess the risks of material misstatement of the financial statements, whether due to error or fraud, and performing procedures that respond to those risks. Such procedures included examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements. Our audits also included evaluating the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the financial statements. We believe that our audits provide a reasonable basis for our opinion.

Critical Audit Matter

The critical audit matter communicated below is a matter arising from the current period audit of the financial statements that was communicated or required to be communicated to the audit committee and that: (1) relates to accounts or disclosures that are material to the financial statements and (2) involved our especially challenging, subjective or complex judgments. The communication of the critical audit matter does not alter in any way our opinion on the consolidated financial statements, taken as a whole, and we are not, by communicating the critical audit matter below, providing a separate opinion on the critical audit matter or on the account or disclosure to which it relates.

*Accounting for Income Taxes**Description of the Matter*

As discussed in Note 14 to the consolidated financial statements, the Company recorded a total tax benefit of \$11.0 million including current foreign tax expense of \$10.9 million and a deferred tax benefit of \$22.1 million primarily associated with a partial release of the valuation allowance on its U.S. deferred tax assets for the year ended December 31, 2025. The Company also recorded deferred tax assets of \$278.2 million reduced by a valuation allowance of \$195.3 million as of December 31, 2025. In addition, the Company recorded a liability of \$2.7 million for potential losses from additional taxes, interest and penalties resulting from tax audits in Mexico. Management recognizes tax positions if they are more likely than not to be sustained upon examination, measured as the largest amount of benefit more likely than not to be realized. Management is also required to assess whether the realization of its deferred tax assets is more likely than not and to record a valuation allowance based on this assessment. The Company uses significant judgment in the interpretation and application of complex international tax laws related to uncertain tax positions, and when evaluating the realizability deferred tax assets.

Auditing the calculation of foreign tax expense, including consideration of assessments by tax authorities, and management's assessment of the realizability of the Company's deferred tax assets involves complex auditor judgement. Management's conclusions are based on interpretations of foreign tax laws, evaluation of communications with tax authorities and formulation of assumptions used in the Company's forecast of domestic income. Regulatory changes and judicial and examination activity may impact foreign tax conclusions including foreign tax expense and fluctuations in actual results from those forecasted can have a material impact on the measurement of deferred tax assets.

How We Addressed the Matter in Our Audit

To test the foreign tax expense, including potential losses from Mexican tax assessments and related uncertain tax positions, and the valuation of U.S. deferred tax assets, we performed audit procedures that included, among others, testing the calculation of foreign taxable income, reading the Company's communications with tax authorities, evaluating the basis and technical merits of the Company's interpretation of foreign tax laws, and testing the significant assumptions used by management in its forecast of U.S. income. We compared the significant assumptions used in the Company's forecast to its business plans as well as current industry and economic trends. We involved our tax professionals to ensure appropriate application and interpretation of foreign tax laws to the calculation of foreign tax expense and evaluating communications with tax authorities. In addition, we evaluated the Company's disclosure in relation to these matters included in Note 14 to the financial statements

/s/ Ernst & Young LLP

We have served as the Company's auditors since 2002.

March 24, 2026

HORNBECK OFFSHORE SERVICES, INC. AND SUBSIDIARIES
CONSOLIDATED BALANCE SHEETS
(in thousands, except per share data)

	December 31, 2025	December 31, 2024
ASSETS		
Current assets:		
Cash and cash equivalents	\$ 54,167	\$ 80,803
Accounts receivable, net of allowance for credit losses of \$7,511 and \$7,929, respectively	164,695	145,527
Prepaid expenses	4,941	4,490
Taxes receivable	19,026	13,755
Other current assets	14,180	12,376
Total current assets	257,009	256,951
Property, plant and equipment, net	754,135	674,729
Restricted cash	—	765
Deferred charges, net	97,234	72,075
Deferred tax assets, net	16,034	—
Operating lease right-of-use assets	17,802	20,748
Finance lease right-of-use assets	10,516	1,142
Other assets	57	57
Total assets	<u>\$1,152,787</u>	<u>\$1,026,467</u>
LIABILITIES AND STOCKHOLDERS' EQUITY		
Current liabilities:		
Accounts payable	\$ 58,251	\$ 71,092
Accrued interest	3,571	578
Accrued payroll and benefits	24,429	22,267
Current maturities of long-term debt, net of original issue discount of \$1,021 and \$0, and deferred financing costs of \$334 and \$0, respectively	30,259	—
Operating lease liabilities	3,532	5,037
Finance lease liabilities	4,809	457
Accrued taxes payable	9,363	9,914
Deferred revenue	3,918	6,694
Other current liabilities	4,137	1,962
Total current liabilities	142,269	118,001
Long-term debt, net of original issue discount of \$4,742 and \$6,750, and deferred financing costs of \$1,618 and \$2,019, respectively	410,352	441,231
Deferred tax liabilities, net	—	6,049
Operating lease liabilities	17,245	18,861
Financing lease liabilities	6,195	589
Other long-term liabilities	8,364	7,594
Total long-term liabilities	442,156	474,324
Total liabilities	584,425	592,325
STOCKHOLDERS' EQUITY:		
Common stock: \$0.00001 par value; 50,000 shares authorized; 5,232 and 5,367 shares issued and outstanding, respectively	—	—
Additional paid-in capital	259,166	264,869
Retained earnings	311,337	176,761
Accumulated other comprehensive loss	(2,141)	(7,488)
Total stockholders' equity	568,362	434,142
Liabilities and stockholders' equity	<u>\$1,152,787</u>	<u>\$1,026,467</u>

HORNBECK OFFSHORE SERVICES, INC. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF OPERATIONS
(in thousands, except per share data)

	Year ended December 31,		
	2025	2024	2023
Revenues:			
Vessel revenues	\$669,004	\$592,246	\$528,780
Non-vessel revenues	50,826	48,605	44,669
	719,830	640,851	573,449
Costs and expenses:			
Operating expense	376,291	364,584	305,463
Depreciation expense	41,554	37,812	26,355
Amortization expense	43,815	26,734	21,496
General and administrative expense	74,461	71,110	66,108
Stock-based compensation expense	7,723	9,384	19,097
	543,844	509,624	438,519
Gain on sale of assets	13,222	42	2,702
Operating income	189,208	131,269	137,632
Interest expense	32,559	26,382	39,802
Interest income	6,518	5,763	9,755
Net interest expense	26,041	20,619	30,047
	163,167	110,650	107,585
Other income (expense):			
Loss on early extinguishment of debt	(67)	—	(1,236)
Postponed offering costs	—	(9,136)	(3,693)
Foreign currency loss	(692)	(1,434)	(1,559)
Fair value adjustment of liability-classified warrants	—	5,412	(10,917)
Other income (loss)	—	(8)	853
	(759)	(5,166)	(16,552)
Income before income taxes	162,408	105,484	91,033
Income tax expense (benefit)	(10,982)	12,682	16,495
Net income	\$173,390	\$ 92,802	\$ 74,538
Basic earnings per common share	\$ 10.86	\$ 5.43	\$ 4.38
Diluted earnings per common share	\$ 9.60	\$ 4.83	\$ 3.89

HORNBECK OFFSHORE SERVICES, INC. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME
(in thousands)

	Year ended December 31,		
	2025	2024	2023
Net income	\$173,390	\$92,802	\$74,538
Other comprehensive income:			
Foreign currency translation income (loss), net of tax	5,347	(9,577)	2,153
Total comprehensive income	<u>\$178,737</u>	<u>\$83,225</u>	<u>\$76,691</u>

HORNBECK OFFSHORE SERVICES, INC. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF CHANGES IN STOCKHOLDERS' EQUITY
(in thousands)

	Common Shares	Warrants	Common Stock	Additional Paid-In Capital	Retained Earnings (Deficit)	Accumulated Other Comprehensive Income (Loss)	Total Stockholders Equity
Balance at January 1, 2023	5,386	11,377	\$—	\$197,006	\$ 73,890	\$ (64)	\$270,832
Issuance of common stock and warrants	168	—	—	—	—	—	—
Stock-based compensation expense	—	—	—	18,828	—	—	18,828
Shares withheld for employee withholding taxes	—	—	—	(5,058)	—	—	(5,058)
Net income	—	—	—	—	74,538	—	74,538
Foreign currency translation income, net	—	—	—	—	—	2,153	2,153
Balance at December 31, 2023	<u>5,554</u>	<u>11,377</u>	<u>\$—</u>	<u>\$210,776</u>	<u>\$148,428</u>	<u>\$ 2,089</u>	<u>\$361,293</u>
Issuance of common stock and warrants	88	—	—	—	—	—	—
Stock-based compensation expense	—	—	—	8,588	—	—	8,588
Shares withheld for employee withholding taxes	—	—	—	(3,716)	—	—	(3,716)
Creditor Warrants reclassified to equity	—	1,592	—	70,063	—	—	70,063
Common Stock, Jones Act Warrants, and Creditor Warrants repurchased	(275)	(945)	—	(13,929)	(64,469)	—	(78,398)
MIP awards repurchased	—	—	—	(6,913)	—	—	(6,913)
Net income	—	—	—	—	92,802	—	92,802
Foreign currency translation loss, net	—	—	—	—	—	(9,577)	(9,577)
Balance at December 31, 2024	<u>5,367</u>	<u>12,024</u>	<u>\$—</u>	<u>\$264,869</u>	<u>\$176,761</u>	<u>\$(7,488)</u>	<u>\$434,142</u>
Issuance of common stock and warrants	52	—	—	—	—	—	—
Stock-based compensation expense	—	—	—	7,028	—	—	7,028
Shares withheld for employee withholding taxes	—	—	—	(1,397)	—	—	(1,397)
Common Stock, Jones Act Warrants, and Creditor Warrants repurchased	(187)	(440)	—	(7,586)	(38,814)	—	(46,400)
MIP awards repurchased	—	—	—	(3,748)	—	—	(3,748)
Net income	—	—	—	—	173,390	—	173,390
Foreign currency translation income, net	—	—	—	—	—	5,347	5,347
Balance at December 31, 2025	<u>5,232</u>	<u>11,584</u>	<u>\$—</u>	<u>\$259,166</u>	<u>\$311,337</u>	<u>\$(2,141)</u>	<u>\$568,362</u>

HORNBECK OFFSHORE SERVICES, INC. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF CASH FLOWS
(in thousands)

	Year ended December 31,		
	2025	2024	2023
CASH FLOWS FROM OPERATING ACTIVITIES:			
Net income	\$ 173,390	\$ 92,802	\$ 74,538
Adjustments to reconcile net income to net cash provided by operating activities:			
Depreciation expense	41,554	37,812	26,355
Amortization expense	43,815	26,734	21,496
Stock-based compensation expense	7,723	9,384	19,097
Loss on early extinguishment of debt	67	—	1,236
Provision for (recovery of) credit losses	(418)	1,622	551
Deferred tax expense (benefit)	(6,049)	4,607	1,340
Amortization of deferred financing costs and original issue discount	1,889	213	383
Amortization of deferred contract-specific costs of sales	2,774	700	1,028
Accumulated (refinanced) paid-in-kind-interest	—	(74,375)	7,763
Mark-to-market adjustment of creditor warrants	—	(5,412)	10,917
Gain on sale of assets	(13,222)	(42)	(2,702)
Changes in operating assets and liabilities:			
Accounts receivable	(16,203)	(25,706)	(8,553)
Deferred drydocking charges	(63,921)	(59,491)	(29,828)
Other current and long-term assets	(24,439)	(1,198)	(3,550)
Accounts payable	(7,085)	11,151	15,385
Accrued interest	2,993	338	(160)
Accrued liabilities and other liabilities	(793)	(2,662)	10,819
Net cash provided by operating activities	142,075	16,477	146,115
CASH FLOWS FROM INVESTING ACTIVITIES:			
Maintenance capital improvements	(23,123)	(16,171)	(7,745)
Growth capital expenditures	(45,413)	(55,536)	(128,547)
Commercial capital expenditures	(51,232)	(47,619)	(33,864)
Non-vessel capital expenditures	(8,364)	(753)	(1,087)
Net proceeds from sale of assets	13,434	59	2,898
Net cash used in investing activities	(114,698)	(120,020)	(168,345)
CASH FLOWS FROM FINANCING ACTIVITIES:			
Repayment of first-lien replacement term loans due 2024	—	—	(70,605)
Partial repayment of second-lien term loans due 2033	(1,674)	—	—
Deferred financing costs	(273)	(4,901)	—
Cash paid in lieu of shares	—	(70)	(54)
Cash paid for withholding taxes on net share settlements	(1,397)	(3,716)	(5,058)
Principal payments under finance lease obligations	(1,844)	(396)	(287)
Redemption premium on second-lien term loans due 2026	—	(5,117)	—
Cash settlement of equity awards	(4,199)	(7,754)	—
Repurchase of common stock	(46,400)	(78,398)	—
Repayment of second-lien term loans due 2026	—	(274,626)	—
Net proceeds from second-lien term loans due 2033	—	443,250	—
Other cash flows from financing activities	(178)	—	(34)
Net cash provided by (used in) financing activities	(55,965)	68,272	(76,038)
Effects of foreign currency exchange rate changes on cash	1,187	(3,981)	1,437
Net decrease in cash and cash equivalents	(27,401)	(39,252)	(96,831)
Cash, cash equivalents and restricted cash at beginning of period	81,568	120,820	217,651
Cash, cash equivalents and restricted cash at end of period	\$ 54,167	\$ 81,568	\$ 120,820
SUPPLEMENTAL DISCLOSURES OF CASH FLOW ACTIVITIES:			
Cash paid for interest	\$ 39,865	\$ 29,404	\$ 32,970
Refinanced paid-in-kind interest	\$ —	\$ 74,375	\$ —
Cash paid for income taxes, net of refunds	\$ 15,916	\$ 20,810	\$ 9,311

HORNBECK OFFSHORE SERVICES, INC. AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

1. Organization***Nature of Operations and Basis of Presentation***

Hornbeck Offshore Services, Inc., or the Company, was incorporated in the state of Delaware in 1997. The Company, through its subsidiaries, operates offshore supply vessels, or OSVs, multi-purpose support vessels, or MPSVs, and a shore-base facility to provide marine transportation, logistics support and specialty services to customers in the offshore oil and gas exploration industry, primarily in the U.S. Gulf of America, or the GoA, Latin America and select international markets, as well as diversified non-oilfield markets, including military support services, renewable energy development and other non-oilfield service offerings in various markets. The consolidated financial statements include the accounts of Hornbeck Offshore Services, Inc. and its subsidiaries. All significant intercompany accounts and transactions have been eliminated. Certain reclassifications have been made to prior-year results to conform to current-year presentation.

2. Summary of Significant Accounting Policies***Revenue Recognition***

The services that are provided by the Company represent a single performance obligation under its contracts that are satisfied at a point in time or over time. Revenues are earned primarily by (i) chartering the Company's vessels, including the operation of such vessels, (ii) providing vessel management services to third-party vessel owners, and (iii) providing shore-based port facility services, including rental of land. Revenues associated with performance obligations satisfied over time are recognized on a daily basis throughout the contract period.

Cash and Cash Equivalents

Cash and cash equivalents consist of all highly liquid investments in money market funds, deposits and investments available for current use with an initial maturity of three months or less.

Restricted Cash

The Company considers cash as restricted when there are contractual agreements that govern the use or withdrawal of the funds.

Accounts Receivable

Accounts receivable consists of trade receivables, net of reserves, plus amounts to be rebilled to customers.

Property, Plant and Equipment

Property, plant and equipment is recorded at cost. However, upon adoption of fresh-start accounting effective September 4, 2020, the Company's property, plant and equipment recorded as of that date was adjusted to its estimated fair market value in accordance with ASC 852, *Reorganizations*. Depreciation and amortization of equipment and leasehold improvements are computed using the straight-line method based on the estimated useful lives and estimated salvage values of the related assets. Major modifications and improvements that extend the useful life or functional operating capability of a vessel are capitalized and depreciated over the remaining useful life of the vessel. Estimated useful lives and salvage values are reassessed when there are relevant indications that the original estimates may no longer be appropriate. Gains and losses from retirements or other dispositions are recognized as incurred.

The estimated useful lives by classification are as follows:

Offshore supply vessels	25 years
Multi-purpose support vessels	25 years
Non-vessel property, plant and equipment	3-15 years

Deferred Charges

The Company's vessels are required by regulation to be recertified after certain periods of time. The Company defers the drydocking costs incurred due to regulatory marine inspections and amortizes the costs on a straight-line basis over the period to be benefited from such expenditures (typically between 24 and 36 months).

HORNBECK OFFSHORE SERVICES, INC. AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

Mobilization Costs

The Company occasionally incurs mobilization costs to prepare its vessels and/or transit them to and from certain regions in order to obtain and fulfill vessel charter contracts. These contract-specific costs are typically expensed as incurred, but may in certain circumstances be deferred and amortized over the contract term dependent upon criteria set forth in ASC 606, *Revenue from Contracts with Customers*, and ASC 340, *Other Assets and Deferred Costs*.

Stock-Based Compensation

Stock-based compensation awards are accounted for in accordance with ASC 718, *Compensation – Stock Compensation*, which requires all share-based payments to the Company's employees and directors to be recognized in the consolidated financial statements based on their fair values on the grant date. The fair value of the underlying common stock is based upon a valuation of the Company's equity developed with the assistance of third-party valuation experts using a combination of income and market approaches as of the appropriate measurement date. The Company recognizes compensation expense on a straight-line basis over the expected vesting period of stock-based awards that are ultimately expected to vest based on their estimated fair value on the grant date. Forfeitures are recognized during the period in which they actually occur.

Income Taxes

Deferred tax assets and liabilities are recognized for the future tax consequences attributable to differences between the financial statement carrying amounts of existing assets and liabilities and their respective tax bases. Deferred tax assets and liabilities are measured using currently enacted tax rates. The effect on deferred tax assets and liabilities of a statutory change in tax rates is recognized in income in the period that includes the enactment date. The provision for income taxes includes provisions for federal, state and foreign income taxes. Interest and penalties relating to uncertain tax positions are recorded as interest expense and general and administrative expenses, respectively. In addition, the Company provides a valuation allowance for deferred tax assets if it is more likely than not that such items will either expire before the Company is able to realize the benefit or the future deductibility is uncertain.

The Company has made an accounting policy election to account for global intangible low-taxed income, or GILTI, in the year the tax is incurred.

Use of Estimates

The preparation of financial statements in conformity with United States generally accepted accounting principles requires management to make estimates and assumptions that affect the amounts reported in the consolidated financial statements and accompanying notes. Actual results could differ from those estimates.

Legal Liabilities

In the ordinary course of business, the Company may become party to lawsuits, administrative proceedings, or governmental investigations. These matters may involve large or unspecified damages or penalties that may be sought from the Company and may require years to resolve. The Company records a liability related to a loss contingency for such legal matters in accrued liabilities if the Company determines the loss to be both probable and estimable. The liability is recorded for an amount that is management's best estimate of the loss, or when a best estimate cannot be made, the minimum loss amount of a range of possible outcomes. Significant judgment is required in estimating such liabilities, the results of which can vary significantly from the actual outcomes of lawsuits, administrative proceedings or governmental investigations.

Foreign Currency Transaction Gains and Losses

Foreign currency transaction gains and losses are recorded in the period incurred except for advances to and investments in foreign subsidiaries. Foreign currency gains and losses related to advances to or investments in foreign operations are accounted for as a foreign currency translation adjustment and recorded as other comprehensive income (loss). The balances in accumulated other comprehensive loss as of December 31, 2025 and 2024 relate primarily to the Company's long-term investments in its foreign subsidiaries.

HORNBECK OFFSHORE SERVICES, INC. AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

Warrants

Common stock warrants are accounted for as either equity instruments or, in the case of 2023 and 2024, liabilities for certain warrants depending on the specific terms of the applicable warrant agreement. Warrants that were classified as liabilities were recorded at their estimated fair value on a recurring basis at each applicable balance sheet date. Changes in the estimated fair value of such warrants were recognized as a non-cash gain or loss on the applicable consolidated statements of operations. All outstanding warrants are reassessed each reporting period to determine whether their classification continues to be appropriate.

Fair Value of Financial Instruments

The Company evaluates its financial assets and liabilities subject to fair value measurements on a recurring basis to determine the appropriate level in which to classify them for each reporting period pursuant to ASC 820, *Fair Value Measurements*. Each applicable asset and liability carried at fair value is required to be classified into one of the following categories:

- Level 1: Quoted market prices in active markets for identical assets or liabilities
- Level 2: Observable market-based inputs or observable inputs that are corroborated by market data
- Level 3: Unobservable inputs that are not corroborated by market data

Fair value is calculated based on assumptions that market participants would use in pricing assets and liabilities. Significant judgments are required in the determination of these assumptions.

Leases

The Company determines if an agreement is a lease or contains a lease at inception. The lease term for accounting purposes may include options to extend or terminate the lease when it is reasonably certain that the Company will exercise the option. Right-of-use assets and the corresponding lease liabilities are recorded at the commencement date based on the present value of lease payments over the expected lease term. For all leases except vehicle finance leases, the Company uses its incremental borrowing rate, which would be the rate incurred to borrow on a collateralized basis over a similar term in a similar economic environment, to calculate the present value of lease payments. The Company uses the rate implicit in the lease for vehicle finance leases.

The Company is obligated under certain operating leases for shore-based facilities, office space, temporary housing, equipment and vehicles. The Company is obligated under finance leases for vehicles and equipment. Such leases will often include options to extend the lease and the Company will include option periods that, on commencement date, it is reasonably likely that it will exercise. Some leases may require variable lease payments such as real estate taxes and maintenance expenses. These costs are expensed in the period in which they are incurred. The Company's vehicle finance leases contain residual value guarantees, which may require additional payments at the end of the lease term if the net book value of the vehicle is less than the greater of the wholesale value of such vehicle or 20% of the delivered price of the vehicle.

For leases with a term of 12 months or less, the Company has made a policy election in which the right-of-use asset and lease liability will not be recognized on its balance sheet.

Reportable Segments

The Company has one reportable segment, which encompasses all aspects of its marine transportation services business. As the chief operating decision maker, our Chief Executive Officer evaluates the Company's operating results on a consolidated basis to assess performance and allocate resources. While the Company's vessels operate in various geographic regions and customer markets, they are centrally managed, share multiple forms of common costs, provide similar or complementary marine transportation services, are manned by crews that may move from location to location or market to market as needed, and are marketed on a portfolio basis with the goal of maximizing net income, Adjusted EBITDA and Adjusted Free Cash Flow and generating the highest possible rate of return on invested capital without a permanent commitment of particular assets to any specific geographic region or customer market.

HORNBECK OFFSHORE SERVICES, INC. AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

3. Recent Accounting Pronouncements

The following table provides a brief description of recent accounting pronouncements that could have a material effect on the Company's consolidated financial statements:

Standard	Description	Date of Adoption	Effect on the financial statements and other significant matters
<i>Standards that have been adopted:</i>			
<i>ASU No. 2023-07, Segment Reporting (Topic 280): Improvements to Reportable Segment Disclosures</i>	The amendments in this update improve reportable segment disclosure requirements, primarily related to significant segment expenses. In addition, the amendments enhance interim disclosures, clarify circumstances in which an entity can disclose multiple segment measures of profit or loss, provide new disclosure requirements for entities with a single reportable segment, and contain other related disclosure requirements. Retrospective application is required. Early adoption is permitted.	Effective for fiscal years beginning after December 15, 2023, and interim periods within fiscal years beginning after December 15, 2024.	The Company adopted the annual reporting requirements under ASU No. 2023-07 on January 1, 2024 and the interim disclosure requirements on January 1, 2025. This adoption had no material impact on its consolidated financial statements.
<i>ASU No. 2023-05, Business Combinations - Joint Venture Formations (Subtopic 805-60): Recognition and Initial Measurement</i>	This standard requires a joint venture to initially measure all contributions received upon its formation at fair value. ASU No. 2023-05 requires prospective application for all newly-formed joint venture entities with a formation date on or after January 1, 2025. Joint ventures formed prior to the adoption date may elect to apply the guidance retrospectively back to their original formation date. Early adoption is permitted.	January 1, 2025	The Company adopted ASU No. 2023-05 on January 1, 2025 and elected to apply the standard prospectively. The adoption had no material impact on its consolidated financial statements.
<i>ASU No. 2025-05, Financial Instruments - Credit Losses (Topic 326): Measurement of Credit Losses for Accounts Receivable and Contract Assets</i>	This standard amends ASU 326, Financial Instruments - Credit Losses, to provide a practical expedient that allows entities to assume the current conditions as of the balance sheet date remain unchanged for the remaining life of the asset in the development of a reasonable and supportable forecast for current accounts receivable and current contract assets arising from transactions	Effective for fiscal years beginning after December 15, 2025, and interim periods within those fiscal years.	The Company adopted the practical expedient of ASU No. 2025-05 on September 1, 2025. The adoption had no material impact on its consolidated financial statements.

HORNBECK OFFSHORE SERVICES, INC. AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

Standard	Description	Date of Adoption	Effect on the financial statements and other significant matters
	accounted for under ASC 606. ASU No. 2025-05 must be applied prospectively. Early adoption is permitted.		
<i>ASU No. 2023-09, Income Taxes (Topic 740): Improvements to Income Tax Disclosures</i>	This standard requires disaggregated information about a reporting entity's effective tax rate reconciliation, as well as information on income taxes paid. ASU No. 2023-09 requires prospective application with the option to apply the standard retrospectively. Early adoption is permitted.	January 1, 2025	The Company adopted ASU No. 2023-09 on January 1, 2025 and elected to apply the standard prospectively. The adoption had no material impact on its consolidated financial statements, and the Company's 2025 year-end financial statements contain additional disclosures to address the requirements of this ASU.
<i>ASU No. 2024-01, Compensation - Stock Compensation (Topic 718): Scope Application of Profits Interest and Similar Awards</i>	This standard clarifies how an entity determines whether a profits interest or similar award is (1) within the scope of ASC 718 or (2) not a share-based payment arrangement and therefore within the scope of other guidance. ASU No. 2024-01 may be applied prospectively or retrospectively. Early adoption is permitted.	January 1, 2025	The Company adopted ASU No. 2024-01 on January 1, 2025 and elected to apply the standard prospectively. The adoption had no material impact on its consolidated financial statements.
<i>Standards that have not been adopted:</i>			
<i>ASU No. 2024-03, Income Statement - Reporting Comprehensive Income - Expense Disaggregation Disclosures (Subtopic 220-40): Disaggregation of Income Statement Expenses</i>	This standard improves the disclosures about an entity's expenses and addresses requests from investors for more detailed information about the types of expenses in commonly presented expense captions. ASU No. 2024-03 may be applied prospectively or retrospectively. Early adoption is permitted.	Effective for fiscal years beginning after December 15, 2026, and interim periods within fiscal years beginning after December 15, 2027	The Company will adopt the annual reporting requirements of ASU No. 2024-03 on January 1, 2027 and the interim disclosure requirements on January 1, 2028 and elect to apply the standard prospectively. The Company does not believe that the implementation of this guidance will have a material impact on its consolidated financial statements.

HORNBECK OFFSHORE SERVICES, INC. AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

Standard	Description	Date of Adoption	Effect on the financial statements and other significant matters
<i>ASU No. 2025-11, Interim Reporting (Topic 270): Narrow-Scope Improvements</i>	This standard improves the navigability of the required interim disclosures and clarifies when ASC 270 is applicable and what disclosures need to be provided in interim reporting. ASU No. 2025-11 may be applied prospectively or retrospectively. Early adoption is permitted.	Effective for interim reporting periods within annual reporting periods beginning after December 15, 2027.	The Company will adopt the interim reporting requirements of ASU No. 2025-11 on January 1, 2028 and elect to apply the standard prospectively. The Company does not believe that the implementation of this guidance will have a material impact on its consolidated financial statements.
<i>ASU No. 2025-12, Codification Improvements</i>	This standard contains targeted improvements to the Codification covering a broad range of topics. The amendments in this update represent changes to the Codification that clarify, correct errors or make minor improvements. The amendments make the Codification easier to understand and apply. ASU No. 2025-12 may be applied prospectively or retrospectively. Early adoption is permitted.	Effective for annual reporting periods beginning after December 15, 2026, and interim reporting periods within those annual reporting periods.	The Company will adopt the reporting requirements of ASU No. 2025-12 on January 1, 2027 and elect to apply the standard prospectively. The Company does not believe that the implementation of this guidance will have a material impact on its consolidated financial statements.

4. Allowance for Credit Losses

The Company's customers are primarily major and independent, domestic and international, oil and oilfield service companies, as well as national oil companies, the U.S. military and offshore wind companies. The Company's customers are granted credit on a short-term basis and related credit risks are considered minimal. The Company usually does not require collateral but does occasionally require letters of credit or payment-in-advance if undue credit risk is determined to exist with a particular contract or customer. The Company provides an estimate for credit losses based primarily on management's judgment using the relative age of customer balances, historical losses, current economic conditions and individual evaluations of each customer to record an allowance for credit losses. Direct write-offs of receivables only occur when amounts are deemed uncollectible and all options for collection have been exhausted.

Activity in the allowance for credit losses was as follows (in thousands):

	December 31,		
	2025	2024	2023
Balance at January 1	\$7,929	\$6,307	\$5,786
Current period provision for (recovery of) credit losses	(418)	1,622	551
Write-offs	—	—	(30)
Balance at December 31	<u>\$7,511</u>	<u>\$7,929</u>	<u>\$6,307</u>

5. Revenues from Contracts with Customers

The services that are provided by the Company represent a single performance obligation under its contracts that are satisfied at a point in time or over time. Revenues are earned primarily by (i) chartering the Company's vessels,

HORNBECK OFFSHORE SERVICES, INC. AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

including the operation of such vessels, (ii) providing vessel management services to third-party vessel owners, and (iii) providing shore-based port facility services, including rental of land. The services generating these revenue streams are provided to customers based on contracts that include fixed or determinable prices and do not generally include right of return or other significant post-delivery obligations. The Company's vessel revenues, vessel management revenues and port facility revenues are recognized either at a point in time or over the passage of time when the customer has received or is receiving the benefit from the applicable service. Revenues are recognized when the performance obligations are satisfied in accordance with contractual terms and in an amount that reflects the consideration that the Company expects to be entitled to in exchange for the services rendered or rentals provided. Revenues are recognized net of any taxes collected from customers, which are subsequently remitted to governmental authorities. Invoices are typically billed to customers on a monthly basis, and payment terms on customer invoices typically range 30 to 60 days.

A performance obligation under contracts with the Company's customers to render services is the unit of account under ASC 606, *Revenue from Contracts with Customers*. The Company accounts for services rendered separately if they are distinct and the service is separately identifiable from other items provided to a customer and if a customer can benefit from the services rendered provided on its own or with other resources that are readily available to the customer. A contract's transaction price is allocated to each distinct performance obligation and recognized as revenue when, or as, the performance obligation is satisfied.

As of December 31, 2025, the Company had certain remaining performance obligations representing contracted vessel revenue for which work had not been performed and such contracts had an original expected duration of more than one year. As of December 31, 2025, the aggregate amount of the transaction price allocated to remaining performance obligations for such contracts totaled \$229.2 million, of which \$102.1 million is expected to be fully recognized in 2026, \$62.8 million in 2027, and \$64.3 million in years beyond 2027. These amounts are a result of multi-year vessel charters that commenced in 2024 and 2025.

As of December 31, 2025, the Company had \$3.9 million of deferred revenue included in current liabilities related to unsatisfied performance obligations that will be recognized during 2026.

Disaggregation of Revenues

The Company recognized revenues as follows (in thousands):

	Year Ended December 31,		
	2025	2024	2023
Vessel revenues	\$669,004	\$592,246	\$528,780
Vessel management revenues	48,102	45,894	43,128
Shore-based facility revenues	2,724	2,711	1,541
	<u>\$719,830</u>	<u>\$640,851</u>	<u>\$573,449</u>

Revenues by geographic region ⁽¹⁾ were as follows (in thousands, except for % of Total):

	Year Ended December 31,					
	2025	% of Total	2024	% of Total	2023	% of Total
United States	\$510,942	71.0%	\$478,052	74.6%	\$432,621	75.4%
International ⁽²⁾	208,888	29.0%	162,799	25.4%	140,828	24.6%
	<u>\$719,830</u>	<u>100.0%</u>	<u>\$640,851</u>	<u>100.0%</u>	<u>\$573,449</u>	<u>100.0%</u>

(1) The Company attributes revenues to individual geographic regions based on the location where services are performed.

(2) International revenues of December 31, 2025, 2024 and 2023, respectively. International revenues of \$34.7 million, \$27.5 million and \$111.8 million, \$88.4 million and \$2.9 million were attributed to services performed in Colombia for the years ended December 31, 2025, 2024 and 2023, respectively. International revenues of \$33.0 million, \$32.3 million and \$62.1 million were attributed to services performed in Mexico for the years ended December 31, 2025, 2024 and 2023, respectively. Revenues attributed to other countries were not individually material for the periods presented.

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Major Customers

Revenues from the following customers represented 10% or more of consolidated revenues:

	Year Ended December 31,		
	2025	2024	2023
Customer A	16%	16%	16%
Customer B	15%	15%	n/a ⁽¹⁾
Customer C	n/a ⁽¹⁾	13%	20%

(1) Customer represented less than 10% of consolidated revenues in such period.

6. Earnings Per Share

Basic earnings per common share was calculated by dividing net income by the weighted-average number of common shares and Jones Act Warrants outstanding during the period. Diluted earnings per common share was calculated by dividing net income by the weighted-average number of common shares and Jones Act Warrants outstanding during the period plus the effect of dilutive Creditor Warrants, dilutive stock options and restricted stock unit awards. Weighted-average number of common shares outstanding was calculated by using the sum of the shares and Jones Act Warrants determined on a daily basis divided by the number of days in the period.

The table below reconciles the Company's earnings per share (in thousands, except for per share data):

	Year Ended December 31,		
	2025	2024	2023
Net income	\$173,390	\$92,802	\$74,538
Weighted-average number of shares of common stock outstanding ⁽¹⁾⁽²⁾	15,959	17,093	17,004
Add: Net effect of dilutive stock options, restricted stock units, and Creditor Warrants ⁽³⁾⁽⁴⁾⁽⁵⁾	2,096	2,104	2,153
Weighted-average number of dilutive shares of common stock outstanding	18,055	19,197	19,157
Earnings per common share:			
Basic earnings per common share	\$ 10.86	\$ 5.43	\$ 4.38
Diluted earnings per common share	\$ 9.60	\$ 4.83	\$ 3.89

- (1) The Company included 10,462, 11,375 and 11,377 Jones Act Warrants in the weighted-average number of shares of common stock outstanding for the years ended December 31, 2025, 2024 and 2023, respectively, which represents the weighted-average number of Jones Act Warrants existing at each period-end. See Note 12 to these consolidated financial statements for further information regarding the Jones Act Warrants.
- (2) Includes 105 fully vested, equity-settled restricted stock units that will be settled on the earlier of the occurrence of a contractually-designated event and the passage of a certain period of time for the years ended December 31, 2025, 2024 and 2023, respectively.
- (3) Includes 117, 132 and 196 unvested restricted stock units and 619, 620 and 611 contingently-exercisable, vested restricted stock units in the weighted average calculation for the years ended December 31, 2025, 2024 and 2023, respectively.
- (4) Includes 454, 459 and 476 dilutive unvested stock options granted under the MIP in the weighted-average calculation for the years ended December 31, 2025, 2024 and 2023, respectively. Dilutive unvested stock options issued by the Company are expected to fluctuate from quarter to quarter depending on the Company's performance compared to a predetermined set of performance criteria. See Note 13 to these consolidated financial statements for further information regarding the Company's stock options granted under the MIP.
- (5) Includes 906, 893 and 870 of in-the-money Creditor Warrants in the weighted-average calculation for the years ended December 31, 2025, 2024 and 2023, respectively.

7. Defined Contribution Plan

The Company offers a 401(k) plan to all full-time employees. Employees must be at least eighteen years of age to participate and become eligible the first of the month following their date of hire. Participants may elect to defer up to 60% of their base compensation and up to 100% of incentive compensation, subject to certain statutorily established limits. The Company may elect to make annual matching and profit sharing contributions to the 401(k) plan. During the years ended December 31, 2025, 2024 and 2023, the Company made contributions to the 401(k) plan of approximately \$5.4 million, \$7.1 million and \$5.6 million, respectively.

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8. Deferred Charges

The amounts reported for deferred charges on the consolidated balance sheets as of December 31, 2025 and 2024, include costs associated with ongoing drydockings. Included in such capital costs are accruals for vendor costs incurred but not yet invoiced and paid. These accrual amounts totaling \$7.2 million and \$6.3 million as of December 31, 2025 and 2024, respectively, are excluded from cash flows from operating activities on the consolidated statement of cash flows as non-cash items for the periods presented.

In the second quarter of 2023, the Company postponed a planned senior debt offering to refinance all of its then-existing debt. As a result, the Company recorded a non-recurring charge of \$3.7 million for previously deferred expenses incurred in connection with the terminated process as a refinancing did not occur within 90 days of the postponement date. Pursuant to ASC 340, *Other Assets and Deferred Costs*, costs associated with a postponed or terminated offering of debt or equity securities must be expensed if the offering is not completed or expected to be completed within 90 days of the postponement.

Similarly, in the fourth quarter of 2024, the Company postponed its plans to launch an initial public offering, or IPO. As a result, the Company recorded a non-recurring charge of \$9.1 million for previously deferred expenses incurred in connection with the postponed IPO process as a public offering of its equity did not occur within the 90-day period from the effective postponement.

9. Property, Plant and Equipment

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

	December 31,	
	2025	2024
Offshore supply vessels and multi-purpose support vessels	\$ 787,262	\$ 627,237
Non-vessel related property, plant and equipment	16,007	8,288
Less: Accumulated depreciation	(145,267)	(103,564)
	658,002	531,961
Construction in progress ⁽¹⁾	96,133	142,768
	<u>\$ 754,135</u>	<u>\$ 674,729</u>

(1) Includes \$2.6 million and \$10.0 million of accrued accounts payable as of December 31, 2025 and 2024, respectively. These amounts were excluded from the consolidated statement of cash flows as non-cash items for the respective periods.

The table below presents net book value of property, plant and equipment by geographic regions⁽¹⁾ (in thousands, except for % of Total):

	As of December 31,			
	2025	% of Total	2024	% of Total
United States	\$678,216	89.9%	\$598,481	88.7%
International ⁽²⁾	75,919	10.1%	76,248	11.3%
	<u>\$754,135</u>	<u>100.0%</u>	<u>\$674,729</u>	<u>100.0%</u>

(1) Book values are attributed to geographic regions based on the country of domicile of the specific asset-owning subsidiary of the Company, not the physical operating location of the asset as of any of the dates presented.

(2) International property, plant and equipment of \$65.4 million and \$68.7 million were owned by certain Mexican subsidiaries of the Company as of December 31, 2025 and 2024, respectively. Property, plant and equipment attributed to other countries were not individually material as of any of the dates presented.

HOS C/SOV + Flotel MPSV Delivery

In July 2023, the Company announced that it had contracted Eastern Shipbuilding Group, Inc. to convert one of its U.S.-flagged, Jones Act-qualified, HOSMAX 280 class DP-2 OSVs acquired from the U.S. Department of Transportation's Maritime Administration ("MARAD") into a MPSV for dual-service as either a C/SOV or flotel to

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meet the growing demand of the U.S. offshore wind or oilfield markets for large personnel accommodations with “walk-to-work” capability. Following delivery from the shipyard in early November 2025, the converted vessel was placed into active service and commenced a charter to support an offshore wind project off the U.S. East Coast. The total cost of the conversion totaled \$107.6 million, including owner-furnished equipment, outfitting, engineering, overhead costs and capitalized interest.

ECO Acquisitions

On January 10, 2022, the Company entered into definitive vessel purchase agreements with certain affiliates of Edison Chouest Offshore, or collectively ECO, to acquire up to ten high-spec, 280 class DP-2 OSVs for an aggregate price of \$130.0 million. In November 2022, ECO exercised an option to terminate the vessel purchase agreements relating to the last four of such vessels. ECO refunded initial deposits of \$1.5 million in the aggregate and paid an additional amount equal to such deposits as a termination fee. After accounting for such terminations and certain purchase price adjustments, the aggregate purchase price for ECO Acquisitions #1 was \$82.4 million. Pursuant to the purchase agreements, final payment and the transfer of ownership of each of the vessels occurred on the date of delivery and acceptance for such vessel following the completion of reactivation and regulatory drydockings by ECO. The Company took delivery of the six vessels between May 2022 and August 2023.

On December 22, 2022, the Company executed a controlling purchase agreement with Nautical Solutions, L.L.C., or Nautical, an ECO affiliate. Pursuant to the controlling purchase agreement, the Company subsequently entered into separate, individual vessel purchase agreements to acquire six high-spec, 280 class DP-2 OSVs from Nautical for \$17.0 million per vessel. Nautical completed regulatory drydocking and reactivation activities for each vessel prior to closing. The Company took delivery of the six vessels between July 2023 and January 2024. The Company paid an aggregate of \$102.0 million for the original purchase price and \$9.4 million in purchase price adjustments associated with discretionary enhancements, additional outfitting, and post-closing modifications for the six vessels.

The Company determined that substantially all of the fair value of the assets acquired from ECO, and Nautical are concentrated in a group of similar identifiable assets and therefore, has accounted for such transactions as asset acquisitions under ASU 2017-01. The Company did not acquire any contracts, employees, business systems, trade names or trademarks in connection with these acquisitions.

10. Long-Term Debt

As of the dates indicated below, the Company had the following outstanding long-term debt (in thousands):

	December 31,	
	2025	2024
First Lien Revolving Credit Facility due 2029	\$ —	\$ —
Second Lien Term Loans due 2033, net of original issue discount of \$5,763 and \$6,750 and deferred financing costs of \$1,952 and \$2,019, respectively	440,611	441,231
	<u>\$440,611</u>	<u>\$441,231</u>
Less: Current maturities	(30,259)	—
	<u><u>\$410,352</u></u>	<u><u>\$441,231</u></u>

Annual maturities of outstanding debt as of December 31, 2025 are as follows (in thousands):

2026	31,614
2027	37,639
2028	41,222
2029	45,362
2030	49,803
Thereafter	242,686
	<u><u>\$448,326</u></u>

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The table below summarizes the Company's monthly cash interest payments (in thousands):

	Cash Interest Payments ⁽¹⁾	Payment Dates
First Lien Revolving Credit Facility due 2029	\$ —	Variable (determined on date of draw)
Second Lien Term Loans due 2033	3,402	First day of each month

(1) As of December 31, 2025, there were no revolving loan amounts outstanding under the First Lien Revolving Credit Facility. The First Lien Revolving Credit Facility is subject to an unused fee of 1.0% per annum, paid quarterly, as applicable.

The Company incurred \$44.7 million of interest related to debt instruments in 2025 of which \$13.2 million related to certain capital projects was capitalized to the consolidated balance sheet as of December 31, 2025. In 2024 and 2023, the Company incurred \$30.0 million and \$41.0 million of interest related to debt instruments, respectively, of which \$4.5 million and \$1.5 million was recorded to capitalized interest during such years.

First Lien Revolving Credit Facility

On August 13, 2024, the Company entered into a first-lien revolving credit facility pursuant to that certain Credit Agreement with DNB Bank ASA, New York Branch, as administrative agent, Wilmington Trust, National Association, as collateral agent, and the lenders party thereto, or the First Lien Revolving Credit Facility. The current aggregate undrawn commitments for the revolving loans, or the Revolving Loans, under the First Lien Revolving Credit Facility total \$75.0 million. The First Lien Revolving Credit Facility also provides for a customary uncommitted incremental facility in an amount up to \$50.0 million. The Company's ability to borrow under the First Lien Revolving Credit Facility is subject to customary conditions precedent, including no default or event of default, representations and warranties being true and correct in all material respects, and pro forma compliance with the financial covenants therein.

The First Lien Revolving Credit Facility will mature on August 13, 2029. Borrowings under the First Lien Revolving Credit Facility will be comprised of Base Rate Loans or SOFR Rate Loans, at the option of the Company, and accrue interest as follows: (A) for Revolving Loans that are Base Rate Loans, a rate ranging from 1.75% to 2.75% (depending on the total net leverage ratio in effect at such time) per annum, plus the greatest of: (a) the Prime Rate in effect on such day, (b) the Federal Funds Rate in effect on such day plus 0.50%, and (c) the Adjusted Term SOFR rate for a one month interest period on such day after giving effect to a floor of 0.00% per annum, plus 1.00% and (B) for Revolving Loans that are SOFR Rate Loans, a rate ranging from 2.75% to 3.75% (depending on the total net leverage ratio in effect at such time) per annum plus the Term SOFR rate, subject to a 0.00% floor, plus a credit spread adjustment of 0.10% per annum.

The First Lien Revolving Credit Facility has customary affirmative and negative covenants, including restrictions on our ability to incur additional indebtedness, incur liens, make restricted payments, make optional prepayments on junior financings, and make asset sales, in each case, subject to customary exceptions and baskets. The First Lien Revolving Credit Facility is subject to financial covenants that require us to have (i) a maximum revolving credit facility net leverage ratio (measured by Revolving Loans outstanding, net of unrestricted cash and cash equivalents of up to \$25.0 million) of no more than 1.00 to 1.00, (ii) minimum liquidity (measured by unrestricted cash and cash equivalents, together with undrawn Revolving Loan commitments) of \$25.0 million, (iii) a collateral coverage ratio (measured by total first and second lien debt outstanding) of no less than 1.50 to 1.00, and (iv) a revolving credit facility collateral coverage ratio (measured by total Revolving Loan commitments, whether or not drawn) of no less than 3.00 to 1.00, in each case, tested on the facility closing date, and thereafter at the end of each fiscal quarter, beginning with our first full fiscal quarter ending after the facility closing date. However, failure to meet such financial covenants will not result in a default or event of default at any time when no Revolving Loans are outstanding and will instead prohibit us from borrowing any Revolving Loans under the First Lien Revolving Credit Facility until certain conditions precedent to borrowing are satisfied. To the extent the financial covenants under the First Lien Revolving Credit Facility are not met as of the end of any fiscal quarter, we will have the opportunity to cure such financial covenant shortfall by making a mandatory prepayment of the Revolving Loans in an amount such that compliance with such financial covenants would be met on a pro forma basis following such prepayment prior to the occurrence of any default or event of default thereunder.

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The Company incurred \$2.9 million in deferred financing costs paid to third parties related to the First Lien Revolving Credit Facility, which were recorded in deferred charges on the consolidated balance sheet. As of December 31, 2025, there were no amounts outstanding under the First Lien Revolving Credit Facility. On March 4, 2026, the Company drew \$25.0 million of cash borrowings under such facility. The 30-day SOFR interest rate related to these borrowings is 7.01%.

Second Lien Term Loans

Second Lien Term Loans due 2033

On December 27, 2024, the Company entered into a second-lien term loan credit agreement with Stonebriar Commercial Finance, LLC, as administrative agent, and Wilmington Trust, National Association, as collateral trustee, and the lenders party thereto, resulting in \$450.0 million of second-lien term loans with a maturity date of January 1, 2033, or the Second Lien Term Loans due 2033. The Company received proceeds of \$443.3 million, net of a 1.5% origination fee, and utilized such proceeds to (i) repay in full the then-outstanding \$349.0 million, including accumulated paid-in-kind interest, of Second Lien Term Loans due 2026, (ii) pay \$7.0 million of related accrued cash interest, (iii) pay a \$5.1 million associated redemption fee, (iv) pay \$2.0 million in non-lender fees and expenses, and (v) partially fund the repurchase of \$78.4 million of certain equity securities and \$7.1 million of outstanding stock-based compensation awards associated with tender offers to purchase for cash such equity instruments in December 2024.

The Second Lien Term Loans due 2033 are scheduled to be repaid in (i) 12 consecutive equal monthly installments of interest, payable on the first day of each month commencing after January 1, 2025, (ii) followed by 84 consecutive equal monthly payments of principal and interest, payable on the first day of each consecutive month, and (iii) a final balloon payment in the amount of all unpaid principal, accrued and unpaid interest and any other amounts that may become due under the Second Lien Term Loan Credit Agreement on the maturity date of January 1, 2033. Borrowings bear interest at a fixed rate of 9.25% per annum. The Company may fully prepay all amounts due under the Second Lien Term Loan Agreement at any time prior to maturity, subject to the prepayment fee schedule set forth below. The Company is permitted to partially prepay between \$50.0 million and \$100.0 million prior to June 30, 2026 in connection with an initial public offering (directly or indirectly) and may make additional partial prepayments not to exceed \$100.0 million in the aggregate at any time during the term of the Second Lien Term Loans due 2033. In the event of any prepayment (in whole or in part), the Company is subject to a prepayment fee equal to (i) 4.00% of the prepaid principal amount prior to December 27, 2025, (ii) 3.00% of the prepaid principal amount after December 27, 2025 but on or prior to December 27, 2026, (iii) 2.00% of the prepaid principal amount after December 27, 2026 but on or prior to December 27, 2027, and (iv) 1.00% of the prepaid principal amount thereafter.

The Second Lien Term Loans due 2033 are guaranteed by certain of the Company's domestic and foreign subsidiaries and are secured by a second priority security interest in, and lien on, all the Company's U.S.-flagged vessels. The credit agreement contains customary representations and warranties, covenants and events of default, but only one financial maintenance covenant, which is a \$25.0 million minimum cash liquidity requirement. The carrying value of the Company's Second Lien Term Loans due 2033 approximates their fair value.

In May 2025, as a result of the sale of one U.S.-flagged vessel, the Company elected to make a \$1.7 million principal payment, including related fees, on the Second Lien Term Loans due 2033, in lieu of adding a replacement vessel as collateral.

Second Lien Term Loans due 2026

On September 4, 2020, the Company, as borrower, and Hornbeck Offshore Services, LLC, as co-borrower, entered into a second-lien term loan credit agreement with its former first-lien term lenders, and Wilmington Trust, National Association, as administrative agent and collateral agent for the lenders, resulting in \$287.6 million of second-lien term loans with a maturity date of March 31, 2026, or the Second Lien Term Loans due 2026. On December 27, 2024, the Company repaid in full the \$349.0 million outstanding balance, inclusive of accumulated PIK interest, of Second Lien Term Loans due 2026, plus \$7.0 million of related accrued cash interest and a \$5.1 million redemption fee.

11. Liability-Classified Warrants

Upon issuance on September 4, 2020, the Company's outstanding Creditor Warrants were accounted for as liabilities due to certain anti-dilution provisions in the Creditor Warrant Agreement, which indexed the warrants to other

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equity-linked instruments requiring their classification as a liability pursuant to ASC 815, *Derivatives and Hedging*. On December 10, 2024, the Creditor Warrant Agreement was amended to remove such anti-dilution provisions. As a result, the Creditor Warrants are effectively indexed to the Company's common stock and are thus accounted for as stockholders' equity since the effective date of the amendment. Accordingly, the Company reclassified the then-current fair value of the Creditor Warrants, or \$70.1 million, from long-term liabilities to additional paid-in-capital on December 10, 2024.

The Creditor Warrants, when they were previously classified as liabilities, were recorded at their estimated fair value on a recurring basis at each balance sheet date. To estimate the fair value of the Creditor Warrants, the Company, assisted by third-party valuation advisors, used a Black-Scholes model that utilized the following input assumptions at the applicable valuation date: (i) the current estimated fair value of the underlying common stock based on a controlling interest equity valuation, (ii) the exercise price, (iii) the contractual expiry term, (iv) an estimated equity volatility based on the historical asset and equity volatilities of comparable publicly traded companies, (v) a term-matched risk-free rate based on the U.S. Treasury separate trading of registered interest and principal securities (STRIPS) yield, and (vi) an expected dividend yield. The Company's third-party valuation advisors estimated the fair value of the underlying common stock using the income approach and the market approach with each equally weighted. The income approach involves the use of various judgmental assumptions including the use of prospective financial information, the weighted average cost of capital and an exit multiple. The fair value of the Creditor Warrants fell within Level 3 of the fair value hierarchy, as there was no active trading market and certain inputs of the Black-Scholes model are not observable or corroborated by available market data. Based on the lack of trading history of our privately-held equity, the Company considered the estimated fair value of its common stock to be the most critical assumption in the determination of the fair value of the Creditor Warrants.

The inputs to the Black-Scholes model utilized for the valuation of the Creditor Warrants at December 10, 2024 were as follows:

	December 10, 2024
Fair value per share of the underlying common stock	\$66.45
Warrant exercise price	\$27.83
Remaining contractual term (years)	2.73
Expected volatility	55%
Risk-free rate	4.04%
Expected dividend yield	0%

Based on an independent external valuation performed as of December 10, 2024, the estimated fair value of the Creditor Warrants was determined to be \$70.1 million, or \$44.01 per warrant, representing an increase in value since their original issuance on September 4, 2020 of approximately \$61.8 million, or \$38.85 per warrant.

The following table summarizes the change in fair value of the liability-classified warrants for the years ended December 31, 2025, 2024 and 2023 (in thousands):

	2025	December 31, 2024	2023
Beginning balance	\$—	\$ 75,475	\$64,558
Issuances	—	—	—
Revaluations included in earnings, net	—	(5,412)	10,917
Exercises	—	—	—
Forfeitures/expirations	—	—	—
Reclassifications to equity	—	(70,063)	—
Ending balance	\$—	\$ —	\$75,475

There were no exercises of Creditor Warrants during the years ended December 31, 2025, 2024 and 2023. See Note 12 for further discussion related to the Creditor Warrants and the Company's tender offers to purchase certain equity instruments for cash that were completed in December of 2025 and 2024.

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12. Stockholders' Equity***Common Stock***

The Company is authorized to issue up to 50,000,000 shares of common stock, \$0.00001 par value per share. The Company had issued and outstanding common shares totaling 5.2 million and 5.4 million as of December 31, 2025 and 2024, respectively.

Jones Act Warrants

The Jones Act, which applies to companies that engage in U.S. coastwise trade, requires that, among other things, the aggregate ownership of common stock by non-U.S. citizens be not more than 25% of the Company's outstanding common stock. On September 4, 2020, in order to comply with the Jones Act, the Company entered into the Jones Act Warrant Agreement, pursuant to which the Company issued 10.5 million Jones Act Warrants to eligible non-U.S. citizens in settlement of certain then-existing liabilities and in connection with an equity rights offering. As part of a preemptive rights offering, the Company issued an additional 1.6 million Jones Act Warrants on December 22, 2021. As of December 31, 2025, holders of the Jones Act Warrants are entitled to acquire up to 10.1 million shares of common stock in the aggregate at an exercise price of \$0.00001 per share, subject to the U.S. citizen determination procedures and any applicable adjustment as described in the Jones Act Warrant Agreement. There were no exercises of Jones Act Warrants during the years ended December 31, 2025 and 2024.

Creditor Warrants

On September 4, 2020, the Company entered into the Creditor Warrant Agreement, pursuant to which the Company issued 1.6 million Creditor Warrants. Subject to adjustment, if applicable, the Creditor Warrants are exercisable at \$27.83 per share, which was based on an enterprise value of \$621.2 million, for seven years from September 4, 2020 for: (i) one share of common stock per Creditor Warrant, or up to 1.6 million shares in the aggregate, or (ii) one Jones Act Warrant in lieu of common stock if the holder cannot establish, at the time of exercise, that it is a U.S. Citizen and conversion of the Creditor Warrant would result in a violation of the Jones Act.

The Creditor Warrants are freely tradable and are not subject to any restrictions on transfer that are not also applicable to the Company's common stock. The warrant holders are not entitled to any of the rights of the Company's stockholders, including the right to vote, receive dividends, or receive notice of, or attend, meetings or any other proceeding of the stockholders. In the event of a reorganization, reclassification, merger, sale of all or substantially all of the Company's assets, or similar transaction, each Creditor Warrant shall be, immediately after such event, exercisable for the shares or other securities the warrant holder would have been entitled to had the warrant been exercised prior to the event.

On December 10, 2024, the Creditor Warrant Agreement was amended to remove certain anti-dilution provisions. As a result, the Creditor Warrants are effectively indexed to the Company's common stock and are thus classified as stockholders' equity at their fair value on the date of the amendment for the then-outstanding warrants or on the date of issuance for all subsequent issuances, which totaled \$66.1 million and \$67.7 million as of December 31, 2025 and 2024, respectively.

Equity Tender Offers

On November 17, 2025 and December 12, 2024, the Company commenced tender offers to purchase for cash certain of its equity securities at a unit price of \$75.05 and \$65.67, respectively. As a result of the tender offers, the Company purchased 187,536 and 274,614 shares of common stock, 404,226 and 883,303 Jones Act Warrants and 35,793 and 62,294 Creditor Warrants for an aggregate purchase price of \$46.1 million and \$78.4 million on December 3, 2025 and December 31, 2024, respectively. In addition to the 2025 tender offer purchase price, the Company incurred \$0.3 million of vendor costs associated with the buyback of the equity instruments.

Stock Purchase Plan

On November 29, 2021, the Company established the Stock Purchase Plan, or SPP, to promote investment in the Company by directors and executives and to advance the interests of the Company and its stockholders by attracting, retaining and motivating key personnel. As of December 31, 2025, the Company had issued 100,745 shares of common stock under the SPP for gross cash proceeds of \$2.0 million.

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13. Stock-Based Compensation

Incentive Compensation Plan

The Company's 2020 Management Incentive Plan, or MIP, provides for the issuance of a maximum of 2.2 million shares of common stock for the Company to grant as incentive awards in the form of stock options, stock appreciation rights, restricted stock units, restricted stock and other stock-based and cash-based awards to certain eligible individuals. As of December 31, 2025, there were 0.3 million shares issued or redeemed, 1.6 million shares reserved for issuance related to granted awards and 0.3 million shares available for future grants to eligible individuals under the MIP.

On November 17, 2025 and December 12, 2024, the Company commenced tender offers to purchase for cash, among other shares, both unvested and vested, unsettled restricted stock units and stock options that were issued through the MIP. As a result, the Company cash settled 59,226 and 114,634 outstanding equity incentive awards with employees and directors for \$4.2 million and \$7.1 million in 2025 and 2024, respectively. In doing so, the Company accelerated unamortized stock-based compensation expense of \$0.3 million and \$0.8 million in 2025 and 2024, respectively, related to the repurchased MIP awards and recorded additional stock-based compensation expense of \$0.5 million and \$0.8 million in 2025 and 2024, respectively, for the excess of the purchase price over the fair value of the repurchased MIP awards.

The financial impact of stock-based compensation expense related to the MIP on the Company's operating results is reflected in the table below (in thousands, except for per share data):

	Year Ended December 31,		
	2025	2024	2023
Income before taxes	\$7,723	\$9,384	\$19,097
Net income	\$8,245	\$8,256	\$15,637
Earnings per common share:			
Basic	\$ 0.52	\$ 0.48	\$ 0.92
Diluted	\$ 0.46	\$ 0.43	\$ 0.82

Restricted Stock Units

The MIP allows the Company to issue restricted stock units with either time-based or market-based vesting provisions. As of December 31, 2025, the Company had granted both types of restricted stock unit awards. The time-based restricted stock unit awards that were granted generally vest over a three-year period for employees and a one-year period for directors. Compensation expense related to time-based restricted stock unit awards, which is amortized over the applicable one- to three-year vesting period, is determined based on the fair value of the Company's common stock on the date of grant applied to the total shares that are expected to fully vest. The market-based restricted stock unit awards that were granted vest based on the Company's achievement of certain levels of total enterprise value as of the applicable vesting date. These market-based conditions will be measured at the earliest to occur of (a) September 4, 2027, the seventh anniversary of the grant date, (b) an initial public offering of the Company's common stock, and (c) a change in control of the Company, in accordance with the MIP and the underlying grant agreement. The actual number of shares that could be received by an award recipient upon settlement of the market-based restricted stock unit award can range from 0% to 100% of the award depending on the actual level of total enterprise value attained by the Company on the applicable measurement date. Compensation expense related to market-based restricted stock unit awards is recognized over the period the restrictions lapse based on the fair value of the awards on the grant date applied to the shares that are expected to vest. The outstanding market-based awards are currently being amortized over an approximate five-year period that commenced on their grant date in June 2022.

The Company utilizes the Black-Scholes model to determine the fair value of the market-based restricted stock units. The Black-Scholes model is affected by the fair value of the Company's common stock, the market-based vesting thresholds, and certain other assumptions, including contractual term, volatility, risk-free interest rate and expected dividends. The Company does not have a history of market prices of its privately-held common stock, and as such volatility is estimated using historical volatilities of similar public entities. The risk-free interest rate assumption is

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based on observed interest rates appropriate for the terms of the awards. The dividend yield assumption is based on the Company's history and current expectation of paying no dividends.

As of December 31, 2025, the Company has unamortized stock-based compensation expense of \$3.5 million related to the time-based and market-based restricted stock units, which will be recognized on a straight-line basis over the remaining weighted-average vesting period, or 1.4 years. The Company has recorded approximately \$5.8 million, \$8.4 million and \$18.7 million of non-cash incentive compensation expense for the years ended December 31, 2025, 2024 and 2023, respectively, associated with restricted stock unit awards. Included in the 2025 and 2024 non-cash incentive compensation expense was \$0.3 million and \$0.7 million, respectively, for the acceleration of unamortized stock-based compensation expense related to the repurchased MIP awards. Also included was \$0.1 million and \$0.2 million, respectively, of additional stock-based compensation expense for the excess of the purchase price over the fair value of the repurchased MIP awards. As of December 31, 2025 and 2024, the Company had \$0.0 million of restricted stock awards redeemable in cash classified as other accrued liabilities on the balance sheet. The impact of the mark-to-market adjustment on stock-based compensation expense from such awards was \$0.2 million, (\$0.1) million and \$0.3 million for the years ended December 31, 2025, 2024 and 2023, respectively.

The following table summarizes the Company's restricted stock unit awards activity during the year ended December 31, 2025 (in thousands, except per share data):

	Number of Shares	Weighted Avg. Fair Value Per Share
Restricted stock unit awards as of January 1, 2025	982	\$18.26
Granted during the period	53	64.34
Cancellations during the period	—	—
Vested and settled during the period	(75)	52.98
Repurchased during the period	(38)	51.30
Outstanding, as of December 31, 2025	<u>922</u>	\$16.70

The following table summarizes the Company's restricted stock unit awards activity during the year ended December 31, 2024 (in thousands, except per share data):

	Number of Shares	Weighted Avg. Fair Value Per Share
Restricted stock unit awards as of January 1, 2024	1,193	\$23.20
Granted during the period	11	62.22
Cancellations during the period	—	—
Vested and settled during the period	(146)	49.08
Repurchased during the period	(76)	42.85
Outstanding, as of December 31, 2024	<u>982</u>	\$18.26

Stock Options

The Company is authorized to grant stock options under the MIP that have an exercise price no less than 100% of the fair market value of the Company's common stock on the date of grant and expire ten years after the date of grant. The Company has granted stock options that are subject to both time-based and market-based vesting provisions. The outstanding stock options were subject to a three-year time-vest condition that commenced on their grant date in September 2020 and was satisfied in September 2023. The market-based vesting provision requires the Company to achieve certain levels of total enterprise value and will be measured at the earliest to occur of (a) September 4, 2027, the seventh anniversary of the grant date, (b) an initial public offering of the Company's common stock, and (c) a change in control of the Company, in accordance with the MIP and the underlying grant agreement. The actual number of stock

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options that could be received by an award recipient of the market-based stock options can range from 0% to 100% of the award depending on the actual level of total enterprise value attained by the Company on the applicable measurement date. Vesting is generally subject to the grantee's continued employment through the applicable vesting date.

The Company utilizes the Black-Scholes model to determine the fair value of the stock options. The Black-Scholes model is affected by the fair value of the Company's common stock, the time-based or market-based vesting thresholds, and certain other assumptions, including contractual term, volatility, risk-free interest rate and expected dividends. The Company does not have a history of market prices of its privately-held common stock, and as such volatility is estimated using historical volatilities of similar public entities. The risk-free interest rate assumption is based on observed interest rates appropriate for the terms of the awards. The dividend yield assumption is based on the Company's history and current expectation of paying no dividends.

As of December 31, 2025, the Company has unamortized stock-based compensation expense of \$4.1 million related to such stock options, which will be recognized on a straight-line basis over the remaining vesting period, or 1.6 years. The Company has recorded approximately \$2.0 million, \$1.0 million, and \$0.4 million of non-cash incentive compensation expense for the years ended December 31, 2025, 2024 and 2023, respectively, associated with stock options. Included in the 2025 non-cash incentive compensation expense was \$0.0 million for the acceleration of unamortized stock-based compensation expense related to the repurchased MIP stock options and \$0.3 million of additional stock-based compensation expense for the excess of the purchase price over the fair value of the repurchased MIP stock options.

The following table represents the Company's stock option activity for the year ended December 31, 2025 (in thousands, except per share data and years):

	Number of Shares	Weighted Average Exercise Price	Weighted- Average Remaining Contractual Term (years)	Aggregate Intrinsic Value
Stock options outstanding at January 1, 2025	560	\$10.00	5.7	\$31,586
Granted during the period	131	\$65.67	2.2	\$ 1,225
Exercised during the period	—	—	—	—
Forfeited or expired during the period	—	—	—	—
Repurchased during the period	(21)	\$11.81	—	\$ 1,316
Stock options outstanding at December 31, 2025	<u>670</u>	\$20.81	4.7	\$36,307
Exercisable stock options outstanding at December 31, 2025	<u>—</u>	—	—	—

The following table represents the Company's stock option activity for the year ended December 31, 2024 (in thousands, except per share data and years):

	Number of Shares	Weighted Average Exercise Price	Weighted- Average Remaining Contractual Term (years)	Aggregate Intrinsic Value
Stock options outstanding at January 1, 2024	598	\$10.00	6.7	\$34,224
Granted during the period	—	—	—	—
Exercised during the period	—	—	—	—
Forfeited or expired during the period	—	—	—	—
Repurchased during the period	(38)	\$10.00	—	\$ 2,131
Stock options outstanding at December 31, 2024	<u>560</u>	\$10.00	5.7	\$31,586
Exercisable stock options outstanding at December 31, 2024	<u>—</u>	—	—	—

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14. Income Taxes

Income from operations before income taxes, based on jurisdiction earned, was as follows (in thousands):

	Year Ended December 31,		
	2025	2024	2023
U.S.	\$121,978	\$ 76,876	\$65,022
Foreign	40,430	28,608	26,011
Total income from operations before income taxes	<u>\$162,408</u>	<u>\$105,484</u>	<u>\$91,033</u>

The components of the income tax expense (benefit) in the accompanying consolidated statements of operations were as follows (in thousands):

	Year Ended December 31,		
	2025	2024	2023
Current tax expense:			
U.S. - federal and state	\$ 213	\$ 89	\$ 33
Foreign	10,887	7,986	15,122
Current tax expense	11,100	8,075	15,155
Deferred tax expense (benefit):			
U.S. - federal and state	(21,678)	4,203	1,340
Foreign	(404)	404	—
Deferred tax expense (benefit)	(22,082)	4,607	1,340
Total tax expense (benefit)	<u>\$(10,982)</u>	<u>\$12,682</u>	<u>\$16,495</u>

The components of cash paid for income taxes for the year ended December 31, 2025, is as follows:

	Year Ended December 31, 2025
U.S. federal	\$ 400
U.S. state and local	12
Foreign:	
Mexico	7,082
Brazil	1,797
Colombia	6,394
Other foreign jurisdictions	231
Total cash taxes paid, net	<u>\$15,916</u>

The following table reconciles the difference between the Company's income tax provision calculated at the federal statutory rate of 21% and the actual income tax provision (in thousands):

	Year Ended December 31,	
	2025	%
Total income from operations before income taxes	\$162,408	
U.S. federal statutory income tax rate	34,106	21.0%
Domestic federal		
Foreign tax credits	(3,876)	(2.4)%
Nontaxable and nondeductible items	(1,112)	(0.7)%
Changes in valuation allowances	(48,352)	(29.8)%
Other adjustments		
Cumulative deferred adjustment	1,759	1.1%
Other	85	0.1%

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	Year Ended December 31,	
	2025	%
Domestic state and local income taxes, net of federal effect ⁽¹⁾	(804)	(0.5)%
Foreign tax effects		
Mexico		
Foreign tax credits	(1,875)	(1.2)%
Nontaxable and nondeductible items	(6,730)	(4.2)%
Cumulative deferred adjustment	(8,287)	(5.1)%
Changes in valuation allowances	20,846	12.8%
Withholding tax	1,452	0.9%
Other	1,912	1.2%
Brazil		
Nontaxable and nondeductible items	(5,087)	(3.1)%
Changes in valuation allowances	5,505	3.4%
Other	(154)	(0.1)%
Guyana		
Tax exempt income	(1,724)	(1.1)%
Other	756	0.5%
Other foreign jurisdictions	598	0.4%
Income tax expense (benefit)	<u>\$ (10,982)</u>	<u>(6.8)%</u>

(1) The states and local jurisdictions that contribute to the majority (greater than 50%) of the tax effect in this category includes Louisiana.

	Year Ended December 31,	
	2024	2023
U.S. federal statutory income tax rate	\$ 22,152	\$ 19,117
U.S. state taxes, net	1,793	1,548
Non-deductible expense	1,270	744
Stock-based compensation	(1,443)	(85)
Fair value adjustment of liability-classified warrants	(1,228)	2,478
Changes in valuation allowances	(18,625)	(5,852)
Remeasurement of deferred taxes	1,525	—
Return to accrual	3,306	(464)
Uncertain tax positions	—	(189)
Foreign taxes and other	3,932	(802)
Income tax expense	<u>\$ 12,682</u>	<u>\$ 16,495</u>

The Company records U.S. federal and state deferred taxes using a blended statutory tax rate of 22.7%. During 2024, the Company revalued its Louisiana net operating losses to reflect new tax rates effective for 2024.

The net long-term deferred tax assets (liabilities) in the accompanying consolidated balance sheets included the following components (in thousands):

	Year Ended December 31,	
	2025	2024
Deferred tax liabilities:		
Deferred charges and other liabilities	\$(33,667)	\$(27,218)
Fixed assets	<u>(33,144)</u>	<u>(40,132)</u>
Total deferred tax liabilities	(66,811)	(67,350)

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	Year Ended December 31,	
	2025	2024
Deferred tax assets:		
Net operating loss carryforwards	107,650	97,270
Allowance for doubtful accounts	2,546	2,534
Stock-based compensation expense	3,668	3,304
Tax original issue discount and restructuring costs	16	1,757
Right-of-use liability	69,406	75,087
Foreign tax credit carryforward	40,949	34,796
Interest expense limitation	31,095	39,896
Other	22,822	27,266
Total deferred tax assets	278,152	281,910
Valuation allowance	(195,307)	(220,609)
Total deferred tax assets (liabilities), net	<u>\$ 16,034</u>	<u>\$ (6,049)</u>

As of December 31, 2025, the Company had net operating loss carryforwards, or NOLs, which can only be utilized if the Company generates taxable income in the respective tax jurisdiction prior to their expiration. The following table represents the Company's NOLs (in thousands):

Jurisdiction	December 31, 2025	Expiration Years
United States - federal	\$265,979	None
U.S. states	70,370	None
Mexico	86,414	2027-2035
Brazil ⁽¹⁾	37,175	None
Trinidad	31,201	None

(1) NOLs in Brazil can only be used to offset up to 30% of taxable income each year.

The Company also has foreign tax credit carryforwards of approximately \$36.3 million, which if not utilized will expire in 2026 through 2035.

IRC Sections 382 and 383 provide an annual limitation with respect to the ability of a corporation to utilize its tax attributes against future U.S. taxable income in the event of a change in ownership of more than 50%. The Company had a change in ownership during 2020 for purposes of IRC Sections 382 and 383, causing an annual limitation to apply to \$58.3 million of U.S. federal NOLs. These federal NOLs, as well as other tax attributes, such as U.S. state NOLs or foreign tax credit carryforwards, could expire if unused due to the applicable annual limitations.

In assessing the realizability of its deferred tax assets, including NOLs and foreign tax credits, the Company considered all available positive and negative evidence, including historical operating results, the scheduled reversal of taxable and deductible temporary differences, tax planning strategies, and forecasted future taxable income, as required under ASC 740. The Company's evaluation places greater weight on objectively verifiable evidence. Prior to December 31, 2025, the Company did not consider forecasted future taxable income to assess the realizability of its U.S. deferred tax assets based on the Company's evaluation of positive and negative evidence, primarily historical losses. Forecasted future taxable income is based on management-approved financial projections that reflect assumptions regarding future revenue growth, operating margins, capital expenditures, and other relevant factors. These projections are inherently subject to uncertainty and may be impacted by changes in economic conditions, competitive dynamics, customer demand, legislative actions and other factors outside of the Company's control. Based on this evaluation, the Company determined that it is more likely than not that a portion of its U.S. deferred tax assets will be realized through the generation of future taxable income. Accordingly, the Company has recorded a valuation allowance to reduce its deferred tax assets to the amount that is expected to be realizable. The valuation allowance recorded primarily relates to foreign net operating losses, foreign tax credits, interest expense carryforwards dependent on foreign source income, and Section 382-limited federal and state net operating losses. As of December 31, 2025 and 2024, the Company recorded valuation allowances of \$195.3 million and \$220.6 million, respectively. The valuation allowance may

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increase or decrease in future periods if management's assessment of the realizability of deferred tax assets changes as a result of new information, changes in operating performance, or changes in tax laws.

The Company is no longer subject to tax audits being initiated by U.S. federal, state, local or foreign taxing authorities for years prior to 2021. The Company has ongoing examinations by various foreign tax authorities for earlier periods, but does not believe that the results of those examinations will have a material adverse effect on the Company's financial position or results of operations. Please see Note 16 below for further discussion regarding the relevant ongoing foreign tax examinations.

On July 4, 2025, the One Big Beautiful Bill Act was signed into U.S. law. The most significant tax law changes resulting from the passage of the act that may have an impact on the Company related to depreciation allowances for certain property, deduction of U.S. research and experimental expenditures, and changes to adjusted taxable income for purposes of the business interest deduction. The impact of the tax law changes and the deferred tax rate is required to be reflected in the reporting period in which the law is enacted. Accordingly, the Company has evaluated the effects of these law changes on its current and deferred taxes and has reflected the resulting impact on its financial position and results from operations, which resulted in a \$0.9 million tax expense recorded as a discrete item in the third quarter for the year ended December 31, 2025.

A reconciliation of the beginning and ending amount of all unrecognized tax benefits and the liability for uncertain tax positions, excluding related penalties and interest⁽¹⁾, are as follows (in thousands):

Balance at December 31, 2023	\$1,341
Additions, net based on tax positions related to a prior year	—
Balance at December 31, 2024	<u>\$1,341</u>
Additions, net based on tax positions related to a prior year	—
Balance at December 31, 2025	<u><u>\$1,341</u></u>

(1) Penalties and interest of \$1.4 million and \$1.1 million were recorded in the consolidated statements of operations for uncertain tax positions for the years ended December 31, 2025 and 2024, respectively. As of December 31, 2025 and 2024, the cumulative amount of penalties and interest related to uncertain tax positions reflected in other long-term liabilities on the consolidated balance sheets totaled \$3.1 million and \$2.8 million, respectively.

Mexico Tax Audits

The Company is subject to audit by various Mexican statutory bodies, including the Mexican tax authorities, or SAT. In recent years, SAT has initiated several audits of the Company's Mexican subsidiaries for tax years between 2015 and 2021. In November 2018, SAT commenced an audit of a Mexican subsidiary's 2015 tax return and asserted certain positions that disallowed a significant portion of the Company's deductible expenses, which resulted in additional taxes, interest and penalties being assessed. As a result, the Company engaged in non-binding mediation proceedings, which concluded in 2021 without resolution. In April 2022, the Company received an official assessment from SAT and subsequently initiated an appeal process through the Mexican tax judicial system in June 2022. In April 2024, the Company initiated a separate non-binding mediation related to a Mexican subsidiary's tax returns from 2017 through 2021, which concluded in February 2025 without resolution and resulted in an additional assessment by SAT in July 2025. The Company filed an administrative appeal of the assessment as we believe SAT has attempted to retroactively apply a change in Mexican tax law that did not become effective until 2022, subsequent to the tax periods that are being assessed. In September 2025, the Company received additional tax assessments for another Mexican subsidiary related to tax returns from 2018 and 2020 with similarly egregious positions as previously asserted by SAT. The Company filed administrative appeals for both assessments in October 2025.

As of December 31, 2025, the Company had accrued a liability totaling \$2.7 million for potential losses from additional taxes, interest and penalties resulting from the 2015 tax assessment and no liabilities for the other assessments for 2017 through 2021 based upon estimates developed in collaboration with its Mexican tax and legal advisors for the ongoing audits and appeals. The Company believes it has properly applied the applicable tax laws for all periods audited by SAT and has reasonably supported its positions.

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The ultimate impact resulting from the tax assessments and appeal process and other ongoing tax audits may materially differ from the current estimates. Final resolution of these matters will likely require several years, and the Company believes it is remote that any developments in the next 12 months would adversely affect its positions or reduce its confidence in a favorable outcome. An unexpected adverse final outcome in any of the pending appeals could have a material impact on the Company's financial position and operating results. The Company will continue to update its estimates related to these pending proceedings as new information warrants.

15. Leases

Lease expense for operating leases is recorded in general and administrative and operating expenses. Lease expense for finance leases are recorded in amortization and interest expense. Total lease expenses incurred for operating and finance leases were as follows (in thousands):

	Year Ended December 31,		
	2025	2024	2023
Finance lease expense:			
Amortization of right-of-use assets	\$2,065	\$ 489	\$ 372
Interest on lease liabilities	492	62	45
Operating lease expense	4,603	7,184	7,241
Short-term lease expense	830	784	2,869
Total lease expense	<u>\$7,990</u>	<u>\$8,519</u>	<u>\$10,527</u>

Supplemental cash flow information related to leases was as follows (in thousands):

	Year Ended December 31,		
	2025	2024	2023
Cash paid for amounts included in the measurement of lease liabilities:			
Operating cash flows for operating leases	\$ 4,758	\$6,650	\$7,012
Operating cash flows for financing leases	494	62	45
Financing cash flows for financing leases	1,844	396	287
Right-of-use assets obtained in exchange for lease obligations:			
Operating leases	908	4,307	3,649
Finance leases	11,567	966	291

Annual maturities of operating and finance lease liabilities under non-cancelable leases with terms in excess of one year, during each year ending December 31, are as follows (in thousands):

	Operating	Finance
2026	\$ 3,691	\$ 5,032
2027	3,601	4,589
2028	3,380	2,668
2029	3,534	64
2030	3,725	—
Thereafter	10,199	—
Total lease payments	28,130	12,353
Less: imputed interest	7,353	1,349
Total lease liabilities	<u>\$ 20,777</u>	<u>\$11,004</u>
Weighted-average remaining lease term (in years)	7.43	2.51
Weighted-average discount rate	8.0%	9.1%

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16. Commitments and Contingencies

Vessel Construction

In October 2023, the Company entered into a final settlement of a dispute with Zurich American Insurance Company and Fidelity & Deposit Company of Maryland, together the Surety, and Gulf Island Shipyards, LLC, or Gulf Island, related to the construction of two MPSV newbuilds. Pursuant to the settlement agreement, Gulf Island released all claims asserted against the Company and the Company released its claims against Gulf Island and the Surety. Further, the Surety agreed to take over and complete the construction of the two U.S.-flagged, Jones Act-qualified, HOS 400 class MPSVs at a shipyard acceptable to the Company. In December 2023, Eastern Shipbuilding Group, Inc., or Eastern, was mutually selected by the parties and contracted by the Surety to complete the construction of the two MPSVs. The Company is obligated to pay only the remaining portion of the original shipyard contract price for the two MPSVs, which then amounted to \$53.8 million in the aggregate on the settlement date, but was subsequently reduced to \$42.6 million for liquidated damages resulting from shipyard delays. The Surety is required to cure all defaults of Gulf Island and pay all completion costs in excess of the \$42.6 million remaining original contract price, excluding any approved change orders arising after the settlement date. There is no cap on the Surety's completion costs. As of December 31, 2025, the Company has fulfilled its \$42.6 million contractual obligation and all remaining construction costs are to be paid by the Surety to Eastern.

Following physical delivery by Eastern, which is expected in 2027, each vessel will undergo crane and other system installations, which should make both vessels available for commercial service in 2027. In addition, to the previously paid \$42.6 million contractual obligation, the Company expects to incur an additional \$87.1 million in the aggregate for outfitting, engineering, overhead and the post-delivery discretionary enhancements, of which \$59.6 million solely relates to the purchase and installation of the cranes. As of December 31, 2025, the Company had incurred \$30.7 million of such incremental amounts, excluding capitalized interest.

Contingencies

In the normal course of its business, the Company becomes involved in various claims and legal proceedings in which monetary damages are sought. It is management's opinion that the Company's liability, if any, under such claims or proceedings would not materially affect the Company's financial position or results of operations. The Company insures against losses relating to its vessels, pollution and third-party liabilities, including claims by employees under Section 33 of the Merchant Marine Act of 1920. Third party liabilities and pollution claims that relate to vessel operations are covered by the Company's entry in a mutual protection and indemnity association, or P&I Club, as well as by marine liability policies in excess of the P&I Club's coverage. The Company provides reserves for any individual claim deductibles for which the Company remains responsible by using an estimation process that considers Company-specific and industry data, as well as management's experience, assumptions and consultation with outside counsel. As additional information becomes available, the Company will assess the potential liability related to its pending claims and revise its estimates. Although historically revisions to such estimates have not been material, changes in estimates of the potential liability could materially impact the Company's results of operations, financial position or cash flows. The Company had accrued \$0.6 million and \$0.7 million for potential insurance deductibles or losses associated with such claims as of December 31, 2025 and 2024, respectively.

Brazil Importation Tax Assessment

In April 2021, the Company received notification from the Brazilian tax authorities of an importation tax assessment against the *HOS Achiever* with respect to the vessel's services contract in Brazil from February 2019 to January 2020. At the time of the *HOS Achiever*'s importation, the Company was granted a statutorily available tax exemption based on the vessel's functional capabilities and intended use under the services contract. The tax authorities are now asserting that the *HOS Achiever* does not qualify for the applicable exemption. The Company believes the *HOS Achiever* does, in fact, meet the criteria set forth under the applicable law and intends to defend its position in a Brazilian court. While the final outcome of this assessment is uncertain and could possibly result in the payment and loss of an estimated \$6.0 million to \$12.0 million in related importation taxes and penalties, the Company believes there is a high likelihood that its position will prevail and the exemption will be granted in accordance with the law. Furthermore, the Company believes that any amounts that may become due in connection with this matter should be recoverable from its customer under the terms of the vessel's services contract. Accordingly, the Company has not accrued any liability for potential losses that may result from this matter.

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17. Employment Agreements

The Company is party to employment agreements with certain members of its executive management team. These agreements include, among other things, contractually stated base salaries and a structured cash short-term incentive compensation program dependent upon performance against reasonably obtainable objective performance criteria established by the Compensation Committee. In the event such a member of the executive management team is terminated due to certain events as defined in such officer's agreement, the executive will receive (i) the executive's accrued base salary through the date of the executive's termination, (ii) payment in lieu of any earned, but unused, vacation, and (iii) reimbursement of the executive's expenses in accordance with the Company's reimbursement policy as in effect from time to time. In addition, the executive may receive cash severance depending on the timing and circumstances of the termination. The current term of these employment agreements expires on September 4, 2026 and automatically extends each year thereafter on September 4th for an additional year.

18. Reportable Segment

The Company has one reportable segment, which encompasses all aspects of its marine transportation services business. Revenues from customers are derived from the chartering of the Company's vessels, providing vessel management services to external vessel owners, and providing shore-based port facility services. As the chief operating decision maker, the Company's Chief Executive Officer evaluates operating results on a consolidated basis to assess performance and allocate resources. While the Company's vessels operate in various geographic regions and end-customer markets, they are centrally managed, share multiple forms of common costs, provide similar or complementary marine transportation services, are manned by crews that may move from location to location or market to market as needed, and are marketed on a portfolio basis with the goal of maximizing net income, Adjusted EBITDA and Adjusted Free Cash Flow and generating the highest possible rate of return on invested capital without a permanent commitment of any particular vessel to any specific geographic region or customer market.

The revenues, expenses and net income of the Company's one reportable segment, as reviewed and assessed by the chief operating decision maker, are equal to and categorized consistently with the amounts reflected in the consolidated statements of operations for the years ended December 31, 2025, 2024 and 2023. The measure of segment assets is reported on the consolidated balance sheet as total assets as of December 31, 2025 and 2024.

The chief operating decision maker utilizes net income, as reflected in the consolidated statements of operations, and net cash flows provided by operating activities, as reflected in the consolidated statements of cash flows, to measure profitability and liquidity, as well as to calculate supplemental non-GAAP financial metrics, such as EBITDA, Adjusted EBITDA and Adjusted Free Cash Flow, primarily for planning and forecasting overall expectations and for evaluating actual results against such expectations; for short-term cash bonus incentive compensation purposes; to compare to such metrics of other companies when evaluating potential acquisitions; to assess the Company's ability to service existing fixed charges and incur additional indebtedness; and to purchase, convert or construct additional vessels.

19. Related Party Transactions

Pursuant to the terms of the Trade Name and Trademark License Agreement entered into by and between the Company and HFR, LLC, the Company made payments of \$2.0 million during each of the years ended December 31, 2025 and 2024 for licensing fees associated with the use of Hornbeck trade names, trademarks, and related logos. HFR, LLC is a Texas Limited Liability Company owned by Todd M. Hornbeck and Troy A. Hornbeck. Todd M. Hornbeck serves as the Company's Chairman of the Board of Directors, President and Chief Executive Officer. Troy A. Hornbeck is the brother of Todd M. Hornbeck and serves as the Company's Director of Vendor Relations. As of December 31, 2025 and December 31, 2024, the Company had accrued amounts payable to HFR, LLC totaling \$1.3 million and \$1.3 million, respectively.

On October 1, 2022, a member of the Company's Board of Directors assumed an officer role with an existing Hornbeck customer. For the years ended December 31, 2025 and 2024, the Company generated \$63.4 million, or 9%, and \$83.9 million, or 13%, of revenues, respectively, from contracts with such customer. The Company had outstanding accounts receivable from this customer totaling \$4.9 million and \$9.4 million as of December 31, 2025 and December 31, 2024, respectively.

HORNBECK OFFSHORE SERVICES, INC. AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

20. Subsequent Events

The Company has evaluated subsequent events through March 24, 2026, which represents the date its financial statements were available to be issued and determined that all materially relevant information known through this date has been appropriately addressed within the consolidated financial statements and notes.

AGREEMENT AND PLAN OF MERGER

among

HELIX ENERGY SOLUTIONS GROUP, INC.,

ODYSSEY SUB, INC.,

HERCULES SUB LLC

and

HORNBECK OFFSHORE SERVICES, INC.

Dated as of April 22, 2026

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Exhibit B	—	Parent Certificate of Incorporation upon Conversion
Exhibit C	—	Parent Bylaws upon Conversion
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Disclosure Letters

Company Disclosure Letter
Parent Disclosure Letter

AGREEMENT AND PLAN OF MERGER

AGREEMENT AND PLAN OF MERGER (this “**Agreement**”), dated as of April 22, 2026 (the “**Signing Date**”), is entered into by and among Helix Energy Solutions Group, Inc., a Minnesota corporation (“**Parent**”), Odyssey Sub, Inc., a Delaware corporation and direct, wholly owned subsidiary of Parent (“**Parent Sub**”), Hercules Sub LLC, a Delaware limited liability company and direct, wholly owned subsidiary of Parent (“**LLC Sub**” and, together with Parent and Parent Sub, the “**Parent Parties**”), and Hornbeck Offshore Services, Inc., a Delaware corporation (the “**Company**”). Each of the Parent Parties and the Company are referred to herein individually as a “**Party**” and collectively as the “**Parties**”.

RECITALS

WHEREAS, the Parties intend to effect: (a) at the Effective Time, the merger (the “**First Company Merger**”) of Parent Sub with and into the Company, with the Company continuing as the surviving entity (the “**Surviving Corporation**”), on the terms and subject to the conditions set forth herein; and (b) immediately following the First Company Merger, the merger (the “**Second Company Merger**” and, together with the First Company Merger, the “**Mergers**”) of the Surviving Corporation with and into LLC Sub, with LLC Sub continuing as the surviving entity (the “**Surviving Company**”), on the terms and subject to the conditions set forth herein;

WHEREAS, it is intended that immediately prior to the First Company Merger, Parent shall transfer by way of conversion (the “**Conversion**”) to a Delaware corporation in accordance with Section 265 of the General Corporation Law of the State of Delaware (the “**DGCL**”) and Section 302A.682 of the Minnesota Business Corporations Act (the “**MBCA**”) and the Plan of Conversion attached hereto as Exhibit A (as may be amended by the mutual agreement of Parent and the Company, the “**Plan of Conversion**”);

WHEREAS, as part of the Conversion, it is intended that Parent will: (a) file a certificate of incorporation with the Secretary of State of the State of Delaware in substantially the form attached as Exhibit B (as may be amended by the mutual agreement of Parent and the Company, and omitting any Optional Parent Vote Matters that are not approved at the Parent Shareholders Meeting, the “**Parent Certificate of Incorporation upon Conversion**”); and (b) adopt bylaws substantially in the form attached as Exhibit C (as may be amended by the mutual agreement of Parent and the Company, the “**Parent Bylaws upon Conversion**”);

WHEREAS, as a result of the Conversion, each issued and outstanding share of Parent common stock, no par value (the “**Parent Common Stock**”), shall be converted into one share of common stock, par value \$0.00001, of Parent following the Conversion (the “**Converted Parent Common Stock**”);

WHEREAS, the board of directors of the Company (the “**Company Board**”) has unanimously: (a) determined that this Agreement and the transactions contemplated by this Agreement, including the Mergers (the “**Transactions**”), are fair to, advisable and in the best interests of, the Company and the holders of shares of the Company’s common stock, par value \$0.00001 per share (the “**Company Common Stock**”); (b) approved and declared advisable this Agreement and the Transactions on the terms and subject to the conditions set forth in this Agreement; (c) directed that this Agreement be submitted to the holders of shares of Company Common Stock for their adoption; and (d) resolved to recommend that the holders of shares of Company Common Stock vote in favor of the adoption of this Agreement;

WHEREAS, the board of directors of Parent (the “**Parent Board**”) has: (a) determined that this Agreement, the Plan of Conversion and the Transactions, including the Conversion, are fair to, advisable and in the best interests of, Parent and the holders of Parent Common Stock; (b) approved and declared advisable this Agreement, the Plan of Conversion and the Transactions, including the Conversion, on the terms and subject to the conditions set forth in this Agreement; (c) directed that the Requisite Parent Vote Matters and the Optional Parent Vote Matters be submitted to the holders of Parent Common Stock for their approval; and (d) resolved to recommend that the holders of shares of Parent Common Stock vote in favor of the Requisite Parent Vote Matters and the Optional Parent Vote Matters;

WHEREAS, the board of directors of Parent Sub has unanimously: (a) determined that this Agreement and the Transactions, including the First Company Merger, are fair to, and in the best interests of, Parent Sub and Parent, its sole stockholder; (b) approved and declared advisable this Agreement and the Transactions, including the First Company Merger, on the terms and subject to the conditions set forth in this Agreement; (c) determined to submit the approval of the adoption of this Agreement to Parent, as sole stockholder of Parent Sub; and (d) resolved to recommend to Parent, as sole stockholder of Parent Sub, that Parent adopt this Agreement;

WHEREAS, Parent: (a) as the sole and managing member of LLC Sub has approved and adopted this Agreement concurrently with its execution pursuant to Section 18-404 of the Limited Liability Company Act of the State of

Delaware (the “**DLLCA**”); and (b) as the sole stockholder of Parent Sub will adopt this Agreement by written consent pursuant to Section 228 of the DGCL immediately following the execution hereof (collectively, the “**Parent Consents**”);

WHEREAS, for U.S. federal income tax purposes: (a) it is intended that the Conversion constitute a reorganization within the meaning of Section 368(a)(1)(F) of the Internal Revenue Code of 1986, as amended (the “**Code**”); (b) it is intended that the Mergers, taken together, constitute an integrated plan and will qualify as a “reorganization” within the meaning of Section 368(a) of the Code; and (c) this Agreement is intended to constitute, and is hereby adopted as, a “plan of reorganization” within the meaning of Section 368(a) of the Code and Treasury Regulations Sections 1.368-2(g) and 1.368-3(a);

WHEREAS, in connection with the transactions, Parent has entered into a Registration Rights Agreement in the form attached hereto as Exhibit D (the “**Registration Rights Agreement**”), dated as of the Signing Date and effective as of the Closing Date, with each of the Registration Rights Agreement Parties; and (ii) a New Securityholders Agreement (the “**New Securityholders Agreement**”) in the form attached as Exhibit E, dated as of the Signing Date and effective as of the Closing Date, with each of the Company’s stockholders party thereto;

WHEREAS, it is expected that the Consenting Stockholders will promptly after the execution and delivery of this Agreement by all parties and, in any event, by no later than the Consent Time, execute and deliver an action by written consent to adopt and approve this Agreement;

WHEREAS, the Parties desire to make certain representations, warranties, covenants and agreements in connection with this Agreement and prescribe certain conditions to the Mergers as specified herein;

NOW, THEREFORE, in consideration of the foregoing premises and the representations, warranties, covenants and agreements set forth in this Agreement, the Parties agree as follows:

ARTICLE I

THE MERGERS

1.1 The Mergers.

(a) Upon the terms and subject to the conditions set forth in this Agreement and in accordance with the DGCL, at the Effective Time, Parent Sub shall be merged with and into the Company. Following the First Company Merger, the separate corporate existence of Parent Sub shall cease, and the Company shall continue as the Surviving Corporation and a wholly owned Subsidiary of Parent. Upon the terms and subject to the provisions of this Agreement, as soon as practicable on the Closing Date, the applicable Parties shall file a certificate of merger (the “**First Certificate of Merger**”) with the Secretary of State of the State of Delaware (the “**Delaware Secretary of State**”), executed in accordance with the relevant provisions of the DGCL, to effect the First Company Merger. The First Company Merger shall become effective at such time on the Closing Date as the applicable Parties shall agree in writing and shall specify in the First Certificate of Merger (the time the First Company Merger becomes effective being the “**Effective Time**”).

(b) Upon the terms and subject to the conditions set forth in this Agreement and in accordance with the DGCL and the DLLCA, at the Second Company Merger Effective Time, the Surviving Corporation shall be merged with and into LLC Sub. Following the Second Company Merger, the separate corporate existence of the Surviving Corporation shall cease, and LLC Sub shall be the Surviving Company and a wholly owned Subsidiary of Parent. Upon the terms and subject to the provisions of this Agreement, as soon as practicable on the Closing Date, the applicable Parties shall file a certificate of merger (the “**Second Certificate of Merger**”) with the Delaware Secretary of State, executed in accordance with the relevant provisions of the DGCL and the DLLCA, to effect the Second Company Merger. The Second Company Merger shall become effective one minute after the Effective Time (the time the Second Company Merger becomes effective being the “**Second Company Merger Effective Time**”), which the applicable Parties shall specify in the Second Certificate of Merger.

1.2 Closing. The closing of the Mergers (the “**Closing**”) shall take place by electronic exchange of documents at 9:00 a.m. (Eastern time) on the third Business Day following the day on which the last to be satisfied or (to the extent permissible) waived of the conditions set forth in Article VIII (other than those conditions that by their nature are to be satisfied by actions taken at the Closing, but subject to such conditions being capable of being satisfied at the Closing

or, to the extent permissible, waived in advance) shall be satisfied or (to the extent permissible) waived in accordance with this Agreement or at such other date, time or place as the Company and Parent may mutually agree in writing (the date on which the Closing actually occurs, the “**Closing Date**”).

1.3 Effects of the Mergers. The Mergers shall have the effects set forth in this Agreement and in the relevant provisions of the DGCL and the DLLCA, as applicable. Without limiting the generality of the foregoing, and subject thereto: (a) at the Effective Time, all the property, rights, privileges, powers and franchises of each of the Company and Parent Sub shall vest in the Surviving Corporation, and all debts, liabilities, obligations, restrictions, disabilities and duties of each of the Company and Parent Sub shall become the debts, liabilities, obligations, restrictions, disabilities and duties of the Surviving Corporation; and (b) at the Second Company Merger Effective Time, all the property, rights, privileges, powers and franchises of each of the Surviving Corporation and LLC Sub shall vest in the Surviving Company, and all debts, liabilities, obligations, restrictions, disabilities and duties of each of the Surviving Corporation and LLC Sub shall become the debts, liabilities, obligations, restrictions, disabilities and duties of the Surviving Company.

ARTICLE II

MERGER CONSIDERATION; EFFECT OF THE MERGER ON CAPITAL STOCK

2.1 Merger Consideration; Conversion of Shares of Parent Sub Common Stock; Conversion of Shares of Company Common Stock. At the Effective Time, by virtue of the First Company Merger and without any action on the part of any of the Parties or any holder of any capital stock of the Company, each share of common stock, par value \$0.01 per share, of Parent Sub issued and outstanding immediately before the Effective Time shall be converted into and become one validly issued, fully paid and nonassessable share of common stock, par value \$0.01 per share, of the Surviving Corporation, and each share of Company Common Stock issued and outstanding immediately prior to the Effective Time (excluding Excluded Shares and Dissenting Shares) (such shares of Company Common Stock, the “**Eligible Shares**”) shall automatically be converted into the right to receive that number of validly issued, fully paid and nonassessable shares of Converted Parent Common Stock equal to 10.27167 (the “**Exchange Ratio**”) (such number of shares of Converted Parent Common Stock, the “**Merger Consideration**”). At the Effective Time, all Excluded Shares shall, as a result of the First Company Merger and without any action on the part of the Parties or any holder of such Excluded Shares, be cancelled and shall cease to exist, and no consideration shall be paid or delivered in exchange therefor. At the Effective Time, Dissenting Shares shall be treated in accordance with Section 2.5 and the DGCL.

2.2 Cancellation of Shares of Company Common Stock. At the Effective Time, by virtue of the First Company Merger and without any action on the part of the Parties or any holder of any capital stock of the Company, all of the Eligible Shares shall cease to be outstanding, shall be cancelled and shall cease to exist, and each book-entry account formerly representing non-certificated Eligible Shares (each, a “**Book-Entry Share**”) shall thereafter represent only the right to receive the Merger Consideration pursuant to this Article II and the right, if any, to receive pursuant to Section 3.5 cash in lieu of fractional shares into which such Eligible Shares have been converted pursuant to this Section 2.2 and any dividends or other distributions pursuant to Section 3.3; provided, that nothing in this Agreement (including this Article II and Article III) shall: (a) affect the right of the holders of shares of Company Common Stock to receive any dividend or other distribution that was declared on Company Common Stock, and the record date of which occurred, prior to the Effective Time in accordance with the provisions of this Agreement; or (b) give holders of Company Common Stock the right to receive any dividend or other distribution declared on Parent Common Stock, and the record date of which occurred, prior to the Effective Time in accordance with the provisions of this Agreement.

2.3 Treatment of Company Equity Awards, Plans and Company Warrants. This Section 2.3 shall govern the treatment of all Company Equity Awards and Company Warrants in connection with the Transactions.

(a) Company Long-Term Incentive Awards.

(i) Each Company PSU Award that is outstanding immediately prior to the Effective Time, whether vested or unvested as of immediately prior to the Effective Time, shall, as of the Effective Time, automatically and without any action on the part of any Person, be canceled, and the holder thereof shall become entitled to receive, in full satisfaction of the rights of such holder with respect thereto, the number of shares of Converted Parent Common Stock (rounded up or down to the nearest whole share) equal to the product of: (x) the number of shares of Company Common Stock subject to such Company PSU Award; and (y) the Exchange Ratio, payable as soon as practicable, but in no event later than five (5) business days following the Closing.

For purposes of this Section 2.3(a)(i), the number of shares of Company Common Stock subject to such Company PSU Award shall be deemed to be the number of shares subject to the Company PSU Award that would be earned based on the greater of target or actual performance measured based on a shortened performance period ending immediately prior to the Effective Time as reasonably determined by the Company Board in good faith.

(ii) Each Company RSU Award that is outstanding immediately prior to the Effective Time, whether vested or unvested as of immediately prior to the Effective Time, shall, as of the Effective Time, without any action on the part of any Person, be canceled, and the holder thereof shall then become entitled to receive, in full satisfaction of the rights of such holder with respect thereto, the number of shares of Converted Parent Common Stock (rounded down to the nearest whole share), equal to the product of: (x) the number of shares of Company Common Stock subject to such Company RSU Award; and (y) the Exchange Ratio, payable as soon as practicable, but in no event later than five (5) business days following the Closing; provided, that, for non-employee directors of the Company, all or a portion of such amount may be settled in cash in accordance with the applicable award agreement.

(iii) Each Company Option that is outstanding immediately prior to the Effective Time, whether vested or unvested as of immediately prior to the Effective Time, shall, as of the Effective Time, automatically and without any action on the part of any Person, be fully vested and be assumed by Parent and converted into an option to purchase a number of shares of Converted Parent Common Stock (rounded down to the nearest whole share) equal to the product of (x) the number of shares of Company Common Stock subject to such Company Option immediately prior to the Effective Time, and (y) the Exchange Ratio, at an exercise price per share of Converted Parent Common Stock (rounded up to the nearest whole cent) equal to: (A) the exercise price per share of such Company Option; divided by (B) the Exchange Ratio (a “**Converted Option Award**”), with the same terms and conditions (other than any performance-vesting conditions) that applied to such Company Option Award immediately prior to the Effective Time. Notwithstanding the foregoing, the conversion of each Company Option pursuant to this Section 2.3(a)(iii) shall be effectuated in a manner consistent with the requirements of Section 409A of the Code and, in the case of any Company Option to which Section 422 of the Code applies, in a manner consistent with the requirements of Section 424(a) of the Code. For purposes of this Section 2.3(a)(iii) and to the extent applicable, the number of shares of Company Common Stock subject to such Company Option shall be deemed to be the number of shares subject to the Company Option that would be earned based on the greater of target or actual performance measured based on a shortened performance period ending immediately prior to the Effective Time as reasonably determined by the Company Board in good faith.

(iv) To the extent that any award described in this Section 2.3(a) constitutes nonqualified deferred compensation subject to Section 409A of the Code, any payment contemplated hereby with respect to such award shall, notwithstanding anything to the contrary in this Section 2.3(a), be made in accordance with this Agreement and the applicable award’s terms or, if later, at the earliest time permitted under the terms of such award that will not result in the application of a tax or penalty under Section 409A of the Code.

(b) Company Warrants.

(i) *Company Creditor Warrants.* At the Effective Time, each Company Creditor Warrant that is outstanding and unexercised as of immediately prior to the Effective Time will, except as otherwise set forth in Amendment No. 2 to the Creditor Warrant Agreement, automatically and without any action on the part of any Person, be converted into the right to receive a number of shares of Converted Parent Common Stock (or, in accordance with the applicable Jones Act restrictions in the Parent Certificate of Incorporation upon Conversion, New Jones Act Warrants to acquire such Converted Parent Common Stock) in accordance with Amendment No. 2 to the Creditor Warrant. In the event the Creditor Warrants are not so converted pursuant to Amendment No. 2 to the Creditor Warrant Agreement, such Creditor warrants shall be assumed by Parent (the “**Assumed Creditor Warrants**”). As of the Effective Time: (A) each Assumed Creditor Warrant shall be exercisable solely for shares of Converted Parent Common Stock; (B) the number of shares of Converted Parent Common Stock subject to each Assumed Creditor Warrant shall be determined by multiplying the number of shares of Company Common Stock subject to the predecessor Creditor Warrant as in effect immediately prior to the Effective Time by the Exchange Ratio; and (C) the per share exercise price for the Converted Parent Common Stock issuable upon exercise of each Assumed Creditor Warrant shall be the exercise price as in effect immediately prior to the Effective Time divided by the Exchange Ratio.

(ii) *Company Jones Act Warrants.* At the Effective Time, each Company Jones Act Warrant that is outstanding and unexercised immediately prior to the Effective Time (each, a “**Predecessor Warrant**”), will be assumed by Parent pursuant to the terms of the A&R Jones Act Warrant Agreement (each, an “**Assumed Warrant**”). Each Assumed Warrant shall be subject to the terms and conditions of the A&R Jones Act Warrant Agreement. Accordingly, effective as of the Effective Time: (A) each Assumed Warrant shall be exercisable solely for shares of Converted Parent Common Stock; (B) the number of shares of Converted Parent Common Stock subject to each Assumed Warrant shall be determined by multiplying the number of shares of Company Common Stock subject to the Predecessor Warrant as in effect immediately prior to the Effective Time by the Exchange Ratio; and (C) the per share exercise price for the Converted Parent Common Stock issuable upon exercise of each Assumed Warrant shall be unaffected.

(c) *Company Actions.* At or prior to the Effective Time, the Company and the Company Board (and the compensation committee of the Company Board), as applicable, shall adopt any resolutions and take any actions that are necessary to effectuate the treatment of the Company RSU Awards, Company PSU Awards and Company Options (collectively, the “**Company Equity Awards**”) pursuant to Section 2.3(a) and the Company Warrants pursuant to Section 2.3(b).

(d) *Parent Actions.* Parent shall take all actions that are necessary for the treatment of Company Equity Awards pursuant to Section 2.3(a) and Company Warrants pursuant to Section 2.3(b), including: (i) the reservation, issuance and listing of Converted Parent Common Stock as necessary to effect the transactions contemplated by this Section 2.3; (ii) entering into the A&R Jones Act Warrant Agreement; and (iii) assuming, by written instrument, the obligations of the Company to issue shares of Converted Parent Common Stock upon exercise of Company Creditor Warrants in accordance with Section 6(e) of the Creditor Warrant Agreement. If registration of any plan interests in any Benefit Plan or the shares of Converted Parent Common Stock issuable in satisfaction of any: (x) Company Equity Awards; or (y) Converted Option Awards following the Effective Time (and giving effect to this Section 2.3) is required under the Securities Act of 1933, as amended (the “**Securities Act**”), Parent shall file with the Securities and Exchange Commission (the “**SEC**”) as soon as reasonably practicable on or after the Closing Date a registration statement on Form S-8 with respect to such shares of Converted Parent Common Stock, and shall use its reasonable best efforts to maintain the effectiveness of such registration statement for so long as the relevant Company Stock Plans or other Company Benefit Plans, Company Equity Awards or Converted Option Awards, as applicable, remain outstanding or in effect and such registration of interests therein or the shares of Converted Parent Common Stock issuable thereunder continues to be required.

2.4 Treatment of Parent Equity Awards and Plans.

(a) Each Parent Restricted Stock Award granted to a non-employee director of Parent, whether vested or unvested, that is outstanding immediately prior to the Effective Time shall, as of the Effective Time, automatically and without any action on the part of any Person, be in respect of Converted Parent Common Stock and be fully vested.

(b) Each Parent PSU Award that is outstanding immediately prior to the Effective Time, whether vested or unvested as of immediately prior to the Effective Time, shall, as of the Effective Time, automatically and without any action on the part of any Person, be canceled, and the holder thereof shall then become entitled to receive, in full satisfaction of the rights of such holder with respect thereto, the number of shares of Converted Parent Common Stock (rounded up or down to the nearest whole share), in each case, equal to the number of shares of Parent Common Stock subject to such Parent PSU Award, payable as soon as practicable, but in no event later than five (5) business days following the Closing. Notwithstanding the foregoing, in lieu of payment in shares of Converted Parent Common Stock, the Parent Board, in its discretion but after consultation with the Company Board, may determine prior to the Effective Time to settle such Parent PSU Awards in cash (payable at the same time as described in the previous sentence), with such amount in cash being equal to the number of shares of Parent Common Stock subject to such Parent PSU Award multiplied by the closing price of a share of Parent Common Stock on the NYSE on the Trading Day immediately prior to the Closing Date. For purposes of this Section 2.4(b), the number of shares of Parent Common Stock subject to each Parent PSU Award shall be deemed to be the number of units subject to the Parent PSU Award based on the greater of target and actual level of performance through immediately prior to the Effective Time as reasonably determined by the Parent Board in good faith.

(c) Each Parent RSU Award that is outstanding immediately prior to the Effective Time, whether vested or unvested as of immediately prior to the Effective Time, shall, as of the Effective Time, without any action on the

part of any Person, be canceled, and the holder thereof shall then become entitled to receive, in full satisfaction of the rights of such holder with respect thereto, the number of shares of Converted Parent Common Stock (rounded down to the nearest whole share), equal to the number of shares of Parent Common Stock subject to such Parent RSU Award, payable as soon as practicable, but in no event later than five (5) business days following the Closing. Notwithstanding the foregoing, in lieu of payment in shares of Converted Parent Common Stock, the Parent Board may determine prior to the Effective Time, in its discretion but after consultation with the Company Board, to settle such Parent RSU Awards in cash (payable at the same time as described in the previous sentence), with such amount in cash being equal to the number of units subject to such Parent RSU Award multiplied by the closing price of a share of Parent Common Stock on the NYSE on the Trading Day immediately prior to the Closing Date.

(d) To the extent that any award described in Sections 2.4(b) or (c) constitutes nonqualified deferred compensation subject to Section 409A of the Code, any payment contemplated hereby with respect to such award shall, notwithstanding anything to the contrary in this Section 2.4, be made in accordance with this Agreement and the applicable award's terms or, if later, at the earliest time permitted under the terms of such award that will not result in the application of a tax or penalty under Section 409A of the Code.

(e) At or prior to the Effective Time, Parent and the Parent Board (and the compensation committee of the Parent Board), as applicable, shall adopt any resolutions and take any actions that are necessary to effectuate the treatment of the Parent Equity Awards pursuant to this Section 2.4.

2.5 Dissenting Shares. Notwithstanding anything in this Agreement to the contrary, Dissenting Shares shall not be converted into the right to receive the Merger Consideration and shall instead represent the right to receive payment of the fair value of such Dissenting Shares in accordance with and to the extent provided by Section 262 of the DGCL (any stockholder of the Company or Beneficial Owner of shares of Company Common Stock who exercises such right, a "Dissenting Stockholder"). At the Effective Time: (a) all Dissenting Shares shall be cancelled, extinguished and cease to exist; and (b) each holder or owner of Dissenting Shares, in respect of such Dissenting Shares, shall be entitled only to such rights as may be granted to him, her or it under the DGCL. If any such stockholder of the Company or Beneficial Owner of shares of Company Common Stock fails to perfect or otherwise waives, withdraws or loses such stockholder's or Beneficial Owner's right to appraisal under Section 262 of the DGCL or a court of competent jurisdiction shall determine such holder or Beneficial Owner is not entitled to the relief provided by Section 262 of the DGCL, then, the right of such holder or Beneficial Owner shall be as specified in the DGCL. The Company shall give Parent reasonably prompt notice of any demands received by the Company for appraisal of shares of Company Common Stock, purported withdrawals of such demands and any other instruments served pursuant to the DGCL and received by the Company relating to rights to be paid the fair value of Dissenting Shares and keep Parent reasonably informed regarding the status of all negotiations and proceedings with respect to such demands.

ARTICLE III

DELIVERY OF MERGER CONSIDERATION; PROCEDURES FOR SURRENDER

3.1 Exchange Agent. Parent shall deposit or cause to be deposited with an exchange agent selected by Parent and reasonably acceptable to the Company (the "Exchange Agent"), for the benefit of the holders of Eligible Shares or Company Creditor Warrants, if applicable: (a) at or prior to the Effective Time, an aggregate number of shares of Converted Parent Common Stock (or New Jones Act Warrants, as the case may be) to be issued in non-certificated book-entry form sufficient to deliver the number of shares of Converted Parent Common Stock (or New Jones Act Warrants, as the case may be) required to be delivered in accordance with Section 2.1 and Section 2.3(b)(i); and (b) as promptly as reasonably practicable following the Effective Time, an aggregate amount of cash in U.S. Dollars sufficient to deliver the amounts required to be delivered in respect of Eligible Shares pursuant to Section 3.5. In addition, Parent shall deposit or cause to be deposited with the Exchange Agent, as necessary from time to time after the Effective Time, any dividends or other distributions, if any, to which the holders of Eligible Shares may be entitled pursuant to Section 3.3 with both a record and payment date after the Effective Time and prior to the surrender of such Eligible Shares (such shares of Converted Parent Common Stock, cash and the amount of any dividends or other distributions deposited with the Exchange Agent pursuant to this Section 3.1 being the "Exchange Fund"). The Exchange Fund shall not be used for any purpose other than a purpose expressly provided for in this Agreement. The cash portion of the Exchange Fund may be deposited or invested by the Exchange Agent as directed by Parent; provided, that no such deposit or investment

(or any loss resulting therefrom) shall affect the amount of cash payable to former holders of Eligible Shares pursuant to the provisions of this Article III. Any interest and other income resulting from such deposit may become part of the Exchange Fund, and any amounts in excess of the amounts payable pursuant to this Agreement shall be promptly returned to Parent.

3.2 Procedures for Surrender.

(a) As promptly as reasonably practicable (but in any event within five Business Days) after the Effective Time, Parent shall cause the Exchange Agent to mail to each holder of record of a Book-Entry Share or Company Creditor Warrant, if applicable: (i) a letter of transmittal in customary form specifying that delivery shall be effected only upon transfer of Book-Entry Shares or Company Creditor Warrants to the Exchange Agent (including customary provisions with respect to delivery of an “agent’s message” and such other provisions as Parent or the Exchange Agent may reasonably specify) (the “**Letter of Transmittal**”); and (ii) instructions for transferring the Book-Entry Shares or Company Creditor Warrant in exchange for the aggregate Merger Consideration or Converted Parent Common Stock and New Jones Act Warrants, as applicable, payable in respect thereof to the Exchange Agent. Upon surrender to the Exchange Agent of Book-Entry Shares by book-receipt of an “agent’s message” by the Exchange Agent in accordance with the terms of the Letter of Transmittal and accompanying instructions or, if applicable, Company Creditor Warrants by the letter of transmittal, Parent shall cause the Exchange Agent to mail to each holder of record of any such Book-Entry Shares or Company Creditor Warrants in exchange therefor, as promptly as reasonably practicable (but in any event within five Business Days) after the Effective Time: (A) a statement reflecting the number of whole shares of Converted Parent Common Stock, if any, that such holder is entitled to receive in non-certificated book-entry form and New Jones Act Warrants, if any, that such holder is entitled to receive, in each case, pursuant to Article II in the name of such record holder; and (B) a check in the amount (after giving effect to any required Tax withholdings as provided in Section 3.7) of: (x) any cash in lieu of fractional shares that such holder is entitled to receive pursuant to Section 3.5; plus (y) any unpaid cash dividends and any other dividends or other distributions that such holder has the right to receive pursuant to this Article III.

(b) No interest will be paid or accrued on any amount payable for Eligible Shares pursuant to this Article III.

(c) If payment of the Merger Consideration or Converted Parent Common Stock or New Jones Act Warrants is to be made to a Person other than the Person in whose name the surrendered Book-Entry Share is registered, it shall be a condition of payment that such Book-Entry Share or Company Creditor Warrant, as applicable, shall be properly transferred and that the Person requesting such payment shall have paid any transfer and other Taxes required by reason of the payment of the Merger Consideration or Converted Parent Common Stock or New Jones Act Warrants, as applicable, to a Person other than the registered holder of such Book-Entry Share or Company Creditor Warrant or shall have established to the reasonable satisfaction of Parent that such Taxes are not payable.

3.3 Distributions with Respect to Unexchanged Shares of Company Common Stock. All shares of Converted Parent Common Stock to be issued pursuant to the First Company Merger shall be deemed issued and outstanding as of the Effective Time and whenever a dividend or other distribution is declared by Parent in respect of Converted Parent Common Stock, the record date for which is at or after the Effective Time, that declaration shall include dividends or other distributions in respect of all shares of Converted Parent Common Stock issuable pursuant to this Agreement. No dividends or other distributions in respect of shares of Converted Parent Common Stock with a record date at or after the Effective Time shall be paid to any holder of any unsurrendered Book-Entry Share until the Book-Entry Share is surrendered for exchange in accordance with this Article III. Subject to applicable Law, there shall be issued or paid to the holder of record of the whole shares of Converted Parent Common Stock issued in exchange for Eligible Shares or Company Creditor Warrants in accordance with Article II, without interest: (a) at the time of such surrender, the dividends or other distributions with a record date at or after the Effective Time theretofore payable with respect to such whole shares of Converted Parent Common Stock and not paid; and (b) at the appropriate payment date, the dividends or other distributions payable with respect to such whole shares of Converted Parent Common Stock with a record date at or after the Effective Time and prior to surrender but with a payment date subsequent to surrender. Each New Jones Act Warrant and Assumed Warrant shall be deemed outstanding as of the Effective Time for all purposes under the A&R Jones Act Warrant Agreement, including Section 6(h) thereof, and entitlements thereunder shall inure to the benefit of a holder of any Assumed Warrant or upon surrender and exchange of a Company Creditor Warrant in accordance with this Article III.

3.4 No Transfers. From and after the Effective Time, there shall be no transfers on the stock transfer books of the Company of the shares of Company Common Stock that were outstanding immediately prior to the Effective Time. From and after the Effective Time, the holders of Book-Entry Shares shall cease to have any rights with respect to such shares of Company Common Stock except as otherwise provided herein or by applicable Law.

3.5 Fractional Shares. Notwithstanding anything in this Agreement to the contrary, no fractional shares of Converted Parent Common Stock will be issued upon the conversion of shares of Company Common Stock pursuant to Section 2.1. All fractional shares of Converted Parent Common Stock that a holder of Eligible Shares would be otherwise entitled to receive pursuant to Section 2.1 but for this Section 3.5, shall be aggregated and such holder shall be entitled to receive a cash payment, without interest, in lieu of any such fractional share, equal to the product (rounded to the nearest whole cent) of: (a) the amount of such fractional share interest in a share of Converted Parent Common Stock to which such holder would, but for this Section 3.5, be entitled under Section 2.1; and (b) an amount equal to the average of the daily volume weighted average price per share of Converted Parent Common Stock on the NYSE (as such daily volume weighted average price per share is reported by Bloomberg L.P. or, if not reported therein, in another authoritative source mutually selected by Parent and the Company) calculated for the ten consecutive Trading Days ending on the second full Trading Day immediately prior to (and not including) the Closing Date. No holder of Eligible Shares shall be entitled by virtue of the right to receive cash in lieu of fractional shares of Converted Parent Common Stock described in this Section 3.5 to any dividends, voting rights or any other rights in respect of any fractional share interests in a share of Converted Parent Common Stock to which such holder would, but for this Section 3.5, be entitled under Section 2.1. The Parties acknowledge that the payment of cash in lieu of fractional shares of Converted Parent Common Stock is not a separately bargained-for consideration but merely represents a mechanical rounding-off of the fractions in the exchange.

3.6 Termination of Exchange Fund. Any portion of the Exchange Fund (including the proceeds of any deposit of the Exchange Fund and any shares of Converted Parent Common Stock and New Jones Act Warrants) that remains unclaimed as of the date that is 12 months after the Closing Date shall be delivered to Parent. Any holder of Eligible Shares or Company Creditor Warrants who has not theretofore complied with this Article III shall thereafter look only to Parent for delivery of the Merger Consideration, cash in lieu of fractional shares of Converted Parent Common Stock, if any, and any unpaid cash dividends and any other dividends or other distributions, in each case, that such holder has the right to receive pursuant to this Article III.

3.7 Withholding Rights. Each of Parent, the Surviving Corporation, the Surviving Company, the Company and the Exchange Agent, and any other withholding agent, shall be entitled to deduct and withhold, or cause to be deducted and withheld, from the consideration otherwise payable pursuant to this Agreement to any holder of Eligible Shares or Parent Equity Awards, Company Equity Awards, Company Warrants or any other Person pursuant to the terms of this Agreement, such amounts as it is required to deduct and withhold with respect to the making of such payment under the Code or any other applicable state, local or non-U.S. Tax Law (and, for the avoidance of doubt, to the extent deduction and withholding is required in respect of the delivery of any Converted Parent Common Stock pursuant to this Agreement, a portion of the Converted Parent Common Stock otherwise deliverable hereunder may be withheld). To the extent that amounts are so deducted or withheld, and paid over to the appropriate Governmental Entity, such deducted or withheld amounts shall be treated for all purposes of this Agreement as having been paid to the holder of Eligible Shares, Parent Equity Awards or Company Equity Awards, as applicable, in respect of which such deduction or withholding was made, and, if a portion of the Converted Parent Common Stock otherwise deliverable to a Person is withheld hereunder, the relevant withholding party shall be treated as having sold such Converted Parent Common Stock on behalf of such Person for an amount of cash equal to the fair market value thereof at the time of the required withholding (which fair market value shall be deemed to be the closing price of shares of Converted Parent Common Stock on the NYSE on the Closing Date) and having paid such cash proceeds to the appropriate Governmental Entity.

3.8 Adjustments to Prevent Dilution. Notwithstanding anything in this Agreement to the contrary, if, from the Signing Date to the earlier of the Effective Time and termination in accordance with Article IX (the “Interim Period”), the issued and outstanding shares of Company Common Stock or securities convertible or exchangeable into or exercisable for shares of Company Common Stock or the issued and outstanding shares of Parent Common Stock or Converted Parent Common Stock or securities convertible or exchangeable into or exercisable for shares of Parent Common Stock or Converted Parent Common Stock, shall have been changed into a different number of shares or securities or a different class by reason of any reclassification, stock split (including a reverse stock split), stock dividend or distribution, recapitalization, merger, issuer tender or exchange offer, or other similar transaction, or a stock dividend or rights offering with a record date within such period shall have been declared, then the Merger

Consideration and entitlements set out in [Section 2.3\(b\)\(i\)](#) shall be equitably adjusted to provide the holders of shares of Company Common Stock, Company Creditor Warrants, Parent Common Stock or Converted Parent Common Stock, as the case may be, the same economic effect as contemplated by this Agreement prior to such event, and such items, so adjusted shall, from and after the date of such event, be the Merger Consideration. Nothing in this [Section 3.8](#) shall be construed to permit the Parties to take any action except to the extent consistent with, and not otherwise prohibited by, the terms of this Agreement.

3.9 No Liability. None of the Company, the Parent Parties, or the Exchange Agent shall be liable to any Person in respect of any portion of the Merger Consideration or any share of Converted Parent Common Stock or New Jones Act Warrant delivered to a public official pursuant to any applicable abandoned property, escheat or similar Law. If any Book-Entry Shares or Company Creditor Warrants shall not have been exchanged prior to two years after the Effective Time (or immediately prior to such earlier date on which the related Merger Consideration or entitlements under [Section 2.3\(b\)\(i\)](#) would otherwise escheat to or become the property of any Governmental Entity), any such shares, cash, dividends or other distributions in respect of such Book-Entry Share shall, to the extent permitted by applicable Law, become the property of the Surviving Company, free and clear of all claims or interest of any Person previously entitled thereto.

ARTICLE IV

GOVERNANCE AND ADDITIONAL MATTERS

4.1 Governance and Additional Matters.

(a) Governing Documents.

(i) At the Effective Time, by virtue of the First Company Merger and without any further action on the part of Parent, the Company, Parent Sub or any other Person: (x) the certificate of incorporation of the Company shall be amended so that it reads in its entirety the same as the certificate of incorporation of Parent Sub as in effect immediately prior to the Effective Time (except that all references therein to Parent Sub shall be automatically amended to become references to the Surviving Corporation and the provisions naming the initial director(s) or incorporator(s) of Parent Sub shall be omitted), and as so amended shall be the certificate of incorporation of the Surviving Corporation until thereafter amended in accordance with its terms and as provided by applicable Law; and (y) the bylaws of the Company shall be amended so that they read in their entirety the same as the bylaws of Parent Sub as in effect immediately prior to the Effective Time (except that all references therein to Parent Sub shall be automatically amended to become references to the Surviving Corporation), and as so amended shall be the bylaws of the Surviving Corporation until thereafter amended in accordance with their terms and the certificate of incorporation of the Surviving Corporation and as provided by applicable Law.

(ii) As of the Second Company Merger Effective Time, by virtue of the Second Company Merger and without any further action on the part of Parent, the Surviving Corporation, LLC Sub or any other Person, the certificate of formation and limited liability company agreement of LLC Sub in effect as of immediately prior to the Second Company Merger Effective Time shall be the certificate of formation and limited liability company agreement, respectively, of the Surviving Company from and after the Second Company Merger Effective Time until thereafter amended as provided therein or by applicable Law.

(b) Board of Directors of the Surviving Corporation; Manager of the Surviving Company. From and after the Effective Time, until their respective successors are duly elected or appointed and qualified in accordance with applicable Law, the directors of Parent Sub immediately prior to the Effective Time shall be the directors of the Surviving Corporation. From and after the Second Company Merger Effective Time until the limited liability company agreement of the Surviving Company shall be amended as provided therein or by applicable Law, the manager of the Surviving Company shall be as provided in such limited liability company agreement.

(c) Officers of the Surviving Corporation; Surviving Company. From and after the Effective Time, until their respective successors are duly elected or appointed and qualified in accordance with applicable Law, the officers of the Company immediately prior to the Effective Time shall be the officers of the Surviving Corporation. From and after the Second Company Merger Effective Time, until their respective successors are duly elected or appointed and qualified in accordance with applicable Law, the officers of the Surviving Corporation following the Effective Time and immediately prior to the Second Company Merger Effective Time shall be the officers of the Surviving Company.

(d) Board of Directors of Parent.

(i) Prior to the Effective Time, Parent shall take all actions necessary (including by securing and causing to be delivered to Parent and the Company (with evidence thereof provided to Parent and the Company, as applicable) the resignations of then-serving directors of the Parent Board and by resolution of the outgoing Parent Board, filling the resulting vacancies as provided in this Section 4.1(d)) to cause, in each case, effective as of the Effective Time: (i) the number of directors constituting the full board of directors of Parent (the “**New Board**”) to be seven members; (ii) the New Board to be composed of: (A) three directors (all of whom shall be independent under applicable NYSE and Exchange Act rules) from among the members of the Parent Board as of the Signing Date designated by Parent prior to the mailing of the Proxy Statement / Prospectus, who will be reasonably acceptable to the Company (the “**Parent Designees**”); and (B) four directors (at least one of whom shall be independent under applicable NYSE rules) from among the members of the Company Board as of the Signing Date designated by the Company prior to the mailing of the Proxy Statement / Prospectus, one of whom shall be the Chief Executive Officer and President, and the remainder of whom will be reasonably acceptable to Parent (the “**Company Designees**”); (iii) all of the Parent Designees and the Company Designees to be appointed, elected and approved as directors of the New Board by a vote of at least a majority of the Parent Board in office as of immediately prior to the Effective Time; and (iv) William L. Transier to be appointed to serve as Chairman of the New Board. If, prior to the Effective Time, any Parent Designee is unwilling or unable to serve (or continue to serve) as a director on the New Board following the Effective Time as a result of illness, death, resignation or any other reason, then any replacement for such individual shall be selected by Parent and reasonably acceptable to the Company from the individuals who are members of the Parent Board as of the Signing Date, and such replacement shall constitute a Parent Designee for all purposes under this Agreement. If, prior to the Effective Time, any Company Designee is unwilling or unable to serve (or continue to serve) as a director on the New Board following the Effective Time as a result of illness, death, resignation or any other reason, then any replacement for such individual shall be selected by the Company and reasonably acceptable to Parent from the individuals who are members of the Company Board as of the Signing Date, and such replacement shall constitute a Company Designee for all purposes under this Agreement. Parent shall enter into an indemnification agreement in the form attached hereto as Exhibit F (the “**D&O Indemnification Agreement**”) with each of the directors serving on the New Board.

(ii) The New Board will consist of the same three-class “staggered” board as the Parent Board. (A) One Parent Designee and two Company Designees shall be Class III directors, with term first expiring in 2029; (B) one Parent Designee and one Company Designee shall be Class II directors, with term first expiring in 2027; and (C) one Parent Designee and one Company Designee shall be Class I directors, with term first expiring in 2028.

(e) Officers of Parent. Prior to the Effective Time, Parent shall take all actions necessary to cause, effective as of the Effective Time, Todd M. Hornbeck (the “**CEO**”) to be appointed to serve as the Chief Executive Officer and President of Parent. If, prior to the Effective Time, any individual to be appointed pursuant to the preceding sentence is unable or unwilling to serve as a member of executive management of Parent in the capacity set forth in this Agreement, then a substitute individual shall be selected by mutual agreement of Parent and the Company. Prior to the Effective Time, the Company and Parent shall take all actions necessary to cause, effective as of the Effective Time, the executive officers (other than the officers specified in the preceding sentences) of Parent and its Subsidiaries to be those individuals selected by the Chief Executive Officer and President of the Company in consultation with a representative of each of the Parent Board and the Company Board on a merit basis, without consideration of whether the persons selected serve as officers or employees of the Company or Parent prior to the Effective Time.

(f) Pre-Closing Integration Planning. During the Interim Period, each of the Company and Parent shall, and shall cause each of its respective Subsidiaries to, subject to applicable Law, cooperate with the other Party in connection with planning the integration of the businesses of the Company and Parent, the identification of synergies and the adoption of best practices for Parent and its Subsidiaries following the Effective Time, provided that neither Party (or its Subsidiaries) shall be required to take any action (or forgo any action) to the extent it would be reasonably expected to result in adverse tax consequences to such Person or its respective equityholders. In furtherance of the foregoing, promptly following the Signing Date, and in any event within five Business Days of the Signing Date, the Parent Board and the Company Board will each select an equal number of persons (the

“**Integration Planning Committee**”) who shall mutually develop an integration plan with the assistance of an integration team, and such integration team shall meet at least every other week (unless otherwise determined by the respective representatives of each Party on such committee) prior to the Closing Date (subject to applicable Law and the approval of their respective legal counsels) and as otherwise reasonably requested by the Company or Parent to conduct transition and integration planning. The representatives of each Party on the Integration Planning Committee shall have primary authority to provide any request for approval from the other Party under Section 7.1(a) or (b), except as provided in Section 7.1(c).

(g) Committees of the New Board. Parent shall take all actions necessary to, effective as of the Effective Time, in each case selected with mutual agreement by Parent and the Company, and subject to applicable NYSE and Exchange Act rules, cause each committee of the New Board to consist of at least one Parent Designee and at least one Company Designee consistent with the Governance Policy.

(h) Name and Trading Symbol. The name of Parent as of the Effective Time shall be Hornbeck Offshore Services, Inc. and the ticker symbol shall be “HOS”.

(i) Headquarters. As of the Effective Time, Parent’s principal executive offices and headquarters will be located at 103 Northpark Boulevard, Suite 300, Covington, Louisiana 70433 and 3505 West Sam Houston Parkway North, Suite 400, Houston, Texas 77043.

(j) Governance Period. At or prior to the Closing, Parent shall take all actions (including holding a meeting of the Parent Board (or a duly authorized committee thereof)) to approve and adopt the governance policy set forth on Exhibit G (the “**Governance Policy**”). From the Effective Time until the Company’s 2028 annual stockholders meeting (the “**Governance Period**”), unless required by applicable Law or stock exchange rule (as determined in good faith by the Parent Board after consultation with outside legal counsel), Parent shall not amend, modify or terminate or agree to amend, modify or terminate the Governance Policy or take any action, or agree to take any action that would have the effect of causing Parent to no longer be bound by the Governance Policy, except as approved by at least 75% of the number of directors then serving on the Parent Board. Throughout the duration of the Governance Period, unless required by applicable Law or stock exchange rule (as determined in good faith by the Parent Board after consultation with outside legal counsel), Parent shall comply in all material respects with the Governance Policy. Notwithstanding any other provision of this Agreement that may be to the contrary: (i) each non-management Parent Designee and each non-management Company Designee shall be an express third-party beneficiary of Section 4.1(d), Section 4.1(e), Section 4.1(g) and this Section 4.1(j); (ii) if the condition to Closing set forth in Section 8.3(h) is not satisfied at Closing, Section 4.1(d), Section 4.1(e) and Section 4.1(g) shall survive consummation of the Transactions for a period of six months following the Closing, subject to extension for the duration of any Proceedings relating to the enforcement of such covenants and shall be enforceable by any of such non-management Parent Designee and each Company Designee against Parent and its successors and assigns; and (iii) this Section 4.1(j) shall survive consummation of the Transactions until the expiration of the Governance Period; provided, however, that none of such persons shall be entitled to bring any claim for damages or other remedies at law or equity except for claims for injunctive relief to specifically perform the actions contemplated by Section 4.1(d), Section 4.1(e), Section 4.1(g) and this Section 4.1(j). Any and all fees, costs and expenses incurred by any Parent Designee or Company Designee in enforcing Section 4.1(d), Section 4.1(e), Section 4.1(g), or this Section 4.1(j) shall be paid for by Parent.

ARTICLE V

MUTUAL REPRESENTATIONS AND WARRANTIES OF THE COMPANY AND PARENT

Except: (x) with respect to Parent, as set forth in Parent’s Reports filed with or furnished to the SEC since January 1, 2024 and publicly available on the Electronic Data Gathering, Analysis and Retrieval System administered by the SEC (“**EDGAR**”) at least twenty-four hours prior to the Signing Date (excluding any disclosures set forth or referenced in any risk factor section or in any other section to the extent they are forward-looking statements or cautionary, predictive or forward-looking in nature); (y) with respect to the Company, as set forth in the Company’s registration statement on Form S-1 publicly filed with the SEC prior to the Signing Date (together with any amendments and exhibits thereto that have been publicly filed with the SEC by the Company prior to the Signing Date, the “**Company Registration Statement**”) (excluding any disclosures set forth or referenced in any risk factor section, in any section relating to forward-looking disclosure, or in any other section to the extent they are forward-looking statements or cautionary, predictive or forward-looking in nature); or (z) with respect to both the Company and Parent, in the corresponding sections or subsections of the disclosure letter delivered to the Company by Parent (the “**Parent**”).

Disclosure Letter”) or delivered to Parent by the Company (the “**Company Disclosure Letter**” and, each of the Parent Disclosure Letter and the Company Disclosure Letter, a “**Disclosure Letter**”) concurrently with the execution and delivery of this Agreement, Parent hereby represents and warrants to the Company, with respect to itself and its Subsidiaries, and the Company hereby represents and warrants to the Parent Parties, with respect to itself and its Subsidiaries, that:

5.1 Organization, Good Standing and Qualification.

(a) Such Party and each of its Subsidiaries is a legal entity duly organized, validly existing and in good standing (with respect to jurisdictions which recognize such concept) under the Laws of its respective jurisdiction of organization and has all requisite corporate or similar power and authority to own, lease and operate its properties and assets and to carry on its business as currently conducted and is qualified to do business and is in good standing as a foreign corporation or other legal entity in each jurisdiction where the ownership, leasing or operation of its assets or properties or conduct of its business requires such qualification, except as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect on such Party.

(b) The Company has made available to Parent, and Parent has made available to the Company, complete and correct copies of such Party’s Organizational Documents, each as amended prior to the execution of this Agreement. Such Party is not in material violation of any of the provisions of such Party’s Organizational Documents.

5.2 Subsidiaries; Minority Investments. Section 5.2 of such Party’s Disclosure Letter sets forth a true and complete list of each Subsidiary of such Party, including its jurisdiction of incorporation or formation. Section 5.2 of such Party’s Disclosure Letter also sets forth such Party’s or its Subsidiaries’ capital stock, equity interests or other direct or indirect ownership interests in any other Person other than capital stock, equity interests or other direct or indirect ownership interests or securities of direct or indirect wholly owned Subsidiaries of such Party. Except as set forth on Section 5.2 of such Party’s Disclosure Letter, there are no outstanding contractual obligations of such Party or any of its Subsidiaries to provide funds to, or make any investment (in the form of a loan, capital contribution or otherwise) in, any Person (other than a wholly owned Subsidiary of such Party), other than guarantees by such Party of any indebtedness or other obligation of any direct or indirect wholly owned Subsidiary of such Party. No Subsidiary of such Party is, or since the Applicable Date has been, subject to any requirement to file periodic reports under the Exchange Act. No Subsidiary of such Party owns any shares of Company Common Stock or Parent Common Stock.

5.3 Corporate Authority; Approval. Such Party has all requisite corporate or limited liability company power and authority and has taken all corporate action necessary in order to execute, deliver and perform its obligations under this Agreement and to consummate the Transactions, and the execution and delivery of this Agreement and the consummation of the Transactions by such Party have been duly authorized by all necessary corporate or limited liability company action on the part of such Party, in each case subject only to: (a) in the case of Parent, approval of: (i) the issuance of shares of Converted Parent Common Stock pursuant to this Agreement (the “**Share Issuance**”) by the holders of a majority of the outstanding shares of Parent Common Stock entitled to vote on the Share Issuance; (ii) the Plan of Conversion by the holders of a majority of the outstanding shares of Parent Common Stock entitled to vote on such matter; (iii) the Jones Act compliance provisions set forth in Article XV of the Parent Certificate of Incorporation upon Conversion (the “**Jones Act Provisions**”) by the holders of a majority of the outstanding shares of Parent Common Stock entitled to vote on such matter; (iv) an increase in the authorized Parent Common Stock and Parent Preferred Stock of the Parent as set forth in Article V of the Parent Certificate of Incorporation upon Conversion (the “**Share Increase**”); (v) the director and officer citizenship requirement provisions set forth in Section 6.7 of the Parent Certificate of Incorporation upon Conversion by the holders of a majority of the outstanding shares of Parent Common Stock entitled to vote on such matter (the “**D&O Citizenship Matters**”); (vi) the Second Company Merger by the holders of a majority of the outstanding shares of Parent Common Stock entitled to vote on such matter (the “**Second Merger Approval**”); (together with the Share Issuance, the Plan of Conversion, the Jones Act Provisions, the D&O Citizenship Matters and the Second Merger Approval the “**Requisite Parent Vote Matters**”) by the holders of a majority of the outstanding shares of Parent Common Stock entitled to vote on such matter, in each case, at a meeting of the Parent shareholders duly called and held for such purpose (clauses (i), (ii), (iii), (iv), (v) and (vi) collectively, the “**Requisite Parent Vote**”); (b) in the case of the Company, adoption of this Agreement by the affirmative vote of the holders of a majority of the outstanding shares of Company Common Stock entitled to vote on the adoption of this Agreement (the “**Requisite Company Approval**”); (c) the filings with the Secretaries of State of the States of Minnesota and Delaware in connection with the Conversion as set out in the Plan of Conversion; and (d) the filings of the First Certificate of Merger and the Second Certificate of Merger with the Secretary of State of the State of Delaware.

This Agreement has been duly executed and delivered by such Party and, assuming the due execution and delivery by each other Party, this Agreement constitutes a valid and binding agreement of such Party enforceable against such Party in accordance with its terms, subject to bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and similar Laws of general applicability relating to or affecting creditors' rights and to general equity principles (the "**Bankruptcy and Equity Exception**").

5.4 Governmental Filings; No Violations; Certain Contracts.

(a) Other than the filings, notices, reports, consents, registrations, approvals, permits, expirations of waiting periods or authorizations ("**Filings**"): (i) pursuant to the MBCA, the DGCL, the DLLCA, the HSR Act or other Antitrust Laws, Foreign Investment Laws, the Jones Act and other Maritime Guidelines, the NISPOM Rule or any other applicable U.S. or non-U.S. national industrial security regulations, the Exchange Act and the Securities Act; (ii) required to be made with the NYSE; (iii) pursuant to federal and state securities, takeover and "blue sky" Laws; and (iv) included in Section 5.4(a) of such Party's Disclosure Letter (collectively, the "**Approvals**"), no Filings are required to be made or obtained by such Party with, nor are any required to be obtained by such Party with or from, any Governmental Entity, in connection with the execution, delivery and performance of this Agreement by such Party and the consummation of the Transactions except as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect on such Party (provided, that clauses (C) and (D) of the definition of Material Adverse Effect shall be disregarded for purposes of this Section 5.4(a)).

(b) Subject to obtaining the Requisite Parent Vote and the Requisite Company Approval, as applicable, the execution, delivery and performance of this Agreement by such Party do not, and the consummation of the Transactions will not, constitute or result in: (i) a breach or violation of, or a default under, the Organizational Documents of such Party or any of its Subsidiaries; (ii) except as set forth in Section 5.4(b) of such Party's Disclosure Letter, with or without notice, lapse of time or both, a breach or violation of, a termination (or right of termination) of or default under, the creation or acceleration of any obligations under or the creation of an Encumbrance on any of the assets of such Party or any of its Subsidiaries pursuant to, any Material Contract binding upon such Party or any of its Subsidiaries or, assuming (solely with respect to performance of this Agreement and consummation of the Transactions) compliance with the matters referred to in Section 5.4(a) under any Law to which such Party or any of its Subsidiaries is subject; or (iii) any change in the rights or obligations of any party under any Contract binding upon such Party or any of its Subsidiaries, except, in the case of clause (ii) or (iii) above, as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect on such Party (provided, that clauses (C) and (D) of the definition of Material Adverse Effect shall be disregarded for purposes of this Section 5.4(b)).

(c) Except as set forth in Section 5.4(c) of such Party's Disclosure Letter and subject to obtaining the Requisite Parent Vote and the Requisite Company Approval, as applicable, the execution, delivery and performance of this Agreement by such Party do not, and the consummation of the Transactions will not, require any consent, waiver or approval of any Person pursuant to, any provision of any Material Contract to which such Party or any of its Subsidiaries is a party or by which such Party or any of its Subsidiaries or any of their respective properties or assets may be bound, except as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect on such Party.

5.5 Absence of Certain Changes or Events.

(a) Since December 31, 2025 through the Signing Date, except in connection with the negotiation and execution of this Agreement, such Party and its Subsidiaries have conducted their businesses in all material respects in the Ordinary Course.

(b) Since December 31, 2025, there has not been any Effect that, individually or in the aggregate, has had or would reasonably be expected to have a Material Adverse Effect on such Party.

5.6 Litigation and Liabilities.

(a) There are no (and since the Applicable Date, there have not been any) Proceedings (other than arising from or relating to the Mergers or any of the other Transactions) before any Governmental Entity pending against or, to the Knowledge of such Party, threatened against such Party or any of its Subsidiaries, or any of their respective properties or assets or directors or officers, except as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect on such Party.

(b) Except for obligations and liabilities: (i) reflected or reserved against in such Party's most recent consolidated balance sheets (or the notes thereto) and, for Parent, included in Parent's Reports filed prior to the Signing Date; (ii) incurred in the Ordinary Course since the date of such Party's most recent consolidated balance sheets (none of which is a liability resulting from noncompliance with any applicable Law, breach of contract, breach of warranty, tort, infringement, misappropriation, dilution or Proceeding) and, for Parent, included in Parent's Reports filed prior to the Signing Date; or (iii) incurred in accordance with or as contemplated by this Agreement, there are no obligations or liabilities of any nature of such Party or any of its Subsidiaries, whether or not accrued, contingent or otherwise, and whether or not required by GAAP to be set forth on a consolidated balance sheet of such Party, except as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect on such Party.

(c) Neither such Party nor any of its Subsidiaries is a party to or subject to the provisions of any Governmental Order, except as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect on such Party. There has not been since the Applicable Date nor are there currently any internal investigations or inquiries being conducted by such Party, such Party's board of directors (or any committee thereof) or any third party at the request of any of the foregoing concerning any material financial, accounting, tax, conflict of interest, self-dealing, fraudulent or deceptive conduct or other misfeasance or malfeasance issues, except as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect on such Party.

5.7 Employee Benefits.

(a) Section 5.7(a) of such Party's Disclosure Letter sets forth an accurate and complete list of each material Benefit Plan of such Party. With respect to each material Benefit Plan primarily providing benefits to employees located in the United States, such Party has provided or made available to the other Party a current, accurate and complete copy of each of the following, to the extent applicable: (i) each material Benefit Plan document; (ii) the most recent determination or opinion letter from the Internal Revenue Service (the "IRS"); (iii) the most recent summary plan description and any summaries of material modifications; (iv) the Form 5500 and attached schedules for the most recent plan year; (v) all trust documents, insurance contracts or other funding arrangements; and (vi) any material, non-routine correspondence regarding such Benefit Plan with any Governmental Entity since the Applicable Date. With respect to each material Benefit Plan primarily providing benefits to employees located outside the United States, such Party has provided or made available to the other Party an accurate and complete copy of the current Benefit Plan document or a summary of such Benefit Plan's material terms.

(b) Except as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect: (i) each Benefit Plan (including any related trusts), has been established, operated and administered in compliance with its terms and applicable Laws, including ERISA and the Code; (ii) all contributions or other amounts payable by such Party or any of its Subsidiaries with respect to each Benefit Plan that have become due have been timely paid or, to the extent not yet due, accrued and reflected in such Party's consolidated financial statements in accordance with GAAP; and (iii) there are no pending or, to the Knowledge of such Party, threatened claims (other than routine claims for benefits) or Proceedings by a Governmental Entity by, on behalf of or against or relating to any Benefit Plan or any trust related thereto.

(c) Each Benefit Plan that is intended to be qualified under Section 401(a) of the Code has received a determination or opinion letter from the IRS to the effect that such plan is qualified under Section 401(a) of the Code, and to the Knowledge of such Party, nothing has occurred that would be reasonably expected to materially adversely affect the qualification of any such Benefit Plan. Except as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, with respect to each Benefit Plan, neither such Party nor any of its Subsidiaries nor to the Knowledge of such Party any other Person has engaged in a transaction in connection with which such Party or any of its Subsidiaries reasonably could be subject to either a civil penalty assessed pursuant to Sections 409 or 502(i) of ERISA or a Tax imposed pursuant to Sections 4975 or 4976 of the Code.

(d) Neither such Party nor any of its Subsidiaries maintains, sponsors or contributes to or has any liability, including on account of any member of their respective Controlled Group, nor has within the past six years maintained, sponsored or contributed to, or had any liability with respect to: (i) a plan subject to Title IV of ERISA, Section 302 of ERISA or Section 412 or 4971 of the Code; or (ii) a Multiemployer Plan.

(e) Except as required by Section 4980B of the Code (“**COBRA**”) or comparable state Law, no Benefit Plan provides retiree or post-employment or post-termination medical, life insurance or other welfare benefits to any Person, and none of such Party or any of its Subsidiaries has any obligation to provide such benefits (excluding such Benefit Plan that provides for employer payment or subsidy of COBRA premiums). No Party or any of its Subsidiaries has any material liability under Sections 4980D, 4980H, 6721 or 6722 of the Code.

(f) Except as set forth in Section 5.7(f) of such Party’s Disclosure Letter or as contemplated by this Agreement, neither the execution and delivery of this Agreement, stockholder or other approval of this Agreement or the consummation of the Transactions could, either alone or in combination with another event; (i) entitle any Service Provider to severance pay or any increase in severance pay; (ii) accelerate the time of payment or vesting, or increase the amount of compensation due to any such Service Provider; (iii) directly or indirectly require either such Party to transfer or set aside any assets to fund any benefits under any Benefit Plan; or (iv) result in any payment (whether in cash or property or the vesting of property) to any “disqualified individual” (as such term is defined in Treasury Regulations Section 1.280G-1) that would, individually or in combination with any other such payment, constitute an “excess parachute payment” (as defined in Section 280G(b)(1) of the Code).

(g) Neither such Party nor any of its Subsidiaries has any obligation to provide, and no Benefit Plan or other agreement of such Party or any of its Subsidiaries provides any individual with the right to, a gross up, indemnification, reimbursement or other payment for any excise or additional Taxes, interest or penalties incurred pursuant to Section 409A or Section 4999 of the Code or due to the failure of any payment to be deductible under Section 280G of the Code.

(h) Except as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect: (i) all Benefit Plans that are maintained primarily for the benefit of Service Providers outside of the United States (“**Non-U.S. Benefit Plans**”) comply with their terms and applicable local Law; and (ii) each Non-U.S. Benefit Plan which, under the Laws of the applicable foreign country, is required to be registered or approved by any Governmental Entity, has been so registered or approved and each Non-U.S. Benefit Plan intended to qualify for special tax treatment meets all the requirements for such treatment. No Non-U.S. Benefit Plan is a “defined benefit plan” (as defined in ERISA, whether or not subject to ERISA). All material contributions required to have been made by a Party or its Subsidiaries to any plan required to be maintained or contributed to under applicable Law that is maintained by a Governmental Entity have been timely made in all material respects.

5.8 Labor Matters.

(a) No labor union, works council, or other labor organization (each, a “**Union**”) or group of Service Providers of any Party or its Subsidiaries has made a demand for recognition or certification since the Applicable Date, and there are no representation or certification proceedings or petitions seeking a representation proceeding presently pending or, to the Knowledge of such Party, threatened to be brought or filed, with the National Labor Relations Board or any other labor relations tribunal or authority. There are, and since the Applicable Date have been, no strikes, concerted work stoppages, concerted slowdowns, lockouts, material arbitrations, or material labor grievances, unfair labor practice charges, or other material labor disputes pending or, to the Knowledge of such Party, threatened against any Party or any of their respective Subsidiaries. No Party or its Subsidiaries is a party to, subject to, or bound by any collective bargaining agreement or other Contract with any Union (each, a “**Labor Agreement**”), and no employee of any Party or its Subsidiaries is represented by (with respect to their employment by such Party or its Subsidiaries), any Union. To the Knowledge of such Party, there are, and since the Applicable Date have been, no union organizing activities pending or threatened against, or with respect to employees of any Party or its Subsidiaries. With respect to the transactions contemplated by this Agreement, each Party has satisfied in all material respects any pre-signing or pre-Closing notice, consultation, or other obligations owed to their employees or their employees’ representatives under any Labor Agreement.

(b) Except as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect on such Party: (i) each Party and its Subsidiaries are, and since the Applicable Date have been, in compliance with all applicable Laws respecting labor, employment standards, workers’ compensation, terms and conditions of employment, employment and employment practices, including all Laws respecting the termination of employment, wages and hours, worker classification of employees as exempt or non-exempt, immigration, equal employment opportunities, harassment, discrimination, retaliation, the provision of meal and rest breaks,

pay for all working time, classification of independent contractors, employee training and notices, affirmative action, unemployment insurance, and occupational safety and health; and (ii) no Party or any of its Subsidiaries has any liability or obligation under the WARN Act that remains unsatisfied.

(c) Except as would not have, and would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect on such Party, there have been no written or other formal claims or investigations of harassment, discrimination, retaliation or similar actions against any senior manager, officer or director of such Party or its Subsidiaries at any time since the Applicable Date.

(d) Since the Applicable Date, each Party has reasonably investigated all allegations of sexual or other harassment that have been made to such Party or its Subsidiaries against any senior level individual in his or her capacity as a Service Provider to such Party or its Subsidiaries. With respect to each such allegation with potential merit, such Party or its applicable Subsidiary has taken prompt corrective action reasonably calculated to prevent further improper action. No Party reasonably expects any material Liabilities with respect to any such allegation or is aware of any such allegation against any Service Provider of such Party that would reasonably be expected to bring such Party into material disrepute.

5.9 Compliance with Laws; Licenses.

(a) The businesses of such Party and its Subsidiaries and, with respect to the business of each Party and its Subsidiaries that are operated by third parties, to the Knowledge of such Party, have not been since the Applicable Date, and are not being, conducted in violation of any applicable Law, except as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect on such Party.

(b) Except with respect to regulatory matters covered by Section 7.5, no investigation or review by any Governmental Entity with respect to such Party or any of its Subsidiaries is pending or, to the Knowledge of such Party, threatened, nor has any Governmental Entity indicated in writing an intention to conduct the same, nor has such Party received any written notice or communication of noncompliance with any such Laws that has not been cured as of the Signing Date, in each case, except as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect on such Party.

(c) Except as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect on such Party: (i) such Party and each of its Subsidiaries has obtained and is in compliance with all Licenses necessary for it to own, lease or operate its properties, rights and other assets and to conduct its business and operations as currently conducted and have paid all fees and assessments due and payable in connection therewith; (ii) all such Licenses are in full force and effect; (iii) there is not currently threatened any suspension, revocation, termination, non-renewal, adverse modification or cancellation of any License; and (iv) no event has occurred which, with notice or lapse of time or both, would constitute a default or violation of any term, condition or provision of any License.

(d) Such Party, its Subsidiaries, their respective directors and officers, and, to the Knowledge of such Party, their respective other Representatives and third-party agents (in their capacity as such), are, and since January 1, 2021, have been, in compliance with: (i) the provisions of the U.S. Foreign Corrupt Practices Act of 1977, as amended (15 U.S.C. §§78dd-l. et seq.); and (ii) the provisions of all anti-bribery, anti-corruption and Laws of each jurisdiction in which such Party and its Subsidiaries operate (collectively, “**Anti-Corruption Laws**”).

(e) Such Party and its Subsidiaries have instituted, and maintain, or are subject to, policies and procedures reasonably designed to promote and achieve compliance with Anti-Corruption Laws.

(f) Since April 24, 2019, neither such Party nor any of its Subsidiaries nor its or their vessels (Parent Vessels or Company Vessels, as applicable), nor any of their respective directors or officers, nor to the Knowledge of such Party, any of their respective other Representatives or third-party agents (in their capacity as such) (i) has been or is a Person that is: (x) listed on any list of designated or blocked persons related to trade, economic and financial sanctions Laws, regulations, embargoes, or restrictive measures, including those administered, enacted or enforced by the United States (including the Department of Treasury, Office of Foreign Assets Control), the European Union and enforced by its member states, the United Nations Security Council, His Majesty’s Treasury, and each jurisdiction in which such Party and its Subsidiaries operate (collectively, “**Sanctions**”); (y) a Governmental Entity of, located, or organized or resident in, a country or region that is the target of comprehensive Sanctions (as of the Signing Date, Cuba, Iran, North Korea, and the Crimea region and so-called Donetsk People’s Republic and Luhansk People’s Republic of Ukraine), or a Governmental Entity of Venezuela; or (z) 50% or more

owned, directly or indirectly, individually or in the aggregate, or controlled by any one or more of the foregoing (collectively, a “**Sanctioned Person**”); or (ii) has (acting for or on behalf of such Party or any of its Subsidiaries) transacted business with or for the benefit of a Sanctioned Person or in any country or region that is the target of Sanctions, in each case in violation of Sanctions; or (iii) has (acting for or on behalf of such Party or any of its Subsidiaries): (A) engaged in any export, reexport, transfer or provision of any goods, software, technology, data or service without, or exceeding the scope of, any required or applicable licenses or authorizations under any applicable International Trade Laws; or (B) otherwise been in violation of any applicable International Trade Laws.

(g) Since January 1, 2021 (or in the case of Sanctions, since April 24, 2019), neither such Party nor any of its Subsidiaries has received from any Governmental Entity or any Person any written notice, written inquiry, or written internal or external allegation; made any voluntary or involuntary disclosure to a Governmental Entity; or conducted any internal investigation or audit concerning any actual or potential violation or wrongdoing, in each case related to Anti-Corruption Laws, Sanctions, and International Trade Laws.

5.10 Environmental Matters.

(a) Except for those matters that, individually or in the aggregate, have not had and would not reasonably be expected to have a Material Adverse Effect on such Party:

(i) such Party and each of its Subsidiaries is and since the Applicable Date has been, in compliance with all applicable Environmental Laws, which compliance includes the possession of and compliance with Licenses required pursuant to any Environmental Law for it to own, lease or operate its properties and other assets and to conduct its business or occupy its facilities and all such Licenses are in full force and effect;

(ii) there has been no Release, treatment, storage, disposal or arrangement for the disposal of, transportation, handling of, or exposure of any Person to, or contamination by, Hazardous Materials by such Party nor any of its Subsidiaries nor, to such Party or any of its Subsidiaries’ Knowledge, any other Person, in each case that has resulted or would give rise to liabilities of such Party or any of its Subsidiaries under Environmental Laws;

(iii) neither such Party nor any of its Subsidiaries has expressly retained or assumed contractually any liabilities of any other Person under Environmental Laws;

(iv) neither such Party nor any of its Subsidiaries is subject to any outstanding Governmental Order issued under Environmental Laws; and

(v) neither such Party nor any of its Subsidiaries has since the Applicable Date (or earlier if unresolved) received any written unresolved claim, or complaint from any Person, or is subject to any Proceeding before any Governmental Entity that is pending or, to the Knowledge of such Party, threatened, in each case relating to any noncompliance by or liability of such Party or its Subsidiaries under Environmental Laws.

(b) Such Party and its Subsidiaries has made available to the other Party all material reports, audits, assessments and other material documents drafted or prepared since the Applicable Date bearing on any material environmental, health and safety liabilities relating to such Party and its Subsidiaries’ current or former operations, properties or facilities, in each case that are in such Party’s possession.

5.11 Tax Matters.

(a) Except for those matters that, individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect on such Party:

(i) Such Party and each of its Subsidiaries: (A) have duly prepared and filed (taking into account any applicable extension of time within which to file) all Tax Returns required to be filed by any of them with the appropriate Tax authority and all such filed Tax Returns are complete and accurate in all respects; (B) have paid all Taxes that are due and payable (whether or not shown as due and payable on such filed Tax Returns), except for Taxes for which appeals have been filed and are ongoing or adequate reserves have been established in accordance with GAAP; (C) have withheld and paid over to the appropriate Governmental Entity all Taxes required to have been withheld and paid over under applicable Law in connection with amounts paid or owing to any Service Provider, stockholder, creditor, independent contractor or other

third party (each as determined for Tax purposes); and (D) have not waived any statute of limitations with respect to Taxes or agreed to (or otherwise been granted) any extension of time with respect to a Tax assessment or deficiency, which waiver or extension is currently outstanding.

(ii) No deficiency with respect to any amount of Taxes has been proposed, asserted or assessed against such Party or any of its Subsidiaries that has not been settled, paid or withdrawn. There are no pending or, to the Knowledge of such Party, threatened in writing disputes, claims, audits, examinations or other Proceedings before any Governmental Entity regarding any Taxes of such Party and its Subsidiaries or the assets of such Party and its Subsidiaries.

(iii) Neither such Party nor any of its Subsidiaries has been informed in writing by any jurisdiction where such Party or any of its Subsidiaries does not file a type of Tax Return that such jurisdiction believes that such Party or any of its Subsidiaries was required to file a type of Tax Return that was not filed or pay any Taxes that were not paid, which claim has not been resolved.

(iv) Neither such Party nor any of its Subsidiaries: (A) has been a member of an affiliated, consolidated, combined, unitary or similar Tax group (other than any Tax group of which such Party is or was the common parent); or (B) has any liability for Taxes of any Person (other than such Party or any of its Subsidiaries) arising from the application of Treasury Regulations Section 1.1502-6 (or any similar provision of state, local, or non-U.S. Law), as a transferee or successor, or otherwise by operation of Law.

(v) There are no Encumbrances for Taxes (other than Permitted Encumbrances) on any of the assets of such Party or any of its Subsidiaries.

(vi) Neither such Party nor any of its Subsidiaries is a party to or is bound by any Tax sharing, allocation or indemnification agreement or arrangement (other than: (A) such an agreement or arrangement exclusively between or among such Party and its Subsidiaries; or (B) a commercial agreement or arrangement the primary purpose of which is not related to Taxes).

(vii) Within the past two years prior to the Signing Date or otherwise pursuant to a plan (or series of related transactions), within the meaning of Section 355(e) of the Code, that includes the Mergers, neither such Party nor any of its Subsidiaries has been a “distributing corporation” or a “controlled corporation” within the meaning of Section 355(a)(1)(A) of the Code in a distribution of stock intended to qualify for tax-deferred treatment under Section 355 of the Code (or so much of Section 356 of the Code) as relates to Section 355 of the Code or any similar provision of state, local or non-U.S. Law.

(viii) Neither such Party nor any of its Subsidiaries has participated in: (A) a “listed transaction” within the meaning of Treasury Regulations Section 1.6011-4(b) or under any corresponding or analogous provision of state, local or non-U.S. Tax Law; or (B) a “tax shelter” within the meaning of Section 6662 of the Code or any corresponding or similar provision of state, local, or non-U.S. Tax Law.

(ix) Neither such Party nor any of its Subsidiaries will be required to include any material item of income (or exclude any item of deduction) in any taxable period (or portion thereof) beginning after the Closing Date as a result of: (A) a change in or incorrect method of accounting occurring prior to the Closing Date; (B) a prepaid amount received, or paid, outside of the Ordinary Course prior to the Closing Date; (C) a “closing agreement” as described in Section 7121 of the Code (or any similar provision of state, local, or non-U.S. Law) executed on or prior to the Closing Date; (D) any prepaid contract or installment sale entered into prior to the Closing Date; (E) intercompany transactions or any excess loss account described in the Treasury Regulations promulgated under Section 1502 of the Code (or any corresponding or similar provision of applicable state, local, or non-U.S. Law), entered into or created prior to the Closing Date; (F) deferred revenue accrued outside of the Ordinary Course prior to the Closing Date; (G) deferred gains arising prior to the Closing Date; or (H) “global intangible low-taxed income” within the meaning of Section 951A of the Code (or any corresponding or similar provision of state, local, or non-U.S. Law) or “subpart F income” within the meaning of Section 951 of the Code (or any corresponding or similar provision of applicable state, local, or non-U.S. Law) attributable to a taxable period (or portion thereof) ending on or prior to the Closing Date (i.e., measured as though the Closing Date were the last day of the applicable taxable period).

(x) Neither such Party nor any of its Subsidiaries is an “investment company” within the meaning of Section 368(a)(2)(F)(iii) of the Code.

(xi) Neither such Party nor any of its Subsidiaries is a “Prohibited Foreign Entity” within the meaning of Section 7701(a)(51) of the Code for the taxable year that includes the Closing Date.

(b) Neither such Party nor any of its Subsidiaries has taken or agreed to take any action or has any reason to believe that any fact, plan or condition exists that could reasonably be expected to prevent or impede the Mergers, taken together, from qualifying for the Intended Tax Treatment.

5.12 Intellectual Property.

(a) Section 5.12(a) of such Party’s Disclosure Letter lists all patents and patent applications, trademark registrations and trademark applications, copyright registrations and copyright applications, and domain names, in each case, that are included in such Party’s Company Intellectual Property. Except as, individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect on such Party: (i) such Party or a Subsidiary of such Party: (x) owns, or is licensed or otherwise possesses adequate rights to use (in the manner and to the extent it has used the same), all Intellectual Property used in their respective businesses as currently conducted; and (y) owns all right, title and interest to its Company Intellectual Property, in each of (x) and (y), free and clear of all Encumbrances (except Permitted Encumbrances); and (ii) such Party’s registered Company Intellectual Property is subsisting, valid and enforceable.

(b) Except as, individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect on such Party: (i) there are no pending, or to the Knowledge of such Party, threatened claims by any Person alleging infringement, misappropriation, dilution, or other violation by such Party or any of its Subsidiaries of the Intellectual Property of any Person; (ii) the conduct of the businesses of such Party and its Subsidiaries has not since the Applicable Date infringed, misappropriated or diluted, and does not infringe, misappropriate, dilute or otherwise violate, any Intellectual Property of any Person; (iii) neither such Party nor any of its Subsidiaries has since the Applicable Date made any claim of infringement, misappropriation, dilution or other violation by others of its rights to or in connection with such Party’s Company Intellectual Property; (iv) to the Knowledge of such Party, no Person has since the Applicable Date or is currently infringing, misappropriating, diluting or otherwise violating any of such Party’s Company Intellectual Property; and (v) since the Applicable Date, no Party has received any written claim or notice from any Person alleging that such Party’s registered Company Intellectual Property is invalid or unenforceable or challenging the ownership thereof.

(c) Except as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect on such Party: (i) such Party and each of its Subsidiaries has taken commercially reasonable efforts, to protect and maintain its Company Intellectual Property; (ii) no Person has gained unauthorized access to any material trade secrets or other confidential information of such Party and its Subsidiaries; and (iii) all individuals who have contributed to the development of such Party’s (or its Subsidiaries’) Company Intellectual Property have entered into an agreement assigning all rights in and to such Company Intellectual Property to such Party (or to one of its Subsidiaries).

(d) Except as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect on such Party, such Party and each of its Subsidiaries has taken commercially reasonable efforts to: (i) protect and maintain the confidentiality, integrity and security of its IT Assets and the data, software and other information stored or contained therein or transmitted thereby from any unauthorized use, access, interruption or modification by any Person, including the implementation of reasonable backup and disaster recovery technology processes; and (ii) prevent the introduction of disabling codes or instructions, spyware, trojan horses, worms, viruses or other software routines that permit or cause unauthorized access to, or disruption, impairment, disablement, or destruction of, software, data or other materials. Except as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect on such Party, such Party’s IT Assets are sufficient, including with respect to the number of license seats, for the continued conduct of such Party’s business as currently conducted and do not contain disabling codes or instructions, spyware, trojan horses, worms, viruses or other software routines that permit or cause unauthorized access to, or disruption, impairment, disablement, or destruction of, software, data or other materials. Except as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect on such Party, since the Applicable Date, no such Party or any of its Subsidiaries has experienced any actual cyber or security incident, breach, phishing incident, ransomware or

malware attack, or any loss, distribution, compromise, exfiltration, processing or disclosure of, and no Person has gained unauthorized access to, any confidential information, trade secrets, IT Assets owned, used, held for use or processed by or on behalf of such Party or any of its Subsidiaries or the information (including Personal Data) stored or contained therein or transmitted thereby.

(e) Except as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect on such Party, since the Applicable Date: (i) such Party and each of its Subsidiaries has operated and conducted its business in compliance with all applicable Laws relating to data protection, information privacy, or security, or any other Data Requirements; and (ii) neither such Party nor any of its Subsidiaries have received any written notice of any claims or threats, or has been charged with or been subject to any Proceeding, in each case, relating to Personal Data or any Data Requirement. Except as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect on such Party, such Party's consummation of the Transactions does not and will not reasonably be expected to violate or breach any Data Requirements.

5.13 Insurance. All maritime, marine, vessel (including hull & machinery and protection and indemnity), fire, casualty, bumbershoot and general liability, business interruption, product liability, environmental liability, sprinkler and water damage, workers' compensation and employer liability, directors', officers' and fiduciaries' policies and other liability insurance policies ("Insurance Policies") maintained by such Party or any of its Subsidiaries are with reputable insurance carriers, provide adequate coverage for all normal risks incident to the business of such Party and its Subsidiaries and their respective properties, vessels and assets, and are in character and amount at least equivalent to that carried by Persons engaged in similar businesses and subject to the same or similar perils or hazards, in each case, except as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect on such Party. Each Insurance Policy is in full force and effect and all premiums due with respect to all Insurance Policies have been paid, and neither such Party nor any of its Subsidiaries has taken any action or failed to take any action that (including with respect to the Transactions), with notice or lapse of time or both, would constitute a breach or default, or permit a termination of any of the Insurance Policies, in each case, except as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect on such Party.

5.14 Material Contracts.

(a) Except for this Agreement, the Existing Securityholders Agreement and as set forth on Section 5.14 of such Party's Disclosure Letter, as of the Signing Date, none of such Party or its Subsidiaries is a party to or bound by any Contract (other than: (x) any Benefit Plans; (y), except in the case of Section 5.14(a)(i), any lease, sublease, rental or occupancy agreement, license or other Contract that, in each case, provides for the ownership of, leasing of, title to, use of, or any leasehold or other interest in any Real Property; or (z) Contract relating to Insurance Policies):

(i) that is a "material contract" (as such term is defined in Item 601(b)(10) of Regulation S-K promulgated under the Exchange Act);

(ii) that materially limits, curtails or restricts or purports to materially limit, curtail or restrict, or, in the case of Parent after the Effective Time, would or would purport to materially limit, curtail, or restrict, either: (A) (x) the type of business in which such Party or any of its Subsidiaries or Affiliates may engage; (y) the locations in which any of them may so engage in any business; or (z) the vendors or suppliers which such Party or any of its Subsidiaries may engage or use; or (B) the ability of such Party or any of its Subsidiaries or Affiliates to hire or solicit for hire for employment any individual or group, except for non-disclosure or confidentiality agreements entered into in connection with actual or contemplated acquisitions or dispositions;

(iii) for any joint venture, partnership or similar arrangement, in each case that is material to such Party and its Subsidiaries, taken as a whole;

(iv) (A) relating to the acquisition, issuance, voting, registration, sale or transfer of any securities of such Party or any of its Subsidiaries (other than any Organizational Documents of such Party or any of its Subsidiaries); (B) providing any Person with any preemptive right, right of participation, right of maintenance, or any similar right with respect to any securities of such Party; or (C) providing such Party or any of its Subsidiaries with any right of first refusal with respect to, or right to repurchase or redeem, any securities of such Party, except for Contracts evidencing Company Equity Awards or Parent Equity Awards;

(v) pursuant to which such Party or any of its Subsidiaries has any outstanding “earnout” or other contingent, deferred or fixed payment obligations in excess of \$50,000 (excluding, for the avoidance of doubt, Ordinary Course accounts payable and other similar obligations);

(vi) that is an indenture, credit agreement, loan agreement, security agreement, guarantee, note or mortgage providing for (including written Contracts to provide commitments therefor) or guaranteeing Indebtedness of any Person (whether incurred, assumed, guaranteed or secured by any asset) in excess of \$1,000,000 or that becomes due and payable upon, or provides a right of termination or acceleration as a result of, the consummation of the Transactions, other than Contracts between or among or for the benefit of such Party and any of its wholly owned Subsidiaries or between or among any such wholly owned Subsidiaries;

(vii) that is with any manufacturer, vendor or other supplier with respect to which manufacturer, vendor or other supplier the aggregate annual spend for the year ended December 31, 2025 exceeded \$5,000,000 for such Party and its Subsidiaries, taken as a whole, or which manufacturer, vendor or other supplier imposes a minimum purchase order;

(viii) relating to any Swaps, letters of credit, bank guarantees, or other similar Contracts or arrangements;

(ix) is an acquisition agreement, asset purchase agreement, sale agreement, purchase agreement, stock purchase agreement, put agreement, call agreement or other similar agreement pursuant to which: (A) such Party or any of its Subsidiaries would reasonably be expected to be obligated to pay total consideration including assumption of debt after the Signing Date in excess of \$10,000,000; (B) any third party has the right to acquire any assets of such Party or any of its Subsidiaries with a fair market value or purchase price of more than \$10,000,000; or (C) any third party has the right to acquire any interests in such Party or any of its Subsidiaries, other than, in the case of clauses (A) and (B), sales of goods or services in the Ordinary Course;

(x) that is a Labor Agreement;

(xi) between such Party and its Subsidiaries, on the one hand, and such Party’s Affiliates (other than Subsidiaries of such Party) or other Persons, on the other hand, that would be required to be disclosed under Item 404 of Regulation S-K promulgated under the Exchange Act;

(xii) that arises out of any material Intellectual Property-related dispute (including any co-existence or settlement agreement) or under which any license or other rights are granted or received with respect to such Party’s material Intellectual Property or material IT Assets, excluding: (A) agreements with employees or contractors entered into in the ordinary course on such Party’s form; or (B) non-exclusive licenses: (x) entered into in the Ordinary Course; or (y) to commercially available software on standard terms and conditions with aggregate annual or upfront payments of less than \$250,000 individually;

(xiii) that provides for any standstill or similar obligations restricting the purchase by such Party of securities of a third Person;

(xiv) that is a Government Contract;

(xv) that imposes any: (A) most-favored nation obligation; (B) exclusivity or similar restriction; or (C) limitation or restriction on the provision of services to any other Person regardless of whether such Person is a current or prospective client;

(xvi) where such Party or its Subsidiaries has agreed to indemnify any Person (other than such Party or its Subsidiaries) outside of the ordinary course of business; and

(xvii) that results in any Person holding a power of attorney from such Party or any of its Subsidiaries that relates to such Party, any of its Subsidiaries or their respective business, in any jurisdiction other than within the United States.

Each such Contract described in this Section 5.14(a), together with, with respect to Parent, all Contracts filed as exhibits to Parent’s Reports, is referred to herein as a “**Material Contract**.”

(b) A true and complete copy of each Material Contract, and any amendments thereto, of such Party or its Subsidiaries entered into prior to the Signing Date has been made available to the other Party. Except as, individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect on such Party:

(i) each of the Material Contracts is binding on such Party or its Subsidiaries, as the case may be, and to the Knowledge of such Party, each other party thereto, in accordance with its terms and subject to the Bankruptcy and Equity Exception, and is in full force and effect; and (ii) each of such Party and its Subsidiaries (to the extent they are party thereto or bound thereby) and, to the Knowledge of such Party, each other party thereto has performed all obligations required to be performed by it under each Material Contract. Except as, individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect on such Party: (A) each of such Party and its Subsidiaries is not (with or without notice, lapse of time or both) in breach or default thereunder and, to the Knowledge of such Party, no other party to any Material Contract is (with or without notice, lapse of time or both) in breach or default thereunder; and (B) neither such Party nor any of its Subsidiaries has received written notice from the other party to any Material Contract of any intention to cancel, terminate, materially change the scope of rights and obligations under or not to renew such Material Contract.

5.15 Title to Assets; Condition and Sufficiency of Tangible Assets. Except as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect on such Party: (i) each of such Party and its Subsidiaries has good and marketable title to, or in the case of leased assets, valid leasehold interests in, all of its assets (other than Real Property), tangible or intangible, free and clear of any Encumbrances other than Permitted Encumbrances; (ii) such Party or one of its Subsidiaries owns or leases all equipment, machinery and other tangible personal property used in or necessary to conduct its business as currently conducted by such Party; and (iii) each such item of equipment, machinery and other tangible personal property is in good repair, working order and operating condition and are capable of being used for and adequate for their intended purposes, ordinary wear and tear and routine maintenance excepted.

5.16 Real Property.

(a) The real property listed on Section 5.16(a) of such Party's Disclosure Letter constitutes the only Owned Real Property or Leased Real Property of such Party and its Subsidiaries that is necessary for the conduct of the business of such Party and its Subsidiaries in the manner in which such business is being conducted as of the Signing Date.

(b) Except as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect on such Party, with respect to the Owned Real Property of such Party: (i) such Party or one of its Subsidiaries, as applicable, has good and indefeasible title to such Owned Real Property, free and clear of any Encumbrance except for Permitted Encumbrances; and (ii) there are no outstanding options or rights of first refusal to purchase such Owned Real Property, or any portion thereof or interest therein.

(c) With respect to the Leased Real Property of such Party, the lease or sublease for such property is valid, legally binding, enforceable and in full force and effect, and none of such Party or any of its Subsidiaries is in breach of or default under such lease or sublease in any material respect, and no event has occurred, which, with notice, lapse of time or both, would constitute a breach or default by any of such Party or its Subsidiaries or permit termination, modification or acceleration by any third party thereunder, except in each case as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect on such Party.

5.17 Rights of Way. Each such Party and its Subsidiaries has such Consents, easements, rights of way, permits, licenses, and other similar real estate interests (collectively "Rights of Way") as are sufficient to conduct its business as presently conducted, except for such Rights of Way the absence of which would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect on such Party. Each such Party and its Subsidiaries has fulfilled and performed all of its material obligations with respect to such Rights of Way and has conducted its business in a manner that does not violate any of the Rights of Way in any material respect and, to the Knowledge of such Party, no event has occurred that allows, or after notice or lapse of time would allow, revocation or termination thereof or would result in any impairment of the rights of the holder of any such Rights of Way, except for such revocations, terminations and impairments that would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect on such Party. All wells, pipelines and other similar operations operated by such Party and its Subsidiaries, if any, are located on valid Rights of Way, or are located on Owned Real Property or Leased Real Property of such Party or its Subsidiaries, and, to the Knowledge of such Party, there are no gaps (including any gap arising as a result of any breach by such Party or any of its Subsidiaries of the terms of any Rights of Way) in the Rights of Way other than gaps that would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect on such Party.

5.18 Jones Act. Such Party is a “citizen of the United States” as such term is defined in Section 2 of the Shipping Act of 1916, as amended (46 U.S.C. § 50501), and the regulations promulgated thereunder by U.S. Governmental Entities, and is otherwise eligible to own and operate vessels documented in the United States with a coastwise endorsement under 46 U.S.C. § 12103 for operation in accordance with U.S. cabotage laws, 46 U.S.C. ch. 551, and the rules and regulations promulgated thereunder by U.S. Governmental Entities (collectively, all of the foregoing statutes, rules, and regulations, together with 15 U.S.C § 56101, and each as amended from time to time and any successor or replacement statutes, the “Jones Act”), and has been for as long as it has owned or operated any vessels in the Coastwise Trade.

5.19 Affiliate Transactions. Neither such Party nor any of its Subsidiaries is party to any transaction or arrangement under which any: (a) present or former executive officer or director of such Party or any of its Subsidiaries; (b) a “beneficial owner” or “group” (each within the meaning of Section 13(d) of the Exchange Act) of 5% or more of such Party’s equity securities; or (c) Affiliate, “associate” or member of the “immediate family” (as such terms are respectively defined in Rules 12b-2 and 16a-1 of the Exchange Act) of any of the foregoing is a party to any actual or proposed loan, lease or other Contract with or binding upon such Party or any Subsidiary of such Party or owns or has any interest in any of their respective properties or assets, in each case as would be required to be disclosed by such Party pursuant to Item 404 of Regulation S-K promulgated under the Exchange Act.

5.20 Preferential Rights. Except as set forth on Section 5.20 of such Party’s Disclosure Letter, there are no preferential purchase rights, rights of first or last offer, negotiation or refusal in Contracts or agreements binding upon the assets of such Party or its Subsidiaries that would be triggered by the consummation of the Transactions that would result in a loss of any material portion of such Party’s or its Subsidiaries’ assets.

5.21 Information Supplied. None of the information supplied or to be supplied by such Party or its Subsidiaries for inclusion or incorporation by reference in: (a) the Registration Statement will, at the time the Registration Statement becomes effective under the Securities Act, contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein not misleading; and (b) the Proxy Statement/Prospectus and any amendment or supplement thereto will, at the date of mailing to the shareholders of Parent and at the time of the Parent Shareholders Meeting, contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading.

5.22 Financial Assurance Obligations.

(a) Section 5.22 of such Party’s Disclosure Letter sets forth (i) a complete and accurate list of all Financial Assurances posted, maintained or otherwise provided by such Party or its Subsidiaries, or by an Affiliate on behalf of such party or its Subsidiaries, as of the Signing Date, in support of the obligations of such Party or its Subsidiaries to any Governmental Entity, contract counterparty, or other Person related to the ownership of its properties and assets and (ii) any other material sinking funds, reserves, escrows, cash deposits, financial instruments, surety agreements and similar agreements, guarantees and other items of credit support that such Party, its Subsidiaries or their Affiliates is liable for or that are binding on the assets, as of the Signing Date, including, in each case of clause (i) and (ii), the type and amount of such credit support and the date such credit support was provided.

(b) Except as set forth on Section 5.22 of such Party’s Disclosure Letter, no such Party, nor any of its Subsidiaries or Affiliates, has any obligation (whether pursuant to applicable Law or contract or otherwise) to post, maintain or otherwise provide any Financial Assurance with respect to any of the properties and assets.

5.23 Decommissioning. As of the Signing Date, there is no part of the assets in respect of which such Party, or to such Party’s Knowledge any third party, has received a written order from any Governmental Entity imposing any Decommissioning Obligations regarding any of the assets that have not yet been completed as of the Signing Date.

ARTICLE VI

INDIVIDUAL REPRESENTATIONS AND WARRANTIES OF THE COMPANY AND PARENT

Except: (x) with respect to Parent, as set forth in Parent’s Reports filed with or furnished to the SEC during the period from January 1, 2024 and publicly available on EDGAR at least twenty-four hours prior to the Signing Date (excluding any disclosures set forth or referenced in any risk factor section, in any section relating to forward-looking disclosure, or in any other section to the extent they are forward-looking statements or cautionary, predictive or

forward-looking in nature); (y) with respect to the Company, as set forth in the Company Registration Statement (excluding any disclosures set forth or referenced in any risk factor section, in any section relating to forward-looking disclosure, or in any other section to the extent they are forward-looking statements or cautionary, predictive or forward-looking in nature); or (z) with respect to both the Company and Parent in the corresponding sections or subsections of the Parent Disclosure Letter or Company Disclosure Letter delivered to the other Party concurrently with the execution and delivery of this Agreement, Parent hereby represents and warrants to the Company, in respect of [Sections 6.1 through Section 6.11](#), and the Company hereby represents and warrants to the Parent Parties, in respect of [Section 6.12 through Section 6.21](#), in each case, that:

6.1 [Parent Capital Structure.](#)

(a) In the case of Parent, the authorized capital stock of Parent consists of 240,000,000 shares of Parent Common Stock and 5,000,000 shares of preferred stock, par value \$0.01 per share (the “**Parent Preferred Stock**”). As of April 22, 2026 (the “**Measurement Date**”): (i) 147,296,092 shares of Parent Common Stock (including 127,158 shares of Parent Common Stock subject to Parent Restricted Stock Awards) were issued and outstanding; (ii) no shares of Parent Common Stock were held by Parent in its treasury; and (iii) no shares of Parent Preferred Stock were issued and outstanding. All of the outstanding shares of Parent Common Stock have been, and all shares of Converted Parent Common Stock to be issued pursuant to this Agreement will be, duly authorized, validly issued, fully paid and nonassessable and free of preemptive rights, and none of the shares of Converted Parent Common Stock to be issued pursuant to this Agreement will be issued in violation of any applicable Laws or any preemptive or similar rights. Parent has no shares of Parent Common Stock or Parent Preferred Stock reserved for issuance, except that, as of the Measurement Date, there were (a) 7,866,960 shares of Parent Common Stock reserved for future issuance under the Parent Stock Plans (6,726,813 net of unvested Parent RSU Awards), (b) 1,140,147 shares of Parent Common Stock subject to outstanding Parent RSU Awards, and (c) 2,708,670 shares of Parent Common Stock subject to outstanding Parent PSU Awards (assuming maximum performance) granted under the Parent Stock Plans.

(b) [Section 6.1](#) of the Parent Disclosure Letter sets forth the following information with respect to each Parent Equity Award outstanding as of the Signing Date, as applicable: (i) the name or identification number of the holder of such Parent Equity Award; (ii) whether such Parent Equity Award is a Parent Restricted Stock Award, Parent PSU Award, or Parent RSU Award; (iii) the number of shares of Parent Common Stock subject to such Parent Equity Award; (iv) the date on which such Parent Equity Award was granted; and (v) the applicable vesting schedule, including the number of vested and unvested shares, if applicable.

(c) Each of the outstanding shares of capital stock or other securities of each of Parent’s Subsidiaries is duly authorized, validly issued, fully paid and nonassessable, and each of the outstanding shares of capital stock or other securities of each of Parent’s Significant Subsidiaries is owned beneficially and of record by Parent or by a direct or indirect wholly owned Subsidiary of Parent, free and clear of any pledge, lien, charge, option, hypothecation, mortgage, security interest, adverse right, restriction, prior assignment, license, sublicense or any other encumbrance of any kind or nature whatsoever, whether contingent or absolute, or any agreement, option, right or privilege (whether by Law, Contract or otherwise) capable of becoming any of the foregoing (an “**Encumbrance**”, and any action of correlative meaning, to “**Encumber**”) (excluding such transfer restrictions of general applicability as may be provided under the Securities Act, the “blue sky” Laws of the various States of the United States or similar Law of other applicable jurisdictions).

(d) As of the Signing Date, there are no outstanding subscriptions, options, warrants, stock appreciation rights, preemptive rights, phantom stock, puts, call agreements, understandings, claims or other agreements, commitments or rights of any type relating to the issuance, sale, redemption, or transfer by Parent of any equity securities of Parent or its Subsidiaries, nor are there outstanding any securities which are convertible into or exchangeable for any shares of capital stock of Parent or its Subsidiaries and neither Parent nor any of its Subsidiaries has any obligation to issue any additional securities or to pay for or repurchase any securities of Parent or its Subsidiaries.

(e) The shares of Parent Common Stock are, and the shares of Converted Parent Common Stock to be issued pursuant to this Agreement will be, registered under the Exchange Act.

(f) Since the Measurement Date and through the Signing Date, Parent has not: (A) issued any shares of Parent Common Stock (other than upon the exercise or settlement (as applicable) of Parent RSU Awards or Parent PSU Awards outstanding as of the Measurement Date); or (B) granted any Parent Equity Awards or similar awards.

(g) Parent does not have outstanding any bonds, debentures, notes or other obligations the holders of which have the right to vote (or convertible into or exercisable for securities having the right to vote) with the shareholders of Parent on any matter.

6.2 Parent Recommendation and Fairness. In the case of Parent, the Parent Board has, at a meeting duly called and held at which all directors of Parent were present, duly and adopted resolutions: (a) determining that this Agreement and the Transactions are fair to, advisable and in the best interests of, Parent and the holders of shares of Parent Common Stock; (b) approving and declaring advisable this Agreement, the Requisite Parent Vote Matters and the Optional Parent Vote Matters, and the Transactions, on the terms and subject to the conditions set forth in this Agreement; (c) directing that the Requisite Parent Vote Matters and the Optional Parent Vote Matters be submitted to the holders of shares of Parent Common Stock for their approval; and (d) recommending that the holders of shares of Parent Common Stock vote in favor of the approval of the Requisite Parent Vote Matters and the Optional Parent Vote Matters on the terms and subject to the conditions set forth in this Agreement (the “**Parent Recommendation**”), which resolutions have not been subsequently rescinded, modified or withdrawn in any way, except as may be permitted by Section 7.2(d)(ii) or Section 7.2(d)(iii). The Parent Board has received the opinion of its financial advisor, Goldman Sachs & Co. LLC, to the effect that, as of the date of such opinion, and based upon and subject to the various assumptions made, procedures followed, matters considered, and qualifications and limitations on the scope of the review undertaken by Goldman Sachs & Co. LLC set forth in such opinion, the Exchange Ratio is fair, from a financial point of view, to Parent.

6.3 Parent Voting Requirements. The Requisite Parent Vote is the only vote of holders of any securities of Parent or its Subsidiaries necessary to approve the Requisite Parent Vote Matters and no other vote of holders of any securities of Parent or its Subsidiaries (excluding the Parent Consents with respect to Parent Sub and LLC Sub, which have been obtained or will be obtained immediately following the execution of this Agreement) is necessary to approve the Transactions. The Parent Consents are the only approval necessary on behalf of Parent Sub and LLC Sub to approve the adoption of this Agreement and have been obtained or will be obtained immediately following the execution of this Agreement.

6.4 Merger Subs Authority; Approval.

(a) Each of Parent Sub and LLC Sub has all requisite corporate or limited liability company power and authority and has taken all corporate or limited liability company action necessary in order to execute, deliver and perform its obligations under this Agreement and to consummate the Transactions, and the execution and delivery of this Agreement and the consummation of the Transactions by Parent Sub and LLC Sub have been duly authorized by all necessary corporate or limited liability company action on the part of Parent Sub and LLC Sub, subject only to the receipt of the Parent Consents, which have been obtained or will be obtained immediately following the execution of this Agreement. Assuming the due execution and delivery by the Company, this Agreement constitutes a valid and binding agreement of Parent Sub and LLC Sub enforceable against Parent Sub and LLC Sub in accordance with its terms, subject to the Bankruptcy and Equity Exception.

(b) Parent Sub is a wholly owned Subsidiary of Parent that was formed solely for the purpose of engaging in the First Company Merger. Since the date of its incorporation and prior to the Effective Time, Parent Sub has not engaged in any activities other than the execution of this Agreement, the performance of its obligations hereunder, and matters ancillary thereto, and prior to the Effective Time will have no assets, liabilities or obligations of any nature other than those incident to its formation and pursuant to this Agreement and the First Company Merger. Parent Sub is, and since its formation has been, classified as a corporation for U.S. federal (and applicable state and local) income tax purposes.

(c) LLC Sub is a wholly owned Subsidiary of Parent that was formed solely for the purpose of engaging in the Second Company Merger. Since the date of its formation and prior to the Second Company Merger Effective Time, LLC Sub has not engaged in any activities other than the execution of this Agreement, the performance of its obligations hereunder, and matters ancillary thereto, and prior to the Second Company Merger Effective Time will have no assets, liabilities or obligations of any nature other than those incident to its formation and pursuant to this Agreement and the Second Company Merger. LLC Sub is, and since its formation has been, properly treated as an entity disregarded as separate from Parent for U.S. federal (and applicable state and local) income tax purposes.

6.5 **Parent Brokers and Finders.** Neither Parent nor any of its Subsidiaries nor any of their respective officers or directors has employed any broker or finder or incurred any liability for any brokerage fees, commissions or finder's fees in connection with the Transactions, except that Parent has engaged Goldman Sachs & Co. LLC as its financial advisor, the fees and expenses of which will be paid by Parent.

6.6 **Parent Vessels**

(a) Section 6.6(a) of the Parent Disclosure Letter sets forth a true, correct and complete list of each Parent Vessel, including: (i) its name; (ii) its official number; (iii) its flag; (iv) whether such Parent Vessel is owned, leased or chartered; (v) the vessel type; and (vi) whether such Parent Vessel is documented with the U.S. Coast Guard with a designation of the current endorsement for each documented Parent Vessel. Neither Parent nor any Subsidiary of Parent owns, operates, leases or charters any vessels other than the Parent Vessels set forth on Section 6.6(a) of the Parent Disclosure Letter.

(b) Each Parent Vessel is free and clear of all Encumbrances, other than Permitted Encumbrances.

(c) Each Parent Vessel set forth on Section 6.6(c) of the Parent Disclosure Letter (each, a "**Parent Coastwise Vessel**") (i) was built in the United States, (ii) is eligible for operation in Coastwise Trade, (iii) is documented as a U.S. flag vessel, has a valid Certificate of Documentation with coastwise endorsements or is qualified for coastwise documentation but not required to be documented, and (iv) has never (x) been owned by or sold to any Person, or bareboat or demise chartered or leased to any Person, that did not qualify as a "citizen of the United States" as such term is defined in Section 2 of the Shipping Act of 1916, as amended, 46 U.S.C. § 50501, (y) been registered under the laws of a foreign country, or (z) been rebuilt foreign (as defined in 46 C.F.R. § 67.177).

(d) Parent and each Subsidiary of Parent that owns a Parent Vessel maintains valid Certificates of Financial Responsibility (Oil Pollution) issued by the U.S. Coast Guard pursuant to the Federal Water Pollution Control Act for such Parent Vessels (to the extent that such certificate may be required by applicable Law) and such other similar certificates as may be required in the course of the operation of such Parent Vessels pursuant to applicable Law.

(e) No event has occurred and no condition exists that is reasonably likely to cause any classed Parent Vessel's classification to be suspended or withdrawn and all events and conditions that are required by such Parent Vessel's classification society to be reported as to such Parent Vessel's class have been disclosed and reported to such Parent Vessel's classification society.

(f) Each Parent Vessel is operated in compliance with all applicable Maritime Guidelines and Laws, except where such failure to be in compliance would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. Each Parent Vessel has complied in all material respects with the regulations regarding officers and crew in force in the country of such Parent Vessel's flag or any other applicable Law.

(g) Except as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, (i) each Parent Vessel: (A) is duly registered under the flag set forth in Section 6.6 of the Parent Disclosure Letter; (B) is adequate and suitable for use by Parent in its business as presently conducted; (C) is afloat and seaworthy; (D) has all national and international operating and trading certificates and endorsements (for the avoidance of doubt such certificates and endorsements may be extended due to delays in the Ordinary Course as a result of trading patterns, surveyor availability, drydock availability and/or similar operational matters), that are required for the operation of such Parent Vessel in the trades and geographic areas in which it is operated, each of which is valid; and (E) has been classed by a classification society that is a member of the International Association of Classification Societies, and is fully in class with no significant material recommendations or notations, except to the extent such classification is not required for the operation of such Parent Vessel in the trades and geographic areas in which it is operated; and (ii) no event has occurred and no condition exists that would reasonably be expected to cause any Parent Vessel's classification society to be suspended or withdrawn and all events and conditions that are required to be reported as to the class have been disclosed and reported to such Parent Vessel's classification society.

(h) No Parent Vessel is subject to: (i) requisition of title or other compulsory acquisition, requisition, appropriation, expropriation, nationalization, deprivation, forfeiture, or confiscation for any reason by any Governmental Entity or other competent authority, whether de jure or de facto, but excluding requisition for use or hire not involving requisition of title; (ii) any actual, constructive, compromised, agreed, or arranged total loss, as applicable, including such loss as may arise during a requisition for hire; (iii) any hijacking, piracy, theft, capture,

detention, confiscation, forfeiture, seizure, condemnation, arrest, restraint, or disappearance which deprives Parent or any of its Subsidiaries (as applicable) of the use of such Parent Vessel; or (iv) any requisition for hire, and no Parent Vessel has been subject to such events within the last three (3) years.

(i) Each of the Parent Vessel's insurances are, except as would not reasonably be expected to have a Material Adverse Effect:

- (i) in dollars;
- (ii) in the case of fire and usual marine risks and war risks, in an amount on an agreed value basis at least equal to the fair market value of that Parent Vessel;
- (iii) in the case of oil pollution liability risks, for an aggregate amount equal to the highest level of cover from time to time available under basic protection and indemnity club entry;
- (iv) in the case of protection and indemnity risks, in respect of the full tonnage of its Parent Vessel;
- (v) on approved terms customary in major marine insurance markets; and
- (vi) through internationally recognized marine insurance brokers and with approved insurance companies and/or underwriters or, in the case of war risks and protection and indemnity risks, in approved war risks and protection and indemnity risks associations.

6.7 Parent Financial Statements. The financial statements (including related notes, if any) of Parent included in Parent's Reports at the time filed (and, in the case of registration statements and proxy statements, on the dates of effectiveness and the dates of mailing, respectively): (a) complied as to form in all material respects with applicable financial accounting requirements and with the published rules and regulations of the SEC with respect thereto; (b) were prepared in all material respects in accordance with GAAP during the periods involved (except as may be indicated in the notes thereto or, in the case of unaudited statements, as permitted by Form 10-Q of the SEC); and (c) fairly present in all material respects (subject in the case of unaudited statements to normal, recurring audit adjustments which are not material in significance or amount, and to any other adjustments described therein, including the notes thereto) the consolidated financial position of Parent and its consolidated Subsidiaries as at the dates thereof and the consolidated results of their operations and cash flows for the periods then ended. The financial books and records of Parent and its Subsidiaries are accurate and complete, in all material respects, have been maintained in accordance with sound business practices and GAAP (to the extent applicable) and accurately present and reflect in all material respects all of the transactions and actions described therein and Parent's financial statements have been prepared, in all material respects, in accordance with such books and records.

6.8 Parent Reports; Parent Internal Controls and Procedures.

(a) Parent has filed or furnished, as applicable, on a timely basis, all forms, schedules, prospectuses, statements, certifications, reports and documents required to be filed or furnished by it with the SEC pursuant to the Exchange Act or the Securities Act since January 1, 2024 (the "Applicable Date") (the forms, schedules, prospectuses, statements, reports and documents filed or furnished to the SEC since the Applicable Date and those filed or furnished to the SEC subsequent to the Signing Date, including any amendments thereto, Parent's "Reports"). Each of Parent's Reports, at the time of its filing or being furnished (and, in the case of registration statements and proxy statements, on the dates of effectiveness and the dates of mailing, respectively), complied, or if not yet filed or furnished, will comply in all material respects with the applicable requirements of the Securities Act, the Exchange Act and the Sarbanes-Oxley Act of 2002 (the "Sarbanes-Oxley Act"). As of their respective dates (or, if amended or superseded by a filing prior to the Signing Date, then as of the date of such filing), Parent's Reports did not, and any of Parent's Reports filed with or furnished to the SEC subsequent to the Signing Date will not, contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements made therein, in light of the circumstances in which they were made, not misleading. No Subsidiary of Parent is subject to periodic reporting requirements of the Exchange Act other than as part of Parent's consolidated group or required to file any form, report or other document with the SEC, the NYSE or any other stock exchange or comparable Governmental Entity other than routine and ordinary filings (such as filings regarding ownership holdings or transfers).

(b) Parent is, and has been at all times since the Applicable Date, in compliance in all material respects with the applicable listing and corporate governance rules and regulations of the NYSE. Except as permitted by the

Exchange Act, including Sections 13(k)(2) and 13(k)(3) thereunder, or the rules and regulations promulgated by the SEC, neither Parent nor any of its Affiliates has made, arranged or modified (in any material way) any extensions of credit in the form of a personal loan to any executive officer or director of such Party.

(c) Since the Applicable Date, Parent has maintained disclosure controls and procedures required by Rule 13a-15(e) or 15d-15(e) under the Exchange Act. Such disclosure controls and procedures are designed to ensure that information relating to Parent, including its consolidated Subsidiaries, required to be disclosed in Parent's periodic and current reports under the Exchange Act is accumulated and communicated to Parent's chief executive officer and its chief financial officer by others within those entities to allow timely decisions regarding required disclosures as required under the Exchange Act. The chief executive officer and chief financial officer of Parent have evaluated the effectiveness of Parent's disclosure controls and procedures and, to the extent required by applicable Law, presented in any report on Form 10-K or Form 10-Q, or any amendment thereto, his or her conclusions about the effectiveness of the disclosure controls and procedures as of the end of the period covered by such report or amendment based on such evaluation.

(d) Parent is not a party to, or has any commitment to become a party to, any joint venture, off-balance sheet partnership agreement or any similar Contract (including any Contract relating to any transaction, arrangement or relationship between or among Parent, on the one hand, and any unconsolidated Affiliate, including any structured finance, special purpose or limited purpose entity or Person, on the other hand (such as any agreement described in Section 303(a)(4) of Regulation S-K promulgated under the Exchange Act)) where the purpose or effect of such arrangement is to avoid disclosure of any material transaction involving, or material liabilities of, Parent in Parent's consolidated financial statements.

(e) Parent maintains "internal control over financial reporting" (as defined in Rule 13a-15(f) or 15d-15(f), as applicable, under the Exchange Act). Such internal control over financial reporting is effective in providing reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with United States generally accepted accounting principles ("GAAP") and includes policies and procedures that: (i) pertain to the maintenance of records that in reasonable detail accurately and fairly reflect the transactions and dispositions of the assets of Parent; (ii) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with GAAP, and that receipts and expenditures of Parent are being made only in accordance with authorizations of management and directors of Parent; and (iii) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use or disposition of Parent's assets that could have a material effect on its financial statements. The records, systems, controls, data and information of Parent and its Subsidiaries that are used in the systems of disclosure controls and procedures and of financial reporting controls and procedures described above are recorded, stored, maintained and operated under means that are under the exclusive ownership and direct control of Parent or a wholly owned Subsidiary of Parent or its accountants, except as would not reasonably be expected to adversely affect or disrupt, in any material respect, Parent's systems of disclosure controls and procedures and of financial reporting controls and procedures or the reports generated thereby.

(f) Since the Applicable Date, none of Parent's Board or the audit committee of the Parent Board or, to the Knowledge of the Parent, the Parent's auditors, (i) has received any written notification of any "significant deficiency" in the design or operation of its internal controls over financial reporting that are reasonably likely to adversely affect Parent's ability to record, process, summarize and report financial information, (ii) has identified for Parent's auditors, the Parent Board and the audit committee of the Parent Board any "material weakness" in internal controls over financial reporting and (iii) has received any written notification of any fraud, whether or not material, that involves management or other employees who have a significant role in Parent's internal controls over financial reporting. Since the Applicable Date, no attorney representing Parent or any of its Subsidiaries, whether or not employed by Parent or any of its Subsidiaries, has reported evidence of a material violation of securities Laws or breach of fiduciary duty or similar violation by Parent or any of its officers, directors, employees or agents to Parent's chief legal officer, audit committee (or other committee designated for the purpose) pursuant to the rules adopted pursuant to Section 307 of the Sarbanes-Oxley Act or Parent's policy contemplating such reporting, including in instances not required by those rules. Since the Applicable Date, no material complaints from any source regarding accounting, internal accounting controls or auditing matters, and no material concerns from Parent's employees regarding questionable accounting or auditing matters, have been received by Parent. Since the Applicable Date, any material change in internal control over financial reporting required to be disclosed in any Report has been so disclosed.

(g) As of the Signing Date, there are no outstanding or unresolved comments in the comment letters received from the SEC staff with respect to Parent's Reports. To the Knowledge of Parent, none of Parent's Reports is subject to ongoing review or outstanding SEC comment or investigation. Parent has made available to the Company true, correct and complete copies of all written correspondence between the SEC, on the one hand, and Parent and any of its Subsidiaries, on the other hand, with respect to open comments occurring since the Applicable Date other than any immaterial correspondence.

6.9 Parent Takeover Statutes; Parent Rights Plan. Parent has expressly elected not to be governed by the provisions of the MBCA Section 302A.671. Assuming the accuracy of the representations and warranties set forth in Section 6.21: (i) Parent Board has taken all actions necessary so that the restrictions on "business combinations" with an "interested shareholder" (each as defined in Section 302A.011, Subd. 46 and Subd. 49, respectively, of the MBCA) set forth in Section 302A.673 of the MBCA or the definitions in Section 302A.011 of the MBCA related thereto, in each case, are, and will be, inapplicable to the execution, delivery and performance of this Agreement and the consummation of the Transactions; and (ii) there is no other "fair price", "moratorium", "control share acquisition" or other similar anti-takeover statute or regulation that would prohibit or restrict the ability of Parent to enter into this Agreement or its ability to consummate the Mergers. There is no stockholder rights plan, "poison pill" anti-takeover plan or other similar device in effect to which Parent is a party or is otherwise bound.

6.10 Certain Parent Actions. Since January 1, 2016, Parent has not issued a cash dividend to its stockholders and Parent does not issue any dividends in the Ordinary Course. Neither Parent nor any of its Subsidiaries has: (x) as of the Signing Date; or (y) from the Signing Date through the Closing, in the case of (x) or (y), taken any of the actions set forth in Section 7.1(b)(vii), Section 7.1(b)(viii) or Section 7.1(b)(xx)(A)(y) or Section 7.1(b)(xx)(D)(x).

6.11 Certain Parent Arrangements.

(a) To the Knowledge of Parent, there are no Contracts, undertakings, commitments, arrangements or understandings, whether written or oral, between Parent or any of its Affiliates, on the one hand, and any beneficial owner of outstanding shares of Company Common Stock or any member of Company's management or Company Board, on the other hand, relating in any way to Company, Company's securities, the transactions contemplated by this Agreement or to the operations of Company after the Effective Time.

(b) Neither Parent nor any of its Subsidiaries or its or their Affiliates beneficially owns, directly or indirectly (including pursuant to a derivatives contract), any shares of Company Common Stock or other securities convertible into, exchangeable for or exercisable for shares of Company Common Stock or any securities of any Subsidiary of Company, and none of Parent, its Subsidiaries or Affiliates has any rights to acquire, directly or indirectly, any shares of Company Common Stock except pursuant to this Agreement.

(c) None of Parent or any Subsidiary of Parent is a party to any pending equity investment, or transaction to acquire, by merging or consolidating with, by purchasing a substantial portion of the assets of or equity in or by any other manner, any person or portion thereof, or otherwise acquire any assets, where the entering into of a definitive agreement relating to or the consummation of such transaction would reasonably be expected to (a) impose any delay in the obtaining of, or increase the risk of not obtaining, the consents, approvals, authorizations or waivers of any Governmental Entity necessary to consummate the Mergers or the expiration of termination of any applicable waiting period, (b) increase the risk of any Governmental Order prohibiting the consummation of the Mergers, (c) delay the consummation of the Mergers, or (d) otherwise result, or would individually or in the aggregate, reasonably be expected to have a Material Adverse Effect on Parent.

6.12 Company Capital Structure.

(a) In the case of the Company, the authorized capital stock of the Company consists of 50,000,000 shares of Company Common Stock. As of the Measurement Date: (i) 5,270,969 shares of Company Common Stock were issued and outstanding; (ii) no shares of Company Common Stock were held by the Company in its treasury; and (iii) no shares of Company preferred stock were issued or outstanding. All of the outstanding shares of Company Common Stock have been duly authorized, validly issued, fully paid and are nonassessable and are free of preemptive rights. The Company has no shares of Company Common Stock or Company preferred stock reserved for issuance, except that, as of the Measurement Date, there were: (a) 91,016 shares of Company Common Stock reserved for future issuance under the Company Stock Plans; (b) 853,212 shares of Company Common Stock were subject to Company Options having a weighted average price of \$32.50 per share; (c) 118,640 shares of Company Common Stock subject to outstanding Company PSU Awards (assuming maximum performance);

(d) 819,720 shares of Company Common Stock subject to outstanding Company RSU Awards; (e) 10,089,644 shares of Company Common Stock subject to Company Jones Act Warrants issued and outstanding that entitle the holder to purchase Company Common Stock at a price of \$0.00001 per share on the terms and conditions set forth in the applicable warrant agreement; and (f) 1,494,064 shares of Company Common Stock subject to Company Creditor Warrants issued and outstanding that entitle the holder to purchase Company Common Stock at a price of \$27.83 per share on the terms and conditions set forth in the applicable warrant agreement. No warrants or demand notes have been issued under the Jones Act Anti-Dilution Warrant Agreement. No shares of Company Common Stock are certificated.

(b) Section 6.12 of the Company Disclosure Letter sets forth the following information with respect to each Company Equity Award and Company Warrant outstanding as of the Signing Date, as applicable: (i) the name or identification number of the holder of such Company Equity Award or Company Warrant; (ii) whether such Company Equity Award or Company Warrant is a Company PSU Award, Company RSU Award, Company Option, Company Jones Act Warrant or Company Creditor Warrant; (iii) the number of shares of Company Common Stock subject to such Company Equity Award or Company Warrant; (iv) the exercise or purchase price of such Company Equity Award or Company Warrant; (v) the date on which such Company Equity Award or Company Warrant was granted; (vi) the date on which such Company Equity Award or Company Warrant expires; and (vii) the applicable vesting schedule, including the number of vested and unvested shares, if applicable.

(c) Each of the outstanding shares of capital stock or other securities of each of the Company's Subsidiaries is duly authorized, validly issued, fully paid and nonassessable, and each of the outstanding shares of capital stock or other securities of each of the Company's Significant Subsidiaries is owned beneficially and of record by the Company or by a direct or indirect wholly owned Subsidiary of the Company, free and clear of any Encumbrance (excluding such transfer restrictions of general applicability as may be provided under the Securities Act, the "blue sky" Laws of the various States of the United States or similar Law of other applicable jurisdictions).

(d) As of the Signing Date, except as set forth in this Section 6.12, there are no outstanding subscriptions, options, warrants, stock appreciation rights, preemptive rights, phantom stock, puts, call agreements, understandings, claims or other agreements, commitments or rights of any type relating to the issuance, sale, redemption or transfer by the Company of any equity securities of the Company or its Subsidiaries, nor are there outstanding any securities which are convertible into or exchangeable for any shares of capital stock of the Company or its Subsidiaries and neither the Company nor any of its Subsidiaries has any obligation to issue any additional securities or to pay for or repurchase any securities of the Company or its Subsidiaries.

(e) Since the Measurement Date and through the Signing Date, the Company has not (A) issued any shares of Company Common Stock or (B) granted any Company Equity Awards or similar awards.

(f) Neither the Company nor any of its Subsidiaries has outstanding any bonds, debentures, notes or other obligations the holders of which have the right to vote (or convertible into or exercisable for securities having the right to vote) with the stockholders of the Company or such Subsidiary on any matter. Except as set forth in the Existing Securityholders Agreement, there are no voting trusts or other agreements or understandings to which Company or any of its Subsidiaries is a party with respect to the voting of Company Common Stock or company interests, voting securities or other equity interests of Company or any of its Subsidiaries.

6.13 Company Recommendation and Fairness. In the case of the Company, the Company Board has, at a meeting duly called and held at which all directors of the Company were present, duly and unanimously adopted resolutions: (a) determining that this Agreement and the Transactions are fair to, advisable and in the best interests of, the Company and the holders of shares of Company Common Stock; (b) approving and declaring advisable this Agreement and the Transactions, on the terms and subject to the conditions set forth in this Agreement; (c) directing that this Agreement be submitted to the holders of shares of Company Common Stock for their adoption; and (d) resolving to recommend that the holders of shares of Company Common Stock vote in favor of the adoption of this Agreement (the "Company Recommendation"), which resolutions have not been subsequently rescinded, modified or withdrawn in any way.

6.14 Company Brokers and Finders. Neither the Company nor any of its Subsidiaries nor any of their respective officers or directors has employed any broker or finder or incurred any liability for any brokerage fees, commissions or finder's fees in connection with the Transactions, except that the Company has engaged Piper Sandler & Co. and Barclays Capital Inc., as its financial advisors, the fees and expenses of which will be paid by the Company.

6.15 Company Voting Requirements. The Requisite Company Approval is the only vote of holders of any securities of the Company or its Subsidiaries necessary to approve the Transactions.

6.16 Company Vessels

(a) Section 6.16(a) of the Company Disclosure Letter sets forth a true, correct and complete list of each Company Vessel, including: (i) its name; (ii) its official number; (iii) its flag; (iv) whether such Company Vessel is owned, leased or chartered; (v) the vessel type; and (vi) whether such Company Vessel is documented with the U.S. Coast Guard with a designation of the current endorsement for each documented Company Vessel. Neither the Company nor any Subsidiary of the Company owns, operates, leases or charters any vessels other than the Company Vessels set forth on Section 6.16(a) of the Company Disclosure Letter.

(b) Each Company Vessel is free and clear of all Encumbrances, other than Permitted Encumbrances.

(c) Each Company Vessel set forth on Section 6.16(b) of the Company Disclosure Letter (each, a “**Company Coastwise Vessel**”): (i) was built in the United States; (ii) is eligible for operation in Coastwise Trade; (iii) is documented as a U.S. flag vessel, has a valid Certificate of Documentation with coastwise endorsements or is qualified for coastwise documentation but not required to be documented; and (iv) has never: (x) been owned by or sold to any Person, or bareboat or demise chartered or leased to any Person, that did not qualify as a “citizen of the United States” as such term is defined in Section 2 of the Shipping Act of 1916, as amended, 46 U.S.C. § 50501; (y) been registered under the laws of a foreign country; or (z) been rebuilt foreign (as defined in 46 C.F.R. § 67.177).

(d) The Company and each Subsidiary of the Company that owns a Company Vessel maintains valid Certificates of Financial Responsibility (Oil Pollution) issued by the U.S. Coast Guard pursuant to the Federal Water Pollution Control Act for such Company Vessels (to the extent that such certificate may be required by applicable Law) and such other similar certificates as may be required in the course of the operation of such Company Vessels pursuant to applicable Law.

(e) No event has occurred and no condition exists that is reasonably likely to cause any classed Company Vessel’s classification to be suspended or withdrawn and all events and conditions that are required by such Company Vessel’s classification society to be reported as to such Company Vessel’s class have been disclosed and reported to such Company Vessel’s classification society.

(f) Each Company Vessel is operated in compliance with all applicable Maritime Guidelines and Laws, except where such failure to be in compliance would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. Each Company Vessel has complied in all material respects with the regulations regarding officers and crew in force in the country of such Company Vessel’s flag or any other applicable Law.

(g) Except as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect: (i) each Company Vessel: (A) is duly registered under the flag set forth in Section 6.16 of the Company Disclosure Letter; (B) is adequate and suitable for use by Company in its business as presently conducted; (C) is afloat and seaworthy; (D) has all national and international operating and trading certificates and endorsements (for the avoidance of doubt such certificates and endorsements may be extended due to delays in the Ordinary Course as a result of trading patterns, surveyor availability, drydock availability and/or similar operational matters), that are required for the operation of such Company Vessel in the trades and geographic areas in which it is operated, each of which is valid; and (E) has been classed by a classification society that is a member of the International Association of Classification Societies, and is fully in class with no significant material recommendations or notations, except to the extent such classification is not required for the operation of such Company Vessel in the trades and geographic areas in which it is operated, and (ii) no event has occurred and no condition exists that would reasonably be expected to cause any Company Vessel’s classification society to be suspended or withdrawn and all events and conditions that are required to be reported as to the class have been disclosed and reported to such Company Vessel’s classification society.

(h) No Company Vessel is subject to: (i) requisition of title or other compulsory acquisition, requisition, appropriation, expropriation, nationalization, deprivation, forfeiture, or confiscation for any reason by any Governmental Entity or other competent authority, whether de jure or de facto, but excluding requisition for use or hire not involving requisition of title; (ii) any actual, constructive, compromised, agreed, or arranged total loss, as applicable, including such loss as may arise during a requisition for hire; (iii) any hijacking, piracy, theft, capture,

detention, confiscation, forfeiture, seizure, condemnation, arrest, restraint, or disappearance which deprives the Company or any of its Subsidiaries (as applicable) of the use of such Company Vessel; or (iv) any requisition for hire, and no Company Vessel has been subject to such events within the last three (3) years.

(i) Each of the Company Vessel's insurances are, except as would not reasonably be expected to have a Material Adverse Effect:

- (i) in dollars;
- (ii) in the case of fire and usual marine risks and war risks, in an amount on an agreed value basis at least equal to the fair market value of that Company Vessel;
- (iii) in the case of oil pollution liability risks, for an aggregate amount equal to the highest level of cover from time to time available under basic protection and indemnity club entry;
- (iv) in the case of protection and indemnity risks, in respect of the full tonnage of its Company Vessel;
- (v) on approved terms customary in major marine insurance markets; and
- (vi) through internationally recognized marine insurance brokers and with approved insurance companies and/or underwriters or, in the case of war risks and protection and indemnity risks, in approved war risks and protection and indemnity risks associations.

6.17 Company Financial Statements. Attached to Section 6.17 of the Company Disclosure Letter are the Company's audited condensed consolidated balance sheets as of December 31, 2025 and December 31, 2024 and the related condensed consolidated statements of operations and comprehensive income, changes in stockholders' equity and cash flows for the twelve (12) months ended December 31, 2025, 2024 and 2023 (collectively, the "Company Audited Financial Statements"). Except as set forth on Section 6.17 of the Company Disclosure Letter, the Company Audited Financial Statements (including related notes, if any) (a) were prepared in all material respects in accordance with GAAP during the periods involved, and (b) fairly present in all material respects the consolidated financial position of the Company and its consolidated Subsidiaries as at the dates thereof and the consolidated results of their operations and cash flows for the periods then ended. The financial books and records of the Company and its Subsidiaries are accurate and complete, in all material respects, have been maintained in accordance with sound business practices and GAAP (to the extent applicable) and accurately present and reflect in all material respects all of the transactions and actions described therein and the Company Audited Financial Statements have been prepared, in all material respects, in accordance with such books and records.

6.18 Company Internal Controls and Procedures.

(a) The Company is not a party to, or has any commitment to become a party to, any joint venture, off-balance sheet partnership agreement or any similar Contract (including any Contract relating to any transaction, arrangement or relationship between or among the Company, on the one hand, and any unconsolidated Affiliate, including any structured finance, special purpose or limited purpose entity or Person, on the other hand (such as any agreement described in Section 303(a)(4) of Regulation S-K promulgated under the Exchange Act)) where the purpose or effect of such arrangement is to avoid disclosure of any material transaction involving, or material liabilities of, the Company in the Company's consolidated financial statements.

(b) The Company maintains "internal control over financial reporting" (as defined in Rule 13a-15(f) or 15d-15(f), as applicable, under the Exchange Act). Such internal control over financial reporting is effective in providing reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with GAAP and includes policies and procedures that (i) pertain to the maintenance of records that in reasonable detail accurately and fairly reflect the transactions and dispositions of the assets of the Company, (ii) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with GAAP, and that receipts and expenditures of the Company are being made only in accordance with authorizations of management and directors of the Company, and (iii) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use or disposition of the Company's assets that could have a material effect on its financial statements. The records, systems, controls, data and information of the Company and its Subsidiaries that are used in the systems of disclosure controls and procedures and of financial reporting controls and procedures described above are recorded, stored, maintained and operated under means that are under the exclusive ownership and direct control

of the Company or a wholly owned Subsidiary of the Company or its accountants, except as would not reasonably be expected to adversely affect or disrupt, in any material respect, the Company's systems of disclosure controls and procedures and of financial reporting controls and procedures or the reports generated thereby.

(c) Since the Applicable Date, none of the Company Board or the audit committee of the Company Board or, to the Knowledge of the Company, the Company's auditors: (i) has received any written notification of any "significant deficiency" in the design or operation of its internal controls over financial reporting that are reasonably likely to adversely affect the Company's ability to record, process, summarize and report financial information; (ii) has identified for the Company's auditors, the Company Board and the audit committee of the Company Board any "material weakness" in internal controls over financial reporting; or (iii) has received any written notification of any fraud, whether or not material, that involves management or other employees who have a significant role in the Company's internal controls over financial reporting. Since the Applicable Date, no attorney representing the Company or any of its Subsidiaries, whether or not employed by the Company or any of its Subsidiaries, has reported evidence of a material violation of securities Laws or breach of fiduciary duty or similar violation by the Company or any of its officers, directors, employees or agents to the Company's chief legal officer, audit committee (or other committee designated for the purpose) pursuant to the rules adopted pursuant to Section 307 of the Sarbanes-Oxley Act or the Company's policy contemplating such reporting, including in instances not required by those rules. Since the Applicable Date, no material complaints from any source regarding accounting, internal accounting controls or auditing matters, and no material concerns from the Company's employees regarding questionable accounting or auditing matters, have been received by the Company.

6.19 Company Security Clearances. At any time during the three (3) year period prior to the Signing Date, the Company and each of its Subsidiaries has been in material compliance with the NISPOM, if applicable, and any other applicable personnel or facility clearances regulations or contract provisions and all of the Company's facilities with a facility security clearance have held at least a "satisfactory" rating from the DCSA with respect to the facility security clearances the Company is required to possess in order to perform under a Contract with a Governmental Entity. Neither the Company nor any of its Subsidiaries has any unresolved audit or findings with DCSA or its predecessor agency or other relevant cognizant security agencies concerning any facility security clearance. To the Knowledge of the Company, other than this Agreement and the transactions contemplated hereby, there is no existing information, fact, condition, or circumstance that could reasonably be expected to cause the Company or any of its Subsidiaries to lose a facility security clearance.

6.20 Company Takeover Statutes; Company Rights Plan. The Company has expressly elected not to be governed by Section 203 of the DGCL pursuant to Section 203(b)(1) of the DGCL. There is no "fair price", "moratorium", "control share acquisition" or other similar anti-takeover statute or regulation applicable to the Company and the shares of Company Common Stock, this Agreement or the Transactions. There is no stockholder rights plan, "poison pill" anti-takeover plan or other similar device in effect to which the Company is a party or is otherwise bound.

6.21 Certain Company Arrangements.

(a) To the Knowledge of the Company, there are no Contracts, undertakings, commitments, arrangements or understandings, whether written or oral, between Company or any of its Affiliates, on the one hand, and any beneficial owner of outstanding shares of Parent Common Stock or any member of Parent's management or Parent Board, on the other hand, relating in any way to Parent, Parent's securities, the transactions contemplated by this Agreement or to the operations of Parent after the Effective Time.

(b) Neither the Company nor any of its Subsidiaries or its or their Affiliates (i) beneficially owns, directly or indirectly (including pursuant to a derivatives contract), any shares of Parent Common Stock or other securities convertible into, exchangeable for or exercisable for shares of Parent Common Stock or any securities of any Subsidiary of Parent, and none of the Company, its Subsidiaries or Affiliates has any rights to acquire, directly or indirectly, any shares of Parent Common Stock except pursuant to this Agreement; and (ii) is an "interested shareholder" under Section 302A.011, Subd. 49, of the MBCA.

(c) None of the Company or any Subsidiary of the Company is a party to any pending equity investment, or transaction to acquire, by merging or consolidating with, by purchasing a substantial portion of the assets of or equity in or by any other manner, any person or portion thereof, or otherwise acquire any assets, where the entering into of a definitive agreement relating to or the consummation of such transaction would reasonably be expected to: (a) impose any delay in the obtaining of, or increase the risk of not obtaining, the consents, approvals, authorizations or waivers of any Governmental Entity necessary to consummate the Mergers or the expiration or

termination of any applicable waiting period; (b) increase the risk of any Governmental Order prohibiting the consummation of the Mergers; (c) delay the consummation of the Mergers; or (d) otherwise result, or would individually or in the aggregate, reasonably be expected to have a Material Adverse Effect on Company.

ARTICLE VII

COVENANTS

7.1 Interim Operations.

(a) Each of the Company and Parent covenants and agrees as to itself and its Subsidiaries that, during the Interim Period (unless the Company or Parent, as applicable, shall otherwise approve in writing (which approval shall not be unreasonably withheld, conditioned or delayed) (e-mail from representatives of such other Party on the Integration Planning Committee being sufficient)), and except as otherwise expressly contemplated by this Agreement or the Plan of Conversion, as may be required by applicable Law or as set forth in Section 7.1(a) of such Party's Disclosure Letter: (i) such Party and its Subsidiaries will use its commercially reasonable efforts to conduct its business in all material respects in the Ordinary Course; and (ii) to the extent consistent therewith, such Party and its Subsidiaries shall use their respective commercially reasonable efforts to preserve their business organizations intact and maintain existing relations and goodwill with Governmental Entities, customers, suppliers, licensors, licensees, creditors, lessors, Service Providers and business associates and keep available the services of its and its Subsidiaries' present Service Providers and agents, except as otherwise expressly contemplated by this Agreement.

(b) Without limiting the generality of and in furtherance of Section 7.1(a), during the Interim Period, except as otherwise (v) commercially reasonable in response to an Emergency (including incurring expenditures to address or mitigate the effects of any Emergency); (w) expressly contemplated by this Agreement (including the Plan of Conversion, the Requisite Parent Vote and the Optional Parent Vote); (x) required by applicable Law; (y) approved in writing by the other Party (which approval shall not be unreasonably withheld, conditioned or delayed) (e-mail from representatives of such other Party on the Integration Planning Committee being sufficient); or (z) set forth in Section 7.1(b) of such Party's Disclosure Letter, each Party, on its own account, shall not and shall cause its Subsidiaries not to:

(i) make or propose any change to such Party's Organizational Documents or, except for amendments that would both not materially restrict the operations of such Party's businesses and not reasonably be expected to prevent, materially delay or materially impair the ability of such Party to consummate the Transactions, the Organizational Documents of any of such Party's Subsidiaries;

(ii) except for any such transactions among its direct or indirect wholly owned Subsidiaries: (A) merge or consolidate itself or any of its Subsidiaries with any other Person; or (B) restructure, reorganize or completely or partially liquidate;

(iii) acquire assets from any other Person: (A) with a fair market value or purchase price in excess of \$10,000,000 in the aggregate in any transaction or series of related transactions (including incurring any Indebtedness related thereto), in each case, including any amounts or value reasonably expected to be paid in connection with a future earn-out, purchase price adjustment, release of "holdback" or similar contingent payment obligation; or (B) that would reasonably be expected to prevent, materially delay or materially impair the ability of such Party to consummate the Transactions, other than in the case of clause (A): (w) acquisitions in the Ordinary Course of inventory or other parts and accessories necessary for the ongoing operation of the business of such Party and its Subsidiaries; (x) acquisitions in order to maintain and sustain such Party's and its Subsidiaries' vessels, assets and equipment in the Ordinary Course, including upgrades required by law, customers or class societies; (y) acquisitions pursuant to Material Contracts as in effect on the Signing Date; and (z) transactions among such Party and its direct or indirect wholly owned Subsidiaries or among such Party's direct or indirect wholly owned Subsidiaries;

(iv) issue, sell, pledge, dispose of, grant, transfer, encumber, or authorize the issuance, sale, pledge, disposition, grant, transfer, lease, license, guarantee or Encumbrance of, or otherwise enter into any Contract or understanding with respect to the voting of: (A) any shares of its capital stock or of any of its Subsidiaries or other ownership interest in Company or any Subsidiaries (other than (I) Encumbrances that are required by or automatically effected by the Company Credit Agreements or the Parent Credit Agreements, as applicable; or (II) the issuance of shares: (x) by its direct or indirect wholly owned Subsidiary to it or another of its direct

or indirect wholly owned Subsidiaries; (y) pursuant to the exercise or settlement of equity-based awards or warrants outstanding as of (and on the terms in effect on) the Signing Date or granted after the Signing Date in accordance with Section 7.1(b)(xvi); or (z) granted in accordance with Section 7.1(b)(xvi) in each of clauses (y) and (z), in accordance with their terms and, as applicable, the plan documents as in effect on the Signing Date); (B) any rights issued by the Company or any of its Subsidiaries that are linked in any way to the price of any class of its capital stock or of any class of capital stock of any of its Subsidiaries, their value, the value of any of their respective Subsidiaries or any part of its or their assets, business or Subsidiaries or any dividends or other distributions declared or paid on any shares of its capital stock or the capital stock of any of its Subsidiaries; or (C) securities or instruments convertible or exchangeable into or exercisable for any shares of such capital stock or ownership interests, or any options, warrants or other rights of any kind to acquire any shares of such capital stock or ownership interests or such convertible or exchangeable securities or instruments;

(v) create or incur any Encumbrance (other than any Permitted Encumbrances) over any material portion of such Party's and its Subsidiaries' consolidated properties and assets that is not incurred in the Ordinary Course on any of its assets or any of its Subsidiaries, except for Encumbrances: (A) that are required by or automatically effected by Contracts in place as of the Signing Date; (B) that do not materially detract from the value of such assets; or (C) that do not materially impair the operations of such Party or any of its Subsidiaries;

(vi) make any loans, advances, guarantees or capital contributions to or investments in any Person (other than to or from the Company and any of its direct or indirect wholly owned Subsidiaries or to or from Parent and any of its direct or indirect wholly owned Subsidiaries, as applicable, or in accordance with Section 7.1(b)(xvi)) in excess of \$250,000 individually or \$1,000,000 in the aggregate;

(vii) except to the extent expressly provided by, and consistent with, Section 7.1(b)(vii) of such Party's Disclosure Letter, declare, set aside, make or pay any dividend or other distribution, payable in cash, stock, property or otherwise, with respect to any of its capital stock (except for dividends paid by any direct or indirect wholly owned Subsidiary to it or to any other direct or indirect wholly owned Subsidiary) or modify in any material respect its dividend policy; *provided that*, this clause (vii) shall not prohibit Parent from making any dividend or other distribution to the extent such distribution or other dividend is made in the Ordinary Course;

(viii) reclassify, split, combine, subdivide or redeem, purchase (through such Party's share repurchase program or otherwise) or otherwise acquire, directly or indirectly, any of its capital stock or securities convertible or exchangeable into or exercisable for any shares of its capital stock, other than with respect to: (A) the capital stock or other equity interests of a direct or indirect wholly owned Subsidiary of such Party; or (B) the acquisition of shares of Company Common Stock or Parent Common Stock in order to pay the exercise price or Taxes in connection with the exercise, vesting or settlement of Company Equity Awards or Parent Equity Awards outstanding as of the Signing Date or granted in accordance with Section 7.1(b)(xvi), pursuant to the terms of the Company Stock Plans or Parent Stock Plans and the applicable award agreement, in the Ordinary Course; *provided that*, this clause (viii) shall not prohibit Parent from undertaking any such action to the extent such action is made in the Ordinary Course;

(ix) except to the extent expressly provided by, and consistent with, Section 7.1(b)(ix) of such Party's Disclosure Letter, make or authorize any payment of, or accrual or commitment for, any capital expenditures or any regulatory dry dock and related expenses deferred in accordance with such Party's current accounting policies, except any such expenditures or expenses: (A) not in excess of \$15,000,000 in the aggregate during any consecutive 12 month period (other than capital expenditures or dry dock and related expenses within the thresholds set forth in Section 7.1(b)(ix) of such Party's Disclosure Letter); (B) not in excess of \$5,000,000 (net of insurance proceeds) in the aggregate that such Party reasonably determines are necessary to avoid a material business interruption or maintain the safety and integrity of any asset or property; or (C) paid by any direct or indirect wholly owned Subsidiary to such Party or to any other direct or indirect wholly owned Subsidiary of such Party, in each case in response to any unanticipated and subsequently discovered events, occurrences or developments (provided, that such Party will use its reasonable best efforts to consult with the other Party prior to making or agreeing to any such capital expenditure);

(x) other than in the Ordinary Course (which shall not include any matter that would be required to be disclosed by such Party on Form 8-k, assuming, in the case of the Company, that the Company was subject to the periodic reporting requirements of Section 13 or Section 15 of the Exchange Act) or in connection with any transaction or potential transaction described in Section 7.1(b)(x) of such Party's Disclosure Letter, enter into any Contract that would have been a Material Contract had it been entered into prior to this Agreement, adversely amend, modify or supplement in any material respect, or waive, terminate, assign, convey, Encumber or otherwise transfer, in whole or in part, any material right or interest pursuant to or in, any Material Contract other than: (A) expirations and renewals of any such Contract in the Ordinary Course in accordance with the terms of such Contract; (B) non-exclusive licenses under Intellectual Property owned by the Company or any of its Subsidiaries or Parent or any of its Subsidiaries, as applicable, in each case, granted to customers in the Ordinary Course; or (C) any agreement among such Party and its direct or indirect wholly owned Subsidiaries or among such Party's direct or indirect wholly owned Subsidiaries;

(xi) other than in the Ordinary Course (which shall not include any matter that would be required to be disclosed by such Party on Form 8-k, assuming, in the case of the Company, that the Company was subject to the periodic reporting requirements of Section 13 or Section 15 of the Exchange Act) or with respect to amounts that are not material to such Party and its Subsidiaries, taken as a whole, cancel, modify or waive any debts or claims held by it or any of its Subsidiaries or waive any rights held by it or any of its Subsidiaries except debts or claims among such Party and its direct or indirect wholly owned Subsidiaries or among such Party's direct or indirect wholly owned Subsidiaries;

(xii) settle or compromise, or offer or propose to settle or compromise, any material Proceeding against such Party or its Subsidiaries (other than any material Proceeding relating to Taxes), including before a Governmental Entity, except: (A) for amounts recoverable from insurance in effect for such Party (or deductibles under such policy); (B) for uninsured amounts not in excess of \$5,000,000 in any one instance; or (C) in accordance with the parameters set forth in Section 7.1(b)(xii) of such Party's Disclosure Letter; provided, that no such settlement or compromise, or offer in respect thereof, may involve any injunctive or other non-monetary relief (other than customary confidentiality and release obligations) which, in either case: (x) imposes any material restrictions on the business operations of such Party and its Subsidiaries or Affiliates or (y) includes an admission of fault or criminal culpability;

(xiii) amend any material financial accounting policies or procedures, except as required by changes to GAAP;

(xiv) (A) make (outside of the Ordinary Course), change or revoke any material election with respect to Taxes or Tax matters if such action would result in a material net increase in the Tax liability of such Party or its Subsidiaries; (B) change any material Tax accounting method or period; (C) enter into any material closing agreement with respect to Taxes; (D) enter into any material Tax sharing, allocation or indemnification agreement or arrangement (other than (1) such an agreement or arrangement exclusively between or among such Party and its Subsidiaries or (2) a commercial agreement or arrangement the primary purpose of which is not Taxes); (E) settle, compromise or otherwise finally resolve any material Tax claim, audit, assessment or dispute for an amount materially in excess of amounts reserved therefor in accordance with GAAP; (F) surrender any right to claim a refund of a material amount of Taxes; (G) change its tax residency; or (H) take any action that could, or could reasonably be expected to, prevent the transactions contemplated by this Agreement from qualifying for the Intended Tax Treatment;

(xv) transfer, sell, lease, divest, cancel, abandon, allow to lapse or expire or otherwise dispose of, or permit or suffer to exist the creation of any Encumbrance (other than Permitted Encumbrances) upon, any assets (tangible or intangible), product lines or businesses material to it and its Subsidiaries, taken as a whole, including capital stock of any of its Subsidiaries, or any Owned Real Property, except in connection with: (A) sales of or non-exclusive licenses of the foregoing provided in the Ordinary Course; (B) sales of obsolete assets; (C) sales, leases, licenses or other dispositions of assets (not including services or sales of inventory in the Ordinary Course) with a fair market value not in excess of \$5,000,000 in any transaction or series of related transactions in the aggregate other than pursuant to Material Contracts in effect prior to the Signing Date, or entered into after the Signing Date in accordance with this Agreement; (D) sales among such Party and its direct or indirect wholly owned Subsidiaries or among such Party's direct or indirect wholly owned Subsidiaries; and (E) the expiration of registered Intellectual Property at the end of its maximum statutory term;

(xvi) except as required by the terms of any Benefit Plan as in effect on the Signing Date (or as established or amended after the Signing Date in accordance with this Agreement), as expressly permitted under this Agreement or as required by applicable Law, increase or change the compensation or benefits payable to any Service Provider other than in the Ordinary Course; provided, that, notwithstanding the foregoing, except as expressly disclosed in Section 7.1(b)(xvi) of such Party's Disclosure Letter or required pursuant to a Company Benefit Plan or Parent Benefit Plan, as applicable, in effect as of the Signing Date (or as established or amended after the Signing Date in accordance with this Agreement), the Parties shall not: (A) grant any new long-term incentive or equity-based awards or amend or modify the terms of any outstanding awards under any Company Benefit Plan or Parent Benefit Plan, as applicable; (B) grant any retention or transaction bonuses, (C) increase or change the compensation or benefits payable to any Service Provider with annual base salary greater than or equal to \$300,000 (other than changes in health and welfare benefits (other than severance plans) that do not materially increase benefits or result in a material increase in administrative costs, and are generally applicable to all salaried Service Providers in the Ordinary Course); (D) terminate, enter into, amend or modify or renew any material Benefit Plan, other than: (1) routine amendments to health and welfare plans (other than severance plans) that do not materially increase benefits or result in a material increase in administrative costs, or adopt any compensation or benefit plan, program, policy, agreement or arrangement that would be a material Benefit Plan if it were in existence as of the Signing Date; and (2) offer letters for individuals hired as permitted by clause (I) of this Section 7.1(b)(xvi) that are provided in the Ordinary Course and follow in all material respects the applicable form of offer letter made available to the other Party and do not provide for any severance, transaction, retention or change-in-control entitlements; (E) accelerate the vesting of any compensation for the benefit of any Service Provider; (F) increase or change the severance terms applicable to any Service Provider; (G) take any action to fund or secure the payment of any amounts under any Benefit Plan; (H) other than as required by GAAP, change any assumptions required by GAAP used to calculate funding or contribution obligations under any Benefit Plan, or increase or accelerate the funding or contribution obligations under any Benefit Plan, or increase or accelerate the funding rate in respect of any Benefit Plan; or (I) terminate the employment of any executive officer (other than for cause) or hire any new executive officer (other than as a replacement hire receiving substantially similar terms of employment); provided, that, to the extent that a Party intends to hire an individual to replace an executive officer of such Party, such Party shall first consult in good faith with the other Party prior to, and with respect to, the hiring of such individual;

(xvii) recognize any Union as the bargaining representative of any of the employees of the Party or its Subsidiaries, or become a party to, establish, adopt, amend, commence negotiations for or terminate any Labor Agreement;

(xviii) implement or announce any reductions-in-force, office or plant closings, layoffs, or similar personnel actions that would trigger the notice requirements of the WARN Act;

(xix) other than in the Ordinary Course, waive or release any noncompetition, nonsolicitation, nondisclosure or other restrictive covenant obligation of any Service Provider of the Party or any of the Party's Subsidiaries;

(xx) create, incur or assume any Indebtedness (including the issuance of any debt securities, warrants or other rights to acquire any debt security) or guarantee or otherwise become liable for any such Indebtedness, in each case, following the Signing Date; except for (A) Indebtedness incurred under (x) the Company Credit Agreements in an aggregate principal amount outstanding at any time not to exceed \$10,000,000 (together with any interest, fees or similar amounts accrued with respect to Indebtedness under the Company Credit Agreements) and (y) the Parent ABL Credit Agreement in an aggregate principal amount outstanding at any time not to exceed \$10,000,000 (together with any interest, fees or similar amounts accrued with respect to Indebtedness under the Company ABL Credit Agreement); (B) guarantees by the Company or any direct or indirect wholly owned Subsidiary of the Company of Indebtedness of the Company or any other direct or indirect wholly owned Subsidiary of the Company pursuant to the Company Credit Agreements (as in effect on the Signing Date (or after giving effect to such amendments and/or supplements thereto as may be expressly consented to by Parent pursuant to Section 7.7(b)); (C) guarantees by Parent or any direct or indirect wholly owned Subsidiary of Parent of Indebtedness of Parent or any other direct or indirect wholly owned Subsidiary of Parent pursuant to the Parent Credit Agreements and the Parent Senior Notes Indenture (each as in effect on the Signing Date (or after giving effect to such amendments and/or

supplements thereto as may be expressly consented to by the Company pursuant to Section 7.7(b), or 7.7(c), as applicable)); (D) Indebtedness incurred pursuant to (x) letters of credit issued under the Parent ABL Credit Agreement in the Ordinary Course and (y) letters of credit, performance bonds or other similar arrangements which do not, in the aggregate, under this clause (y) exceed a face amount of \$10,000,000 at any time outstanding; (E) Swaps or other similar Contracts or arrangements entered into in the Ordinary Course and in compliance with its risk management and hedging policies or practices in effect on the Signing Date; (F) Indebtedness of the type described in clause (iii) of the definition thereof which does not, in the aggregate, exceed a face amount of \$5,000,000 at any time outstanding; (G) unsecured Indebtedness incurred solely among such Party and its direct or indirect wholly owned Subsidiaries or solely among such Party's direct or indirect wholly owned Subsidiaries, (H) Indebtedness of the type described in clause (ix) of the definition thereof that relates to interest and fees on Indebtedness existing on the Signing Date or otherwise permitted by this Section 7.1(b)(xx) and (I) Indebtedness (other than any Indebtedness under the Parent ABL Credit Agreement) in an aggregate principal amount outstanding at any time not to exceed \$10,000,000;

(xxi) with respect to Parent, convene any special meeting (or any adjournment or postponement thereof) of Parent's respective stockholders other than the Parent Shareholders Meeting;

(xxii) fail to maintain existing material insurance policies or comparable replacement policies to the extent such policies are typically maintained by other similarly situated offshore service providers and to the extent available for a reasonable cost; or

(xxiii) agree or commit to do any of the foregoing.

(c) If a Party does not promptly approve the other Party's request to effect any action that is otherwise prohibited pursuant to Section 7.1(a) or (b), the requesting Party may ask that the Party whose approval is required convene a meeting of its board of directors to consider and vote on such request and direct its officers to effect such board decision. Nothing contained in this Agreement shall give the Company or Parent, directly or indirectly, the right to control or direct the other Party's operations prior to the Effective Time. Prior to the Effective Time, each Party will exercise, consistent with the terms and conditions of this Agreement, complete control and supervision over its and its Subsidiaries' respective operations. Notwithstanding anything in this Agreement to the contrary, no consent of the Company or Parent shall be required with respect to any matter set forth in this Section 7.1 or elsewhere in this Agreement to the extent that the requirement of such consent would, upon the advice of outside antitrust legal counsel, violate applicable Antitrust Law. Nothing in this Agreement, including any of the actions, rights or restrictions set forth herein, will be interpreted in such a way as to require compliance by any Party if such compliance would result in the violation of any rule, regulation or policy of any applicable Law.

7.2 Acquisition Proposals; Change of Recommendation.

(a) No Solicitation. Except as expressly permitted by this Section 7.2, during the Interim Period, each of the Company and Parent shall not, and shall cause its Subsidiaries and its and its Subsidiaries' officers and directors not to, and shall use its reasonable best efforts to cause its and its Subsidiaries' employees, financial advisors, attorneys, accountants and other advisors, agents or representatives not to (such employees, financial advisors, attorneys, accountants and other advisors, agents or representatives, together with such directors and officers referenced above, collectively, "**Representatives**"), directly or indirectly:

(i) initiate, solicit, propose, knowingly encourage or knowingly facilitate (including by way of furnishing nonpublic information) any inquiry regarding, or the making of any inquiry, proposal or offer that constitutes or would reasonably be expected to lead to, an Acquisition Proposal;

(ii) engage in, continue or otherwise participate in any discussions with or negotiations relating to, or otherwise cooperate with any Acquisition Proposal or any inquiry, proposal or offer that would reasonably be expected to lead to an Acquisition Proposal (other than to refer the inquiring person to this Section 7.2 and to limit its conversation or other communication exclusively to such referral);

(iii) provide any nonpublic information or afford access to its properties, assets, personnel, books or records to any Person in connection with any Acquisition Proposal or any inquiry, proposal or offer that constitutes or could reasonably be expected to lead to an Acquisition Proposal;

(iv) otherwise knowingly facilitate any effort or attempt to make an Acquisition Proposal or any inquiry, proposal or offer that constitutes or would reasonably be expected to lead to an Acquisition Proposal;

(v) waive or release any Person from, forbear in the enforcement of, or amend or terminate any standstill agreement or any standstill provisions of any other contract; provided that if Parent (acting under the direction of the Parent Board), as applicable, determines in good faith after consultation with its outside legal counsel that the failure to waive a particular standstill provision would reasonably be expected to be inconsistent with the relevant directors' fiduciary duties under applicable Law, then Parent may waive such standstill provision, solely to the extent necessary to permit a third party to make and pursue an Acquisition Proposal; or

(vi) resolve, agree or publicly propose to, or permit any of its Subsidiaries or any of its or their Representatives to agree or publicly propose to, take any of the actions referred to in clauses (i) - (v).

(b) Exceptions. Notwithstanding anything in this Section 7.2 to the contrary, prior to the time, but not after, the Requisite Parent Vote is obtained, in response to an unsolicited, bona fide written Acquisition Proposal received after the Signing Date (that did not result from a breach of the obligations set forth in this Section 7.2), Parent and its Representatives (acting under the direction of the Parent Board), as applicable, may:

(i) provide information in response to a request therefor (including nonpublic information regarding it or any of its Subsidiaries) to the Person who made such Acquisition Proposal and its Representatives; provided that such information has previously been made available to, or is made available to, the Company prior to or substantially concurrently with the time such information is made available to such Person (and in any event within 24 hours) and that, prior to furnishing any such information, Parent receives from the Person making such Acquisition Proposal an executed confidentiality agreement containing terms that are substantially similar to, and generally not less restrictive to the other party than, the terms in the Confidentiality Agreement are on the Company (provided that such confidentiality agreement need not include any "standstill" terms), and which confidentiality agreement does not prohibit compliance by Parent with this Section 7.2(b)(i) and shall be provided to the Company promptly following its execution; or

(ii) participate in any discussions or negotiations with any such Person regarding such Acquisition Proposal. In each case, if, and only if, prior to taking any action described in clauses (i) or (ii) above, the Parent Board (or relevant committee thereof) determines in good faith after consultation with its outside legal counsel that, based on the information then available and after consultation with its financial advisor: (A) such Acquisition Proposal either constitutes a Superior Proposal or could reasonably be expected to result in a Superior Proposal; and (B) failure to engage in such activities would reasonably be expected to be inconsistent with the relevant directors' fiduciary duties under applicable Law. Notwithstanding the foregoing, Parent shall not provide (and shall not permit any of its Representatives to provide) any commercially or competitively sensitive non-public information in connection with the actions permitted by this Section 7.2(b) except in accordance with a "clean room" or other similar procedures designed to limit any adverse effect of the sharing of such information of Parent or its Subsidiaries, which procedures shall be consistent in all material respects with Parent's practices in dealing with the disclosures of such information to the Company or its Representatives prior to the Signing Date.

(c) Notice of Acquisition Proposals. Each of the Company and Parent shall promptly (and, in any event, within 48 hours) give written notice to the other Party if: (i) any inquiries, proposals or offers with respect to an Acquisition Proposal are received by; (ii) any information is requested in connection with any Acquisition Proposal from; or (iii) any discussions or negotiations with respect to an Acquisition Proposal are sought to be initiated or continued with, it, its Subsidiaries or any of its or their Representatives, setting forth in such notice the name of such Person and the material terms and conditions of any proposals or offers (including, if applicable, complete copies of any written requests, proposals or offers, including proposed agreements) and thereafter shall keep the other Party reasonably informed, on a current basis (and, in any event, within 24 hours), of the status and material terms of any such proposals or offers (including any material amendments or modifications thereto, which, for the avoidance of doubt, shall include (among other things) any changes to the form or amount of consideration) and the status of any such discussions or negotiations, including any change in its intentions as previously notified.

(d) No Change of Recommendation.

(i) Except as permitted by Section 7.2(d)(ii) or Section 7.2(d)(iii), Parent agrees that the Parent Board, including any committee thereof, shall not:

(A) withhold, withdraw, amend, qualify or modify (or publicly propose or resolve to withhold, withdraw, amend, qualify or modify) the Parent Recommendation in a manner adverse to the Company;

(B) fail to include the Parent Recommendation in the Proxy Statement/Prospectus;

(C) fail to recommend against: (x) acceptance of any tender or exchange offer by its stockholders pursuant to Rule 14d-2 under the Exchange Act for outstanding shares of Parent Common Stock; or (y) any Acquisition Proposal that is publicly announced, in each case, within ten Business Days after the commencement of such tender offer or exchange offer or public announcement of such Acquisition Proposal (or, if earlier, prior to the Parent Shareholders Meeting) (for the avoidance of doubt, the taking of no position or a neutral position by the Parent Board in respect of the acceptance of any such tender offer or exchange offer or Acquisition Proposal as of the end of such period shall constitute a failure to recommend against acceptance of any such offer or Acquisition Proposal);

(D) approve or recommend, or publicly declare advisable or publicly propose to approve or recommend, or publicly propose to enter into, any Acquisition Proposal or any letter of intent, memorandum of understanding, agreement in principle, acquisition agreement, merger agreement, option agreement, joint venture agreement, partnership agreement or other agreement (other than a confidentiality agreement referred to in Section 7.2(b)) entered into in compliance with Section 7.2(b)) constituting or relating to any Acquisition Proposal (an “**Alternative Acquisition Agreement**”, and any of the actions set forth in the foregoing clauses (A), (B), (C) and this clause (D) of this Section 7.2(d)(i), a “**Change of Recommendation**”); or

(E) cause or permit the Parent or any of its Subsidiaries to enter into an Alternative Acquisition Agreement.

(ii) Notwithstanding anything in this Agreement to the contrary, prior to the time, but not after, the Requisite Parent Vote is obtained, if an unsolicited, bona fide written Acquisition Proposal received after the Signing Date that did not result from a breach of Parent’s obligations set forth in Section 7.2(a) is received by Parent and is not withdrawn, and the Parent Board determines in good faith, after consultation with its outside legal counsel and its financial advisor, that: (A) such Acquisition Proposal constitutes a Superior Proposal; and (B) failure to consider such Acquisition Proposal would reasonably be expected to be inconsistent with the relevant directors’ fiduciary duties under applicable Law, the Parent Board may effect a Change of Recommendation; provided, however, that, prior to taking such action, Parent has given the Company written notice of such action at least five Business Days in advance, which notice shall set forth in writing that the Parent Board: (x) received a bona fide Acquisition Proposal that has not been withdrawn; (y) concluded in good faith that such Acquisition Proposal constitutes a Superior Proposal; and (z) intends to effect a Change of Recommendation (such notice, the “**Board Recommendation Notice**”) and shall comply in form, substance and delivery with the provisions of Section 7.2(c). After giving such Board Recommendation Notice and prior to making a Change of Recommendation as described above, Parent shall, and shall use its reasonable best efforts to cause its Representatives to, negotiate in good faith with the Company (to the extent the Company wishes to negotiate) to make such revisions to the terms of this Agreement as would cause such Acquisition Proposal to cease to be a Superior Proposal. At the end of the five Business Day period, prior to and as a condition to making a Change of Recommendation as described above, the Parent Board shall take into account any adjustments or revisions to the terms of this Agreement irrevocably offered in writing by the Company and any other information offered by the Company in response to the Board Recommendation Notice, and shall have determined in good faith, after consultation with its outside legal counsel and its financial advisor, that: (A) the Superior Proposal would continue to constitute a Superior Proposal, if such changes irrevocably offered in writing by the Company were to be given effect; and (B) failure to pursue such Superior Proposal would reasonably be expected to be inconsistent with the relevant directors’ fiduciary duties under applicable Law. Each and any amendment to the financial terms and any other material amendment to any Acquisition Proposal will be deemed to be a new Acquisition Proposal for purposes of Section 7.2(c) and this Section 7.2(d)(ii) and require a new Board Recommendation Notice, except that references in this Section 7.2(d)(ii) to “five Business Days” shall be deemed to be references to

“three Business Days” and such three Business Day period shall expire at 11:59 p.m. (Eastern time) on the third Business Day immediately following the day on which such new Board Recommendation Notice is delivered (it being understood and agreed that in no event shall any such additional three Business Day period be deemed to shorten the initial five Business Day period).

(iii) Notwithstanding anything in this Agreement to the contrary, prior to the time, but not after, the Requisite Parent Vote is obtained, the Parent Board may effect a Change of Recommendation if: (A) an Intervening Event has occurred; and (B) prior to taking such action, the Parent Board determines in good faith, after consultation with its outside legal counsel and its financial advisor, that failure to take such action in response to such Intervening Event would reasonably be expected to be inconsistent with the relevant directors’ fiduciary duties under applicable Law; provided, however, that prior to making such Change of Recommendation, Parent has given the Company a Board Recommendation Notice five Business Days in advance, which notice shall comply in form, substance and delivery with the provisions of Section 7.2(c) and include a reasonably detailed description of such Intervening Event. After giving such Board Recommendation Notice and prior to effecting a Change of Recommendation, Parent shall, and shall use its reasonable best efforts to cause its Representatives to, negotiate in good faith with the Company (to the extent the Company wishes to negotiate) to make such revisions to the terms of this Agreement as would cause such Effect to cease to be an Intervening Event. At the end of the five Business Day period, prior to and as a condition to effecting a Change of Recommendation, the Parent Board shall take into account any adjustments or revisions to the terms of this Agreement irrevocably offered in writing by the Company and any other information offered by the Company in response to the Board Recommendation Notice, and shall have determined in good faith after consultation with its outside legal counsel and its financial advisor that: (I) such Intervening Event remains in effect; and (II) the failure to effect a Change of Recommendation in response to such Intervening Event would reasonably be expected to be inconsistent with the relevant directors’ fiduciary duties under applicable Law if such adjustments or revisions irrevocably offered in writing by the Company were to be given effect.

(iv) Notwithstanding the foregoing or anything to the contrary contained in this Agreement, Parent shall not and shall not permit any of its Subsidiaries to enter into an Alternative Acquisition Agreement unless and until this Agreement has first been terminated in accordance with its terms and, if applicable, the Parent Termination Fee has been paid to the Company pursuant to Section 9.2(c).

(e) Certain Permitted Disclosure. Nothing contained in this Section 7.2 shall prohibit the Company or Parent, as applicable, from: (i) complying with its disclosure obligations under applicable United States federal or state Law with regard to an Acquisition Proposal; (ii) making any “stop, look and listen” or similar communication of the type contemplated by Rule 14d-9(f) under the Exchange Act pending disclosure of its position thereunder; or (iii) making any disclosure if the Parent Board determines in good faith after consultation with Parent’s outside counsel that failure to make such disclosure would reasonably be expected to be inconsistent with the relevant directors’ fiduciary duties under applicable Law; provided, that, the foregoing notwithstanding, Parent may not effect a Change of Recommendation except in accordance with Section 7.2(d) (ii) or Section 7.2(d)(iii); and provided, further, that any such disclosure (other than a “stop, look and listen” or similar communication under clause (ii)) shall be deemed to be a Change of Recommendation (including for purpose of Section 7.2(d)(ii) and Section 7.2(d)(iii)) unless the Company Board or the Parent Board, as applicable, expressly reaffirms the Company Recommendation or the Parent Recommendation, as applicable, in such disclosure and expressly rejects any applicable Acquisition Proposal.

(f) Existing Discussions. Each of the Company and Parent shall, shall cause their respective Subsidiaries to, and shall use its reasonable best efforts to cause their respective Representatives to, immediately cease and cause to be terminated any existing activities, discussions or negotiations with any Person conducted within two years prior to the Signing Date with respect to any Acquisition Proposal, or proposal that would reasonably be expected to lead to an Acquisition Proposal. The Company and Parent, as applicable, shall promptly, and in any event within 24 hours of the Signing Date, deliver a written notice to each such Person providing only that each of the Company and Parent, as applicable, is ending all discussions and negotiations with such Person with respect to any Acquisition Proposal, or proposal or transaction that would reasonably be expected to lead to an Acquisition Proposal, which notice shall also request the prompt return or destruction of all confidential information concerning the Company and any of its Subsidiaries or Parent and any of its Subsidiaries, as applicable, heretofore

furnished to such Person by or on behalf of the Company or Parent, as applicable, or any of their respective Subsidiaries, as applicable. The Company and Parent, as applicable, will promptly terminate all physical and electronic data access previously granted to such Persons.

(g) Representatives. Any violation of the restrictions contained in Section 7.2(a) by any of a Party's Representatives shall be deemed to be a breach of Section 7.2(a) by such Party. The Parties shall use reasonable best efforts to ensure that their respective Representatives are aware of the provisions of Section 7.2(a).

(h) Takeover Statutes. Neither Party shall take any action to exempt any Person from the restrictions of any otherwise applicable Takeover Statute or otherwise cause such restrictions not to apply to any Person (other than to the other Parties to this Agreement or as otherwise expressly contemplated under Section 7.15 of this Agreement), or agree to do any of the foregoing.

7.3 Proxy Statement/Prospectus Filing; Information Supplied.

(a) As promptly as practicable after the Signing Date, Parent shall prepare (with the Company's reasonable cooperation) and file with the SEC Parent's registration statement on Form S-4 (as amended or supplemented from time to time, the "Registration Statement"), in which the proxy statement relating to the Parent Shareholders Meeting (as amended or supplemented from time to time, the "Proxy Statement/Prospectus") shall be included, registering the shares of Converted Parent Common Stock to be issued in exchange for the shares of Company Common Stock and Creditor Warrants in the First Company Merger and shares of Converted Parent Common Stock underlying Assumed Warrants and Assumed Creditor Warrants (other than such shares of Converted Company Common Stock being issued to or underlying Assumed Warrants and Assumed Creditor Warrants of the Consenting Holders). Parent shall use its reasonable best efforts to respond promptly to comments from the SEC and have the Registration Statement declared effective under the Securities Act as promptly as practicable after such filing, to promptly thereafter mail the Proxy Statement/Prospectus to its shareholders and the Company's stockholders, and to maintain the effectiveness of the Registration Statement for as long as necessary to consummate the Transactions. Subject to Section 7.2, unless the Parent Board has made a Change of Recommendation in accordance with Section 7.2(d) (ii), or Section 7.2(d)(iii), Parent must include the Parent Recommendation, in the Proxy Statement/Prospectus.

(b) Each of Parent and the Company shall promptly notify the other of the receipt of all comments, whether written or oral, from the SEC or the staff of the SEC and of any request by the SEC for any amendment or supplement to the Registration Statement or the Proxy Statement/Prospectus or for additional information and shall promptly provide to the other copies of all correspondence between it or any of its Representatives, on the one hand, and the SEC or the staff of the SEC, on the other hand, with respect to the Registration Statement or Proxy Statement/Prospectus. Parent shall advise the Company, promptly after: (i) receipt of notice thereof; (ii) of the time of effectiveness of the Registration Statement; (iii) the issuance of any stop order relating thereto or the suspension of the qualification of shares of Converted Parent Common Stock for offering or sale in any jurisdiction; (iv) the initiation or written threat of any proceeding for any such purpose (and each of Parent and the Company shall use its reasonable best efforts to have any such stop order or suspension referred to in clause (iii) or proceeding referenced in clause (iv) lifted, reversed or otherwise terminated); or (v) any request by the SEC for the amendment or supplement of the Registration Statement or the Proxy Statement/Prospectus. The Company shall furnish all information concerning the Company and the holders of Company Common Stock, and provide such other assistance, as may be reasonably requested in connection with any such action and shall otherwise reasonably assist and cooperate with the other in the preparation, filing and distribution of the Proxy Statement/Prospectus, the Registration Statement and the resolution of any comments to either of the foregoing documents received from the SEC.

(c) Each of the Company and Parent agrees, as to itself and its Subsidiaries, that none of the information supplied or to be supplied by it or its Subsidiaries for inclusion or incorporation by reference in: (i) the Registration Statement will, at the time the Registration Statement becomes effective under the Securities Act, contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein not misleading; and (ii) the Proxy Statement/Prospectus and any amendment or supplement thereto will, at the date of mailing to the shareholders of Parent and at the time of the Parent Shareholders Meeting, contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading. Parent will use its reasonable best efforts (with the Company's reasonable

cooperation) to cause the Proxy Statement/Prospectus and the Registration Statement to comply as to form in all material respects with the applicable provisions of the Securities Act and the Exchange Act. If, at any time prior to the Effective Time, either Party obtains knowledge of any information pertaining to it or previously provided by it for inclusion in the Registration Statement or the Proxy Statement/Prospectus that would require any amendment or supplement to the Registration Statement or the Proxy Statement/Prospectus so that any of such documents would not include any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading, such Party shall promptly advise the other Party and the Parties shall cooperate in Parent's prompt filing with the SEC of any necessary amendment or supplement to the Proxy Statement/Prospectus and the Registration Statement and, as required by applicable Law, in Parent's disseminating the information contained in such amendment or supplement to the Parent shareholders.

(d) Parent will provide the Company and its legal counsel with a reasonable opportunity to review and comment on drafts of the Proxy Statement/Prospectus, the Registration Statement, responses to any comments from the SEC or the staff of the SEC with respect thereto, and other documents related to the Parent Shareholders Meeting or the Requisite Parent Vote Matters, and Parent will consider, in good faith, incorporating any such comments proposed by the Company or its legal counsel prior to filing such documents with the applicable Governmental Entity and mailing such documents to the shareholders of Parent, as applicable. Each Party agrees that all information relating to Parent and its Subsidiaries included in the Proxy Statement/Prospectus or the Registration Statement shall be in form and content satisfactory to Parent, acting reasonably, and all information relating to the Company and its Subsidiaries included in the Proxy Statement/Prospectus or the Registration Statement shall be in form and content satisfactory to the Company, acting reasonably. Notwithstanding the foregoing, the provisions of this Section 7.3(d) shall: (i) not apply with respect to information relating to a Change of Recommendation; and (ii) in respect of documents filed by Parent that are incorporated by reference in the Registration Statement or Proxy Statement/Prospectus, apply only with respect to the information relating to the Transactions, the Parent Shareholders Meeting, the Requisite Parent Vote Matters or the Company or the Company's business, financial condition or results of operations or, after the Effective Time, Parent.

(e) As promptly as reasonably practicable following the Signing Date, the Company will deliver to Parent the unaudited interim financial statements for each interim period completed prior to Closing that would be required to be included in the Registration Statement (the "**Company Interim Financial Statements**"). The Company shall ensure that the Company Interim Financial Statements will be suitable for inclusion in the Registration Statement, will comply with all SEC requirements with respect thereto and will be prepared in accordance with GAAP as applied on a consistent basis during the periods involved (except in each case as described in the notes thereto) and on that basis will fairly present in all material respects the consolidated financial position of the Company and its consolidated Subsidiaries as at the dates thereof and the consolidated results of their operations and cash flows for the periods then ended, as of the dates of and for the periods referred to in the Company Interim Financial Statements. The Company shall reasonably cooperate, and shall direct its independent auditors to reasonably cooperate, with Parent in connection with the preparation of any pro forma financial statements that are derived in part from the Company Audited Financial Statements and the Company Interim Financial Statements or other financial statements of the Company and shall provide Parent with a reasonable opportunity to consult with the Company and its Representatives, including its independent auditors, from time to time prior to the Closing, with respect to the progress of the preparation of such Company Interim Financial Statements or pro forma financial statements.

7.4 Requisite Company Approval and Parent Shareholders Meeting.

(a) The Company will take all reasonable action necessary, in accordance with this Agreement, applicable Law, its Organizational Documents and the Existing Securityholders Agreement, to obtain the Requisite Company Approval promptly after the execution and delivery of this Agreement by all parties and, in any event, by not later than 11:59 p.m. (Eastern Time) on the first Business Day following the date hereof (such time, the "**Consent Time**"). If the Requisite Company Approval is obtained in the form of duly executed written consents that are delivered to Company, Company will deliver to Parent a copy thereof (including by facsimile or other electronic image scan transmission).

(b) Parent shall, as promptly as practicable after the Signing Date and in consultation with the Company, set a preliminary record date for the Parent Shareholders Meeting and commence a broker search in accordance with Rule 14a-13 under the Exchange Act in connection therewith. Parent will take, in accordance with this Agreement,

applicable Law and its Organizational Documents, all action necessary to duly call, give notice of, convene and hold the Parent Shareholders Meeting as promptly as practicable after the Registration Statement is declared effective, with a record date and meeting date to be selected after reasonable consultation with the Company, for the purpose of: (i) seeking the Requisite Parent Vote and the Optional Parent Vote, and shall not postpone or adjourn such meeting except to the extent required by Law, in accordance with Section 7.4(c), or if, as of the time for which the Parent Shareholders Meeting was originally scheduled (as set forth in the Proxy Statement/Prospectus), there are insufficient shares of Parent Common Stock represented (either in person or by proxy) and voting to approve the Requisite Parent Vote Matters to constitute a quorum necessary to conduct the business of the Parent Shareholders Meeting. Parent shall, subject to the right of the Parent Board to effect a Change of Recommendation in accordance with Section 7.2(d)(ii) or Section 7.2(d)(iii), use reasonable best efforts to solicit from the shareholders of Parent proxies in favor of the Requisite Parent Vote Matters and the Optional Parent Vote Matters and to secure the Requisite Parent Vote and the Optional Parent Vote (it being understood that the foregoing shall not require the Parent Board to recommend, or solicit proxies, in favor of the Requisite Parent Vote Matters and the Optional Parent Vote Matters if a Change of Recommendation has been effected in accordance with Section 7.2(d)(ii) or Section 7.2(d)(iii)). Unless this Agreement has been terminated in accordance with its terms, Parent's obligation to call, give notice of, convene and hold the Parent Shareholders Meeting in accordance with this Section 7.4(a) shall not be limited or otherwise affected by the making, commencement, disclosure, announcement or submission of any Acquisition Proposal or Superior Proposal, or by any Change of Recommendation.

(c) Parent agrees: (x) to provide the Company reasonably detailed periodic updates concerning proxy solicitation results on a timely basis; and (y) to give written notice to the Company one day prior to the Parent Shareholders Meeting, and on the day of, but prior to the Parent Shareholders Meeting, indicating whether as of such date sufficient proxies representing the Requisite Parent Vote has been obtained. Notwithstanding the foregoing, if, on a date that is two Business Days prior to the date the Parent Shareholders Meeting is scheduled: (A) Parent has not received proxies representing the Requisite Parent Vote, whether or not a quorum is present; or (B) it is necessary to ensure that any supplement or amendment to the Proxy Statement/Prospectus is required to be delivered, Parent may, or if the Company so requests, shall, postpone or adjourn, or make one or more successive postponements or adjournments of, the Parent Shareholders Meeting, as long as the date of the Parent Shareholders Meeting is not postponed or adjourned more than ten days in connection with any one postponement or adjournment or to a date that is no later than two Business Days prior to the Outside Date; provided, that Parent may not adjourn or postpone the Parent Shareholders Meeting pursuant to clause (A) above more than two times unless such extension is requested by the Company or made with the Company's prior written consent.

(d) The only matters to be voted upon at the Parent Shareholders Meeting are the Requisite Parent Vote, the Optional Parent Vote and other routine proposals required in connection with such vote.

7.5 Cooperation; Efforts to Consummate.

(a) Upon the terms and subject to the conditions set forth in this Agreement (including Section 7.2), the Company and Parent shall cooperate with each other and use (and shall cause their respective Subsidiaries to use) their respective reasonable best efforts to take or cause to be taken all actions, and to do or cause to be done all things, reasonably necessary, proper or advisable on its part under this Agreement and applicable Law to cause the conditions to Closing to be satisfied as promptly as reasonably practicable and advisable (and in any event no later than the Outside Date) and consummate and make effective the Transactions as soon as reasonably practicable, including preparing and filing as promptly as reasonably practicable and advisable all documentation to effect all necessary notices, reports and other Filings (including by filing no later than 20 Business Days after the Signing Date the notification and report form required under the HSR Act), obtaining as promptly as reasonably practicable (and in any event no later than the Outside Date) all actions or nonactions, waivers, consents, registrations, expirations or terminations of waiting periods, approvals, permits and authorizations ("Consents") necessary or advisable to be obtained from any third party or any Governmental Entity in order to consummate the Transactions, executing and delivering any additional instruments necessary to consummate the Transactions and refraining from taking any action that would reasonably be expected to impede, interfere with, prevent or materially delay the consummation of the Transactions.

(b) The Company and Parent shall jointly develop and consult and cooperate in all respects with one another, and consider in good faith the views of one another, in connection with the form and content of any analyses, appearances, presentations, memoranda, briefs, arguments, opinions, proposals, notices, reports or

Filings made with, or submitted to, any third party or any Governmental Entity in connection with the Transactions (including the Proxy Statement/Prospectus and the Registration Statement). Neither the Company nor Parent shall permit any of its officers or other Representatives to participate in any substantive meeting, telephone call or conference with any Governmental Entity in respect of any Filing, investigation or otherwise relating to the Transactions unless, to the extent reasonably practicable, it consults with the other Party in advance and, to the extent permitted by such Governmental Entity, gives the other Party the opportunity to attend and participate therein. Each of the Parties shall use reasonable best efforts to furnish to each other all information required for any Filing, other than confidential or proprietary information not directly related to the Transactions, and to give the other Party reasonable prior notice of any such Filing and, to the extent practicable, keep the other Party reasonably informed with respect to the status of each Consent sought from a Governmental Entity in connection with the Transactions and the material communications between such Party and such Governmental Entity, and permit the other Party to review and discuss in advance, and consider in good faith the views of the other in connection with any such Filing or communication. Prior to submitting any such Filing (except for the Parties' submissions in relation to the HSR Act) or communication to any Governmental Entity in relation to any applicable Antitrust Law or Foreign Investment Law, each Party shall consult in good faith with the other Party and consider in good faith the views of the other Party with respect to the form and content of such Filing or communication. Each of the Parties shall promptly furnish the other with copies of all correspondence, Filings (except for the Parties' initial HSR Act notification filings) and material communications between them and their Representatives, on one hand, and any such Governmental Entity or its respective staff on the other hand, with respect to the Transactions in order for such other Party to meaningfully consult and participate in accordance with this Section 7.5, provided that materials furnished pursuant to this Section 7.5 may be redacted as necessary to address reasonable attorney-client or other privilege or confidentiality concerns. Subject to applicable Law, each of the Company and Parent and their respective Subsidiaries shall not agree to any actions, restrictions or conditions with respect to obtaining any Consent in connection with the Transactions, and neither Party shall directly or indirectly agree to any contractual timing agreement with a Governmental Entity related to this Agreement or the Transactions, in each case, without the prior written consent of the other Party. In exercising the foregoing rights, each of the Company and Parent shall act reasonably and as promptly as reasonably practicable.

(c) Subject to Section 7.1(b) of such Party's Disclosure Letter and the terms and conditions of this Agreement, neither Parent nor the Company shall, and each of them shall cause their respective Subsidiaries not to, take any action, including acquiring any asset, property, business or Person (by way of merger, consolidation, share exchange, investment, other business combination, asset, stock or equity purchase, or otherwise), in each case, that could reasonably be expected to materially impair, materially adversely affect or materially delay obtaining any Consent or making any Filing contemplated by this Section 7.5 or the timely receipt thereof.

(d) Without limiting the generality of the undertakings pursuant to this Section 7.5, but on the terms and subject to the terms and conditions set forth in this Agreement, including Section 7.5(f), each of the Company and Parent agree to:

(i) promptly provide or make an appropriate response to any request by a Governmental Entity pursuant to Antitrust Law or Foreign Investment Law for information or documentary material with respect to the Transaction;

(ii) promptly use its reasonable best efforts to take all reasonably necessary, proper or advisable steps to: (A) avoid the entry of; and (B) resist, vacate, modify, reverse, suspend, prevent, eliminate or remove any actual, anticipated or threatened temporary, preliminary or permanent injunction or other order, decree, decision, determination or judgment entered or issued, or that becomes reasonably foreseeable to be entered or issued, in any Proceeding or inquiry of any kind, in the case of each of the foregoing clauses (A) and (B), that would reasonably be expected to delay, restrain, prevent, enjoin or otherwise prohibit or make unlawful the consummation of the Transactions, including, if necessary, proper or advisable so as to permit the consummation of the Transactions on a schedule as close as possible to that contemplated herein (I) defending through litigation (excluding any appeals) on the merits of any claim asserted in any court, agency or other Proceeding by any person or entity seeking to delay, restrain, prevent, enjoin or otherwise prohibit consummation of the Transactions and (II) (x) proposing, negotiating, committing to and agreeing to sell, lease, license, divest or otherwise dispose of, or hold separate pending such disposition, assets, operations, rights, product lines, licenses, businesses or interests therein of the Company or Parent or any of their respective Subsidiaries, and promptly effecting such sale, lease, license, divestiture, disposal or holding

separate, (y) agreeing to restrictions or actions that after the Effective Time would limit Parent's or its Subsidiaries' freedom of action or operation with respect to, or its ability to retain, one or more of its or its Subsidiaries' businesses, product lines or assets or (z) agreeing to enter into, modify or terminate existing contractual relationships, contractual rights or contractual obligations of the Company or Parent or either of their respective Subsidiaries, and in each case entering into agreements with, and submitting to orders of, the relevant Governmental Entity as needed to effect the foregoing (any such action described in clause (II), a "**Regulatory Remedy**").

(e) Notwithstanding anything in this Section 7.5 to the contrary, neither this Section 7.5 nor the "reasonable best efforts" standard herein shall require, or be construed to require, the Company or Parent or any of their respective Subsidiaries or other Affiliates to (i) waive any of the conditions set forth in Article VIII as they apply to such Party or (ii) take, effect or agree to any Regulatory Remedy described in clause (II) above unless such Regulatory Remedy is conditioned upon the occurrence of the Closing or is effective on or after the Closing and relates only to the Company, Parent and their respective Subsidiaries.

(f) For the avoidance of doubt, the Company and Parent shall use reasonable best efforts to cooperate with each other and work in good faith in formulating any Regulatory Remedy.

7.6 Status Notifications. Subject to applicable Law and except as otherwise required by any Governmental Entity, each of the Company and Parent shall keep the other apprised of the status of material matters relating to completion of the Transactions, including promptly furnishing the other with copies of notices or other substantive communications received by the Company or Parent, as applicable, or any of its Subsidiaries from any third party and/or any Governmental Entity with respect to the Transactions.

7.7 Treatment of Indebtedness.

(a) Prior to the Closing Date, Parent shall: (a) deliver (or cause to be delivered) notices of the payoff, prepayment, discharge and termination of any outstanding Indebtedness and other obligations of Parent and each applicable Subsidiary of Parent as required under the Parent ABL Credit Agreement (the amounts outstanding under the Parent ABL Credit Agreement, the "**Parent Indebtedness Payoff Amount**"); (b) take all other actions within its reasonable control and reasonably required to facilitate the repayment of the Parent Indebtedness Payoff Amount, including the termination of the commitments under the Parent ABL Credit Agreement, in each case, prior to or substantially concurrently with the Effective Time; and (c) procure, obtain and deliver customary payoff letter(s) and lien releases, in each case, in form and substance reasonably satisfactory to Company ("**Payoff Letters**"), with respect to the Parent ABL Credit Agreement in sufficient form to terminate all Encumbrances, all guaranties and other obligations thereunder (other than contingent obligations for which no claim has been made and which expressly survive the termination thereof), drafts of which shall have been provided to the Company and its counsel at least ten (10) Business Days prior to the Closing Date (or such shorter time as the Company may agree in its discretion) (with executed, as applicable, copies thereof to be provided as soon as available, and in no case later than one (1) Business Day prior to the Closing Date). Parent shall irrevocably pay off, or cause to be paid off, prior to or substantially contemporaneously with the Effective Time, the Parent Indebtedness Payoff Amount.

(b) Prior to the Closing Date, without the Company's prior written consent, Parent will not, and will cause its directors, officers and Representatives not to, amend or supplement any Parent Credit Agreement except to terminate the Parent ABL Credit Agreement in accordance with Section 7.7(a) or to comply with the terms of the Parent ABL Credit Agreement to add any Subsidiary of Parent as a guarantor thereunder in accordance with Section 10.1.9 of the Parent ABL Credit Agreement (as in effect on the Signing Date (or after giving effect to such amendments and/or supplements thereto as may be expressly consented to by the Company pursuant to this Section 7.7(b)). Prior to the Closing Date, without Parent's prior written consent, the Company will not, and will cause its directors, officers and Representatives not to, amend or supplement any Company Credit Agreement except as provided in Section 7.7(d) and except to comply with the terms of Sections 6.11 or 6.12 of each Company Credit Agreement (as in effect on the Signing Date (or after giving effect to such amendments and/or supplements thereto as may be expressly consented to by Parent pursuant to this Section 7.7(b)).

(c) Prior to the Closing Date, without Company's prior written consent, Parent will not, and will cause its directors, officers, Representatives and Subsidiaries not to, amend or supplement the Parent Senior Notes

Indenture except to comply with the terms of the Parent Senior Notes Indenture to add any Subsidiary of Parent as a guarantor thereunder in accordance with Section 4.15 of the Parent Senior Notes Indenture (as in effect on the Signing Date (or after giving effect to such amendments and/or supplements thereto as may be expressly consented to by the Company pursuant to this Section 7.7(c))).

(d) The Company shall timely provide or cause to be provided to Parent, on or prior to the Effective Time, a waiver, amendment or consent to each Company Credit Agreement as required to permit the Second Company Merger to occur as of the Second Company Merger Effective Time pursuant to Section 7.04 of each Company Credit Agreement.

7.8 Information; Access and Reports.

(a) Subject to applicable Law and the other provisions of this Section 7.8, each of the Company and Parent shall (and shall cause its Subsidiaries to), upon reasonable advance written notice by the other Party, use reasonable best efforts to furnish the other Party with all information concerning itself, its Subsidiaries, directors, officers and stockholders and such other matters as may be reasonably necessary or advisable in connection with the preparation of the Proxy Statement/Prospectus, the Registration Statement or any other statement, filing, notice or application made by or on behalf of Parent, the Company or any of their respective Subsidiaries to any third party or any Governmental Entity in connection with the Transactions, and shall (and shall cause its Subsidiaries to), upon giving of reasonable advance written notice by the other Party, use reasonable best efforts to afford the other Party's officers and other authorized Representatives reasonable access, during normal business hours, to its Service Providers, agents, Contracts, books and records (including the work papers of such Party's independent accountants upon receipt of any required consents from such accountants and subject to the execution of customary access letters), as well as properties, offices and other facilities, and each shall (and shall cause its Subsidiaries to) use reasonable best efforts to furnish promptly to the other all information concerning its business, properties and personnel as may reasonably be requested, including in connection with the preparation of the Proxy Statement/Prospectus, the Registration Statement or any other statement, filing, notice or application made by or on behalf of Parent, the Company or any of their respective Subsidiaries to any third party or any Governmental Entity in connection with the Transactions.

(b) The foregoing provisions of this Section 7.8 shall not require and shall not be construed to require either the Company or Parent to permit any access to any of its Service Providers, agents, Contracts, books or records, or its properties, offices or other facilities, or to permit any inspection, review, sampling or audit, or to disclose or otherwise make available any information that in the reasonable judgment of the Company or Parent, as applicable, would: (i) unreasonably interfere with such Party's or its Subsidiaries' business operations or create a material risk of damage or destruction to any material property or assets of such Party or its Subsidiaries; (ii) result in the disclosure of competitively sensitive information or information concerning the valuation of the Company, Parent or any of their respective Subsidiaries or violate the terms of any confidentiality provisions in any agreement with a third party entered into prior to the Signing Date; (iii) result in a violation of applicable Law; (iv) waive the protection of any attorney-client or other legal privilege; (v) result in the disclosure of any personal information that would expose such Party to the risk of liability or (vi) constitute any invasive testing, sampling or analysis at any property or facility (commonly known as a Phase II) without that Party's prior written consent. In the event that the Company or Parent, as applicable, objects to any request submitted pursuant to and in accordance with this Section 7.8 and withholds information on the basis of the foregoing clauses (i) through (vi), the Company or Parent, as applicable, shall inform the other Party in writing as to the general nature of what is being withheld and shall use reasonable best efforts to make appropriate substitute arrangements to permit reasonable disclosure that does not suffer from any of the foregoing impediments. Each of the Company and Parent, as it deems advisable and necessary, may reasonably designate competitively sensitive material provided to the other as "Outside Counsel Only Material" or with similar restrictions. Such materials and the information contained therein shall be given only to the outside legal counsel of the recipient, or otherwise as the restriction indicates, and be subject to any additional confidentiality or joint defense agreement between the Parties. All requests for information made pursuant to this Section 7.8 shall be directed to the Person designated by the Company or Parent, as applicable. All information exchanged or made available shall be governed by the terms of the Confidentiality Agreement.

(c) Nothing in this Section 7.8 will be construed to require any Party, its Subsidiaries or any of their respective Representatives to: (i) prepare any reports, analyses, appraisals, opinions or other information that is not typically prepared in the past practices of such Person; or (ii) permit the other Party to perform any invasive testing, sampling or analysis at any property or facility (commonly known as a Phase II).

(d) To the extent that any of the information or material furnished pursuant to this Section 7.8 or otherwise in accordance with the terms of this Agreement may include material subject to the attorney-client privilege, work product doctrine or any other applicable privilege, including those concerning pending or threatened Proceedings, the Parties understand and agree that they have a commonality of interest with respect to such matters and it is their desire, intention and mutual understanding that the sharing of such material is not intended to, and shall not, waive or diminish in any way the confidentiality of such material or its continued protection under the attorney-client privilege, work product doctrine or other applicable privilege. All such information that is entitled to protection under the attorney-client privilege, work product doctrine or other applicable privilege shall remain entitled to such protection under these privileges, this Agreement, and under the joint defense doctrine.

(e) No exchange of information or investigation by Parent or its Representatives shall affect or be deemed to affect, modify or waive the representations and warranties of the Company set forth in this Agreement, and no investigation by the Company or its Representatives shall affect or be deemed to affect, modify or waive the representations and warranties of Parent set forth in this Agreement.

7.9 Stock Exchange Listing. Parent shall use its reasonable best efforts to cause the shares of Converted Parent Common Stock, including the Converted Parent Common Stock to be issued in the First Company Merger, to be approved for listing on the NYSE prior to the Closing Date, subject to official notice of issuance.

7.10 Publicity. The initial press release with respect to the execution of this Agreement shall be a joint release to be reasonably agreed upon by the Parties. The Company and Parent shall consult with each other before issuing any press release or making any public statement with respect to this Agreement or the Transactions and shall not issue any such press release or make any such public statement without the prior consent of the other, such consent not to be unreasonably withheld, conditioned or delayed; provided, that (a) any such press release or public statement as may be required by applicable Law or any listing agreement with any national securities exchange may be issued prior to such consultation if the Party making the release or statement has used its reasonable best efforts to consult with the other Party on a timely basis; and (b) each Party may issue public announcements or make other public disclosures regarding this Agreement or the Transactions that is consistent with those previously disclosed in press releases or public statements previously approved by either Party or made by either Party in compliance with this Section 7.10; provided, further, that the first sentence of this Section 7.10 shall not apply to: (x) any disclosure of information concerning this Agreement in connection with any dispute between the Parties regarding this Agreement; and (y) internal announcements to employees which are not made public. Notwithstanding anything in this Section 7.10 to the contrary, neither Party shall be required by any provision of this Agreement to consult with or obtain any approval from any other Party with respect to a public announcement or press release issued in connection with the receipt and existence of an Acquisition Proposal and matters related thereto or a Change of Recommendation other than as set forth in Section 7.2. Prior to making any written communications to any employees of Parent, the Company or their respective Subsidiaries pertaining to the treatment of compensation or benefits in connection with the Transactions or employment following the Effective Time, each of the Company and Parent shall provide the other Party with a copy of the intended communication, the receiving Party shall have a reasonable period of time to review and comment on such communication and the providing Party shall give reasonable and good faith consideration to any comments made by the receiving Party with respect thereto.

7.11 Employee Benefits.

(a) For at least 12 months following the Effective Time (or, if earlier, the date of termination of employment of a Continuing Employee), Parent shall cause (i) each Service Provider of the Company and its Subsidiaries at the Effective Time who continues to remain employed with Parent or its Subsidiaries following the Effective Time and (ii) each Service Provider of Parent and its Subsidiaries at the Effective Time who continues to remain employed with Parent or its Subsidiaries following the Effective Time (collectively, the "Continuing Employees") to be provided with: (1) an annual base salary or wage rate, as applicable, that is no less favorable than the annual base salary or wage rate, as applicable, provided to each such Continuing Employee immediately prior to the Effective Time; (2) target annual cash incentive compensation opportunities and target long-term incentive (cash-based and equity-based) compensation opportunities that are no less favorable in the aggregate than those in effect for such Continuing Employee as of immediately prior to the Effective Time; and (3) other employee benefits that are no less favorable in the aggregate than those in effect for such Continuing Employee as of immediately prior to the Effective Time (excluding defined benefit pension or post-employment welfare benefits and retention, transaction, sale bonus or similar one-time or special bonus and equity-based compensation). With respect to any Benefit Plans in which any Continuing Employee first becomes eligible to participate on or after the Effective Time (the "New

Plans”), Parent shall: (i) use commercially reasonable efforts to (A) cause each Continuing Employee to be immediately eligible to participate, without any waiting time, in any and all New Plans to the extent coverage under such New Plan replaces coverage under a comparable Benefit Plan in which such Continuing Employee participated immediately prior to the Effective Time, (B) cause all pre-existing condition exclusions and actively-at-work requirements of such New Plan to be waived for such Continuing Employee and his or her covered dependents to the extent such pre-existing conditions and actively-at-work requirements would have been waived or satisfied under the analogous Benefit Plan in which such Continuing Employee participated immediately prior to the Effective Time, and (C) during the plan year in which the Effective Time occurs, cause any eligible expenses paid by such Continuing Employee and his or her covered dependents under a Benefit Plan that is a group health plan during the portion of the plan year prior to the change to the New Plan that is a group health plan to be taken into account under such New Plan that is a group health plan for purposes of satisfying the corresponding deductible, co-insurance, and maximum out-of-pocket requirements applicable to such Continuing Employee and his or her covered dependents for the applicable plan year as if such amounts had been paid in accordance with such New Plan, and (ii) recognize service time of the Continuing Employees with Parent and the Company and their respective Affiliates and predecessors, for purposes of eligibility to participate, vesting credit, entitlement to benefits, the level of vacation benefits and for purposes of determining severance in any New Plan in which such Continuing Employees may be eligible to participate after the Effective Time, to the extent such service is taken into account under the corresponding Benefit Plan in which such Continuing Employee participated immediately prior to the Effective Time, except where such credit would result in a duplication of benefits or compensation for the same period of service.

(b) For at least 12 months following the Effective Time, Parent shall cause each Continuing Employee to be provided with severance and termination benefits that are no less favorable than those benefits set forth on Section 7.11(b) of the Parent Disclosure Letter.

(c) Parent and the Company expressly agree that the Transactions shall constitute a “change in control” or “change of control” for purposes of (i) all Parent Benefit Plans, policies, programs or agreements (including but not limited to employment agreements and award agreements under the Parent Stock Plans that includes the term “change in control” or “change of control”, as applicable); and (ii) all Company Benefit Plans, policies, programs or agreements (including but not limited to employment agreements and award agreements under the Company Stock Plans that include the term “change in control” or “change of control”, as applicable), in each case that provide for payments, accelerated vesting or benefits, either on a “single trigger” basis immediately on a “change of control” or “change in control” or on a “double trigger” basis on a qualifying termination of employment during a specified period following a “change of control” or “change in control”.

(d) Prior to making any material written communications intended for broad-based and general distribution to Service Providers pertaining to compensation or benefit matters that are affected by the Transactions, each Party shall provide the other Party with a copy of the intended communication, the other Party shall have a reasonable period of time to review and comment on the communication, and the relevant Party shall consider any such comments in good faith.

(e) Each Continuing Employee who as of immediately prior to the Effective Time participates in a Company Benefit Plan or Parent Benefit Plan, as applicable, that provides for an annual bonus for the year in which Closing occurs and who remains employed with Parent or its Subsidiaries through the regular payment date for such bonus, shall be eligible to receive in cash, on such regular payment date, an annual bonus payment in respect of the applicable performance period in an amount determined based on the greater of (i) the level of attainment of the applicable performance measures under such Company Benefit Plan or Parent Benefit Plan, as applicable, or (ii) the attainment of the target level of performance under such Company Benefit Plan or Parent Benefit Plan, as applicable.

(f) Subject to Section 7.1, nothing contained in this Agreement is intended to (i) be treated as an amendment, establishment, modification, termination or adoption of any particular Company Benefit Plan, Parent Benefit Plan or other benefit or compensation plan, program, agreement, policy or arrangement, (ii) subject to compliance with the other provisions of this Section 7.11, prevent the Company, Parent, or any of their Affiliates from amending, establishing, modifying, or terminating any of their respective Benefit Plans or other benefit or compensation plan, program, agreement, policy or arrangement in accordance with their terms, or (iii) prevent the Company, Parent, or any of their respective Affiliates, after the Effective Time, from terminating the employment of any Service Provider of the Company or Parent. Nothing contained in this Agreement is intended to create any

third-party beneficiary rights in any Service Provider of the Company, Parent or any of their Subsidiaries, any beneficiary or dependent thereof, or any collective bargaining representative thereof (including any labor union, works council, or other labor organization or employee representative), with respect to the compensation, terms and conditions of employment and/or benefits that may be provided to any Service Provider of the Company or Parent by the Company, Parent, or any of their respective Affiliates or under any Benefit Plan which the Company, Parent, or any of their respective Affiliates may maintain. Notwithstanding anything in this Agreement to the contrary, the terms and conditions of employment for any Continuing Employees covered by a Labor Agreement shall be governed by the applicable Labor Agreement until the expiration, modification or termination of such Labor Agreement in accordance with its terms or applicable Law.

7.12 Certain Tax Matters.

(a) None of Parent, the Company or any of their respective Subsidiaries shall take or cause to be taken, or fail to take, any action, whether before or after the Effective Time, that could reasonably be expected to prevent or impede the Mergers, taken together, from qualifying for the Intended Tax Treatment. Each of Parent, the Company and their respective Subsidiaries shall take the position, and otherwise shall treat and report, for all Tax purposes that the Mergers, taken together, qualify for the Intended Tax Treatment, except to the extent otherwise required pursuant to a “determination” within the meaning of Section 1313(a) of the Code. Each of Parent and the Company will notify the other Party promptly after becoming aware of any reason to believe that the Mergers, taken together, may not qualify for the Intended Tax Treatment.

(b) Each of Parent and the Company shall use its reasonable best efforts and will cooperate in good faith with one another to obtain the opinion of counsel referred to in Section 8.3(i) and any opinions of counsel in respect of Tax matters requested by, or required to be filed with the SEC in connection with the filing of the Registration Statement. In connection therewith, Parent shall deliver to Kirkland & Ellis LLP, counsel to the Company (“**Company’s Counsel**”) (and, if for any reason Parent’s counsel is required to render an opinion (including in a circumstance where Company’s Counsel is unable to render the opinion described in Section 8.3(g)), to Baker Botts L.L.P. (“**Parent’s Counsel**”), a customary representation letter dated as of the Closing Date (and, if requested, dated as of the date the Registration Statement shall have been declared effective by the SEC or such other date(s) as determined necessary by counsel in connection with the filing of the Registration Statement or its exhibits) and signed by an officer of Parent in form and substance reasonably satisfactory to Company’s Counsel (or, if applicable, Parent’s Counsel) (the “**Parent Tax Representation Letter**”), and the Company shall deliver to Company’s Counsel (and, if for any reason Parent’s Counsel is required to render an opinion (including in a circumstance where Company’s Counsel is unable to render the opinion described in Section 8.3(g)), to Parent’s Counsel) a customary representation letter dated as of the Closing Date (and, if requested, dated as of the date the Registration Statement shall have been declared effective by the SEC or such other date(s) as determined necessary by counsel in connection with the filing of the Registration Statement or its exhibits) and signed by an officer of the Company in form and substance reasonably satisfactory to Company’s Counsel (or, if applicable, Parent’s Counsel) (the “**Company Tax Representation Letter**”).

(c) It is intended that, for U.S. federal income tax purposes, the Mergers, taken together, qualify as a “reorganization” within the meaning of Section 368(a) of the Code and this Agreement be, and hereby is adopted as, a “plan of reorganization” within the meaning of Treasury Regulations Section 1.368-2(g) and 1.368-3(a) (the “**Intended Tax Treatment**”).

7.13 Expenses. Except as otherwise provided in Section 9.2(b), Section 9.2(c) or Section 9.2(d), whether or not the First Company Merger is consummated, all Costs and expenses incurred in connection with the preparation, negotiation, execution and performance of this Agreement and the Transactions, including all fees and expenses of its Representatives, shall be paid by the Party incurring such expense, except that expenses incurred in connection with: (a) any filing fees in connection with the HSR Act, any other Antitrust Law, Foreign Investment Law; (b) the filing of the Registration Statement; and (c) the filing, printing and mailing of the Proxy Statement/Prospectus shall be shared equally by the Company and Parent.

7.14 Indemnification; Directors’ and Officers’ Insurance.

(a) From and after the Effective Time, Parent and the Surviving Company shall indemnify and hold harmless to the fullest extent as such individuals would be indemnified as of the Signing Date under applicable Law, the Company’s Organizational Documents and any indemnification agreements in effect as of the Signing Date, each present and former (determined as of the Effective Time) director and officer of the Company or any of

its Subsidiaries or any Person who acts as a fiduciary under any Benefit Plan of the Company or any of its Subsidiaries, or any Person who prior to or at the Effective Time served at the request of the Company or any of its Subsidiaries as a director or officer of another Person or acts as a fiduciary under any Benefit Plan of another Person in each case in which the Company or any of its Subsidiaries has an equity investment, in each case, when acting in such capacity (the “**Indemnified Parties**”), against any costs or expenses (including reasonable attorneys’ fees, costs and expenses), judgments, inquiries, fines, losses, claims, damages or liabilities incurred in connection with, arising out of or otherwise related to any Proceeding, in connection with, arising out of or otherwise related to matters existing or occurring at or prior to the Effective Time, whether asserted or claimed prior to, at or after the Effective Time, including in connection with: (i) this Agreement or the Transactions; and (ii) actions to enforce this provision or any other indemnification or advancement right of any Indemnified Party, and Parent and the Surviving Company shall also advance expenses as incurred to the fullest extent that such individual would have been entitled to under applicable Law, the Company’s Organizational Documents and any indemnification agreements in effect as of the Signing Date; provided, that any Person to whom expenses are advanced provides an undertaking to repay such advances if it is ultimately determined by final adjudication that such Person is not entitled to indemnification.

(b) Prior to the Effective Time, the Company shall purchase (and pay in full the aggregate premium for) “tail” insurance policies (“**Tail Policies**”) for the extension of: (i) the directors’ and officers’ liability coverage of the Company’s existing directors’ and officers’ insurance policies; and (ii) the Company’s existing fiduciary liability insurance policies, in each case for a claims reporting or discovery period of six years from and after the Effective Time (the “**Tail Period**”) from one or more insurance carriers with the same or better credit rating as the Company’s insurance carrier as of the Signing Date with respect to directors’ and officers’ liability insurance and fiduciary liability insurance (collectively, “**D&O Insurance**”) with terms, conditions, retentions and limits of liability that are no less favorable in the aggregate to the insureds as the Company’s existing policies with respect to matters existing or occurring at or prior to the Effective Time (including in connection with this Agreement or the Transactions). If the Company fails to obtain such “tail” insurance policies as of the Effective Time, Parent shall continue to maintain in effect for the Tail Period the D&O Insurance in place as of the Signing Date with terms, conditions, retentions and limits of liability that are no less favorable in the aggregate to the insureds as provided in the Company’s existing policies as of the Signing Date, or Parent shall purchase comparable D&O Insurance for the Tail Period with terms, conditions, retentions and limits of liability that are no less favorable in the aggregate as provided in the Company’s existing policies as of the Signing Date; provided, that in no event shall the aggregate cost of the Tail Policies and the D&O Insurance exceed during the Tail Period 300% of the current aggregate annual premium paid by the Company for such purpose for the 2026 fiscal year (which fiscal year 2026 premiums are hereby represented and warranted by the Company to be as set forth in Section 7.14(a) of the Company Disclosure Letter); and provided, further, that if the cost of such insurance coverage exceeds such amount, Parent or the Company shall obtain a policy with the greatest amount of D&O Insurance available for a cost not exceeding such amount.

(c) Any Indemnified Party wishing to claim indemnification under this Section 7.14, upon learning of any such Proceeding, shall promptly notify Parent thereof in writing, but the failure to so notify shall not relieve Parent of any liability it may have to such Indemnified Party except to the extent such failure materially prejudices the indemnifying party. In the event of any Proceeding, Parent shall not have any obligation hereunder to any Indemnified Party if and when a court of competent jurisdiction shall ultimately determine, and such determination shall have become final, that the indemnified action of such Indemnified Party in the manner contemplated hereby is prohibited by applicable Law.

(d) During the Tail Period, all rights to indemnification and exculpation from liabilities for acts or omissions occurring at or prior to the Effective Time and rights to advancement of expenses relating thereto now existing in favor of any Indemnified Party as provided in the Organizational Documents of the Company and its Subsidiaries or any indemnification agreement between such Indemnified Party and the Company or any of its Subsidiaries, in each case, as in effect on the Signing Date, shall survive the Transactions unchanged and shall not be amended, restated, repealed or otherwise modified in any manner that would adversely affect any right thereunder of any such Indemnified Party.

(e) If Parent, the Surviving Company or any of their respective successors or assigns: (i) shall consolidate with or merge into any other Person and shall not be the continuing or surviving Person of such consolidation or

merger; or (ii) shall transfer all or substantially all of its properties and assets to any Person, then, and in each such case, proper provisions shall be made so that the successors and assigns of Parent or the Surviving Company, as applicable, shall assume all of the obligations set forth in this Section 7.14.

(f) The rights of the Indemnified Parties under this Section 7.14 shall survive consummation of the Mergers and are in addition to, and shall not abridge or otherwise modify, any rights such Indemnified Parties may have under the Organizational Documents of the Company or any of its Subsidiaries, or under any indemnification agreements or other applicable Contracts of the Company or Laws.

(g) This Section 7.14 is intended to be for the benefit of, and from and after the Effective Time shall be enforceable by, each of the Indemnified Parties, who shall be third-party beneficiaries of this Section 7.14.

7.15 Takeover Statutes. If any “fair price”, “moratorium”, “control share acquisition” or other similar anti-takeover statute or regulation (each, a “**Takeover Statute**”) is or may become applicable to the Transactions, each of the Company and Parent and the Company Board and Parent Board, respectively, shall grant such approvals and take such actions as are necessary and legally permissible so that the Transactions may be consummated as promptly as practicable on the terms contemplated by this Agreement and otherwise act to eliminate or minimize the effects of such statute or regulation on the Transactions.

7.16 Section 16 Matters. Parent, and the Parent Board (or a duly formed committee thereof consisting of non-employee directors (as such term is defined for the purposes of Rule 16b-3 promulgated under the Exchange Act)), shall, prior to the Effective Time, take all such actions as are reasonably necessary or appropriate to cause the Transactions and any other dispositions of equity securities of the Parent (including derivative securities) or acquisitions of shares of Converted Parent Common Stock (including derivative securities) in connection with the Transactions by any individual who is subject to the reporting requirements of Section 16(a) of the Exchange Act with respect to Parent or will become subject to such reporting requirements with respect to Parent, to be exempt under Rule 16b-3 promulgated under the Exchange Act, to the extent permitted by applicable Laws.

7.17 Stockholder Litigation. Each of the Company and Parent shall promptly advise the other Party of any litigation commenced after the Signing Date against such Party or any of its directors (in their capacity as such) by any stockholders or shareholders, as applicable, of such Party (on their own behalf or on behalf of such Party) relating to this Agreement or the Transactions, and shall keep the other Party reasonably informed regarding any such litigation. Each of the Company and Parent shall give the other Party the opportunity to participate in the defense or settlement of any such stockholder litigation, and no such settlement shall be agreed to without the other Party’s prior written consent (which consent shall not be unreasonably withheld, conditioned or delayed).

7.18 Parent Consents. Parent, in its capacity as the sole stockholder of Parent Sub, will immediately following the execution of this Agreement, execute and deliver to Parent Sub and the Company a written consent approving the adoption of this Agreement and the Transactions, including the Mergers, in accordance with Parent Sub’s Organizational Documents, the DGCL and applicable Law (the “**Parent Sub Stockholder Consent**”).

7.19 Obligations of Parent. Parent shall take all action necessary to cause each of the other Parent Parties and the Surviving Company to perform their obligations under this Agreement.

7.20 A&R Jones Act Warrant Agreement. At or prior to the Effective Time, Parent shall enter into the Jones Act Warrant Agreement, in the form attached hereto as Exhibit H with the warrant agent party thereto (the “**A&R Jones Act Warrant Agreement**”).

7.21 Withdrawal of Company Registration Statement. The Company agrees that it shall not take any action (including without limitation any preparation in connection therewith and any filing in furtherance thereof) during the Interim Period to amend the Company Registration Statement, seek effectiveness of the Company Registration Statement or otherwise register itself or any of its securities under the Securities Act or the Exchange Act.

7.22 DTC SEG-100 Program. Parent shall, in consultation with the Company, take all action necessary to cause the Converted Parent Common Stock to be placed into the Depository Trust & Clearing Corporation’s SEG-100 Program, effective upon the consummation of the Conversion, to limit the ownership of Converted Parent Common Stock by non-U.S. citizens in a manner consistent with the provisions of the Parent Certificate of Incorporation upon Conversion.

ARTICLE VIII

CONDITIONS

8.1 Conditions to Each Party's Obligation to Effect the Closing. The respective obligation of each Party to effect the Closing is subject to the satisfaction at the Closing or waiver, in whole or in part (to the extent permitted by applicable Law), at or prior to the Closing of each of the following conditions:

- (a) Company Stockholders Approval. The Requisite Company Approval shall have been obtained.
- (b) Parent Shareholder Approval. The Requisite Parent Vote shall have been obtained at the Parent Shareholders Meeting (or any adjournment or postponement thereof).
- (c) Listing. The shares of Converted Parent Common Stock issuable in accordance with this Agreement shall have been approved for listing on the NYSE, subject to official notice of issuance.
- (d) Governmental Approvals. (i) Any waiting period (and any extension of such period) under the HSR Act applicable to the Transactions shall have expired or otherwise been terminated; (ii) all Consents, and all expirations of waiting periods, required under the applicable Antitrust Laws or Foreign Investment Laws of the jurisdictions listed on Section 8.1(d) of the Company Disclosure Letter shall have been obtained; and (iii) there shall not be any written agreement in effect with any Governmental Entity not to consummate the Transactions.
- (e) Laws or Governmental Orders. No Law or Governmental Order shall be in effect that restrains, enjoins, makes illegal or otherwise prohibits the consummation of the Transactions.
- (f) Registration Statement. The Registration Statement shall have become effective in accordance with the provisions of the Securities Act. No stop order suspending the effectiveness of the Registration Statement shall have been issued and remain in effect, and no Proceedings for that purpose shall have commenced or be threatened in writing by the SEC, unless subsequently withdrawn.

8.2 Conditions to Obligations of the Parent Parties. The obligation of the Parent Parties to effect the Closing is also subject to the satisfaction at the Closing or waiver, in whole or in part (to the extent permitted by applicable Law), by Parent at or prior to the Closing of the following conditions:

- (a) Representations and Warranties. (i) Each of the representations and warranties of the Company set forth in Section 5.1(a) (Organization, Good Standing and Qualification), Section 5.3 (Corporate Authority; Approval), Section 5.5(b) (Absence of Certain Changes or Events), Section 5.18 (Jones Act), Section 6.12(e) (Company Capital Structure), Section 6.13 (Company Recommendation), Section 6.14 (Company Brokers and Finders), Section 6.15 (Company Voting Requirements) and Section 6.20 (Company Takeover Statutes; Company Rights Plan) shall have been true and correct in all respects as of the Signing Date and shall be true and correct in all respects as of the Closing Date as if made on and as of the Closing Date (except to the extent that any such representation and warranty expressly speaks as of a particular date or period of time, in which case such representation and warranty shall be so true and correct in all respects as of such particular date or period of time); (ii) the representations and warranties of the Company set forth in Sections 6.12(a), (d) and (f) (Company Capital Structure) shall have been true and correct in all respects as of the Signing Date and shall be true and correct in all respects as of the Closing Date as if made on and as of the Closing Date (except to the extent that any such representation and warranty expressly speaks as of a particular date or period of time, in which case such representation and warranty shall be so true and correct in all respects as of such particular date or period of time), except, in the case of this clause (ii), for *de minimis* inaccuracies; (iii) the representations and warranties of the Company set forth in Section 6.12(b) and Section 6.12(c) (Company Capital Structure) shall have been true and correct in all material respects as of the Signing Date and shall be true and correct in all material respects as of the Closing Date as if made on and as of the Closing Date (except to the extent that any such representation and warranty expressly speaks as of a particular date or period of time, in which case such representation and warranty shall be so true and correct in all material respects as of such particular date or period of time); and (iv) each other representation and warranty of the Company set forth in Article V and Article VI shall be true and correct in all respects (without giving effect to any qualification by materiality or Material Adverse Effect contained therein) as of the Signing Date and as of the Closing Date as if made on and as of the Closing Date (except to the extent that any such representation and warranty expressly speaks as of a particular date or period of time, in which case such representation and warranty shall be so true and correct in all respects as of such particular date or period of time),

except, in the case of this clause (iv), for any failure of any such representation and warranty to be so true and correct in all respects (without giving effect to any qualification by materiality or Material Adverse Effect contained therein) that would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect with respect to the Company.

(b) Performance of Obligations of the Company. The Company shall have performed in all material respects the obligations required to be performed by it under this Agreement at or prior to the Closing.

(c) Certificate. Parent shall have received a certificate of the Chief Executive Officer or the Chief Financial Officer of the Company, certifying that the conditions set forth in Section 8.2(a), Section 8.2(b) and Section 8.2(d) have been satisfied.

(d) Absence of Company Material Adverse Effect. Since the Signing Date, there shall not have occurred any Effect that, individually or in the aggregate, has had or would reasonably be expected to have a Material Adverse Effect with respect to the Company.

8.3 Conditions to Obligation of the Company. The obligation of the Company to effect the Closing is also subject to the satisfaction at the Closing or waiver, in whole or in part (to the extent permitted by applicable Law), by the Company at or prior to the Closing of the following conditions:

(a) Representations and Warranties. (i) Each of the representations and warranties of Parent set forth in the first sentence of Section 5.1(a) (Organization, Good Standing and Qualification), Section 5.3 (Corporate Authority; Approval), Section 5.5(b) (Absence of Certain Changes or Events), Section 5.18 (Jones Act), Section 6.1(e) and Section 6.1(f) (Parent Capital Structure), Section 6.2 (Parent Recommendation and Fairness), Section 6.3 (Parent Voting Requirements), Section 6.4(a) (Merger Subs Authority), Section 6.5 (Brokers and Finders), Section 6.9 (Takeover Statutes; Rights Plan) and Section 6.10 (Certain Parent Actions) shall have been true and correct in all respects as of the Signing Date and shall be true and correct in all respects as of the Closing Date as if made on and as of the Closing Date (except to the extent that any such representation and warranty expressly speaks as of a particular date or period of time, in which case such representation and warranty shall be so true and correct in all respects as of such particular date or period of time); (ii) the representations and warranties of Parent set forth in Section 6.1(a), Section 6.1(d) and Section 6.1(g) (Parent Capital Structure) shall have been true and correct in all respects as of the Signing Date and shall be true and correct in all respects as of the Closing Date (except to the extent that any such representation and warranty expressly speaks as of a particular date or period of time, in which case such representation and warranty shall be so true and correct in all respects as of such particular date or period of time), except, in the case of this clause (ii), for *de minimis* inaccuracies; (iii) the representations and warranties of Parent set forth in Section 6.1(b) and Section 6.1(c) (Parent Capital Structure) shall have been true and correct in all material respects as of the Signing Date and shall be true and correct in all material respects as of the Closing Date as if made on and as of the Closing Date (except to the extent that any such representation and warranty expressly speaks as of a particular date or period of time, in which case such representation and warranty shall be true and correct in all material respects as of such particular date or period of time); and (iv) each other representation and warranty of Parent set forth in Article V and Article VI shall be true and correct in all respects (without giving effect to any qualification by materiality or Material Adverse Effect contained therein) as of the Signing Date and as of the Closing Date as if made on and as of the Closing Date (except to the extent that any such representation and warranty expressly speaks as of a particular date or period of time, in which case such representation and warranty shall be so true and correct in all respects as of such particular date or period of time), except, in the case of this clause (iv), for any failure of any such representation and warranty to be so true and correct in all respects (without giving effect to any qualification by materiality or Material Adverse Effect contained therein) that would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect with respect to Parent.

(b) Performance of Obligations of the Parent Parties. Each of the Parent Parties shall have performed in all material respects the obligations required to be performed by it under this Agreement at or prior to the Closing.

(c) Certificate. The Company shall have received a certificate of the Chief Executive Officer or the Chief Financial Officer of Parent, certifying that the conditions set forth in Section 8.3(a), Section 8.3(b), Section 8.3(g), Section 8.3(f) and Section 8.3(h) have been satisfied.

(d) A&R Jones Act Warrant Agreement. Parent shall have delivered or caused to be delivered to the Company the A&R Jones Act Warrant Agreement, duly executed by Parent and the warrant agent party thereto.

(e) Conversion. The Parent shall have duly consummated the Conversion in accordance with the Plan of Conversion, including by filing the Parent Certificate of Incorporation upon Conversion with the Secretary of State of the State of Delaware and adopting the Parent Bylaws upon Conversion; provided that any applicable Optional Parent Vote Matters that are not approved at the Parent Shareholders Meeting shall be omitted from the Parent Certificate of Incorporation upon Conversion filed with the Secretary of State of the State of Delaware.

(f) Governance Matters. Parent shall have taken the actions necessary to cause the matters set forth in Section 4.1(d), Section 4.1(e), Section 4.1(g) and the first sentence of Section 4.1(j) to be completed and effective as of the Effective Time.

(g) Tax Opinion. The Company shall have received a written opinion from Company's Counsel (or if Company's Counsel is unable to deliver such opinion, Parent's Counsel), in form and substance reasonably satisfactory to the Company, dated as of the Closing Date, to the effect that the Mergers, taken together, will qualify for the Intended Tax Treatment, which opinion will be subject to customary exceptions, assumptions and qualifications. In rendering the opinion described in this Section 8.3(g), Company's Counsel (or, if applicable, Parent's Counsel) shall be entitled to rely on the Company Tax Representation Letter and the Parent Tax Representation Letter and such other information as Company's Counsel (or, if applicable, Parent's Counsel) reasonably deems relevant.

(h) Absence of Parent Material Adverse Effect. Since the Signing Date, there shall not have occurred any Effect that, individually or in the aggregate, has had or would reasonably be expected to have a Material Adverse Effect with respect to Parent.

(i) Payoff Letters. Parent shall have delivered to the Company the Payoff Letters.

8.4 Frustration of Closing Conditions. None of the Parties may rely on, either as a basis for not consummating the Mergers or for terminating this Agreement, the failure of any condition set forth in this Article VIII to be satisfied if such failure was caused by such Party's breach of any of its representations, warranties, covenants or agreements set forth in this Agreement such that the conditions in Section 8.3(a), or Section 8.3(b) or Section 8.2(a) or Section 8.2(b), as applicable, would not be satisfied.

ARTICLE IX

TERMINATION

9.1 Termination. This Agreement may be terminated prior to the Effective Time (with any termination by Parent also being an effective termination by the other Parent Parties), in the following circumstances:

(a) by mutual written consent of the Company and Parent;

(b) by either the Company or Parent:

(i) if the Closing shall not have been consummated by 5:00 p.m. (Eastern time) on December 31, 2026 (the "Outside Date"); provided, however, that if all the conditions to the consummation of the Closing other than the conditions set forth in Section 8.1(d) or Section 8.1(e) (solely to the extent relating to any Antitrust Law or Foreign Investment Law) shall have been satisfied or shall be capable of being satisfied at such time (or to the extent permitted by Law, have been waived), the Outside Date shall be automatically extended for an additional 180 days, which later date shall thereafter be deemed the Outside Date; provided, further, that the right to terminate this Agreement pursuant to this Section 9.1(b)(i) shall not be available to any Party whose action or failure to act has been the primary cause of, or primarily resulted in, the failure of the Closing to occur on or before such date and such action or failure to act constitutes a material breach of this Agreement by such Party;

(ii) if a Governmental Order permanently restraining, enjoining or otherwise prohibiting consummation of the Transactions shall become final and non-appealable; provided, further, that the right to terminate this Agreement pursuant to this Section 9.1(b)(ii) shall not be available to any Party whose action or failure to act has been the primary cause of, or primarily resulted in, the failure of the Closing to occur on or before such date and such action or failure to act constitutes a material breach of this Agreement by such Party; or

(iii) (A) if the Requisite Company Approval shall not have been obtained by the Consent Time; or (B) if the Parent Shareholders Meeting has been duly convened at which a vote on the Requisite Parent Vote

Matters and the Optional Parent Vote Matters was taken and shall have concluded and the Requisite Parent Vote shall not have been obtained at such Parent Shareholders Meeting; provided, however: in the case of each of clause (A) and (B) of this Section 9.1(b)(iii), that: (x) the right to terminate this Agreement under this Section 9.1(b)(iii) shall not be available to the terminating Party where the failure to obtain the Requisite Company Approval or the Requisite Parent Vote, as applicable, shall have been caused by the action or failure to act of such Party, and such action or failure to act constitutes a material breach by such Party of this Agreement; and (y) the right of Parent or the Company to terminate this Agreement pursuant to Section 9.1(b)(iii)(A) shall not be available following the time that the Requisite Company Approval shall have been obtained (regardless of whether the Requisite Company Approval has been obtained before or after the Consent Time);

(c) by Parent:

(i) if at any time prior to the Effective Time, the Company has breached any of its representations, warranties, covenants or agreements set forth in this Agreement (other than with respect to a breach of Section 7.2, as to which Section 9.1(c)(ii) will apply) such that the conditions set forth in Section 8.2(a) or Section 8.2(b) would not be satisfied (and such breach is not cured by the earlier of: (x) 30 days of receipt by the Company of written notice of such breach from Parent; and (y) three Business Days prior to the Outside Date), provided, that the right to terminate this Agreement pursuant to this Section 9.1(c)(i) shall not be available to Parent if it is then in breach of any of its representations, warranties, covenants or agreements set forth in this Agreement such that the conditions in Section 8.3(a) or Section 8.3(b) would not be satisfied; or

(ii) if at any time prior to the Effective Time, there has been a material breach by the Company of any of its obligations set forth in Section 7.2 in a manner that materially impedes, interferes with or prevents the consummation of the Transactions on or before the Outside Date; or

(d) by the Company:

(i) prior to, but not after, the receipt of the Requisite Parent Vote, if the Parent Board shall have made a Change of Recommendation (whether or not such Change of Recommendation is permitted by this Agreement);

(ii) if at any time prior to the Effective Time, any of the Parent Parties has breached any of its respective representations, warranties, covenants or agreements set forth in this Agreement (other than with respect to a breach of Section 7.2, as to which Section 9.1(d)(iii) will apply) such that the conditions in Section 8.3(a) or Section 8.3(b) would not be satisfied (and such breach is not cured by the earlier of: (x) 30 days of receipt by Parent of written notice of such breach from the Company; and (y) three Business Days prior to the Outside Date), provided, that the right to terminate this Agreement pursuant to this Section 9.1(d)(ii) shall not be available to the Company if it is then in breach of any of its representations, warranties, covenants or agreements set forth in this Agreement such that the conditions in Section 8.2(a) or Section 8.2(b) would not be satisfied;

(iii) if at any time prior to the Effective Time, there has been a material breach by the Parent Parties of any of their respective obligations set forth in Section 7.2 in a manner that materially impedes, interferes with or prevents the consummation of the Transactions on or before the Outside Date; or

(iv) if at any time prior to the Effective Time without the prior written consent of Company, Parent or its Subsidiaries undertakes, or announces any intention to undertake, any of the following actions: (A) except to the extent expressly provided in, and consistent with, any matter disclosed in Section 7.1(b)(vii) of the Parent Disclosure Letter, declaring, setting aside, making or paying any dividend or other distribution, payable in cash, stock, property or otherwise, with respect to any of its capital stock (except for dividends paid by any direct or indirect wholly owned Subsidiary to it or to any other direct or indirect wholly owned Subsidiary) or modifies in any material respect its dividend policy; (B) reclassifying, splitting, combining, subdividing or redeeming, purchasing (through Parent's share repurchase program or otherwise) or otherwise acquiring, directly or indirectly, any of Parent's or its Subsidiaries' capital stock or securities convertible or exchangeable into or exercisable for any shares of its capital stock, other than with respect to: (x) the capital stock or other equity interests of a direct or indirect wholly owned Subsidiary of Parent; or (y) the acquisition of shares of Parent Common Stock in order to pay the exercise price or Taxes in connection with the exercise, vesting or settlement of Parent Equity Awards outstanding as of the Signing Date or granted in accordance

with Section 7.1(b)(xvi), pursuant to the terms of the Parent Stock Plans and the applicable award agreement, in the Ordinary Course; (C) creating, incurring or assuming any Indebtedness (including the issuance of any debt securities, warrants or other rights to acquire any debt security) or guarantee or otherwise become liable for any such Indebtedness, in each case, following the Signing Date, except for (x) Indebtedness incurred in an aggregate principal amount outstanding at any time not to exceed \$10,000,000 (together with any interest, fees or similar amounts accrued with respect to Indebtedness under the Parent ABL Credit Agreement) and (y) Indebtedness incurred pursuant to letters of credit issued under the Parent ABL Credit Agreement which do not, in the aggregate, exceed a face amount of \$10,000,000 at any time outstanding.

The Party desiring to terminate this Agreement pursuant to this Section 9.1 (other than pursuant to Section 9.1(a)) shall give written notice of such termination to the other Parties specifying with particularity the provision or provisions of this Agreement pursuant to which such termination is being effected and the reason for such termination and, if made in accordance with this Agreement, any termination shall be effective immediately upon delivery of such written notice to the other Parties.

9.2 Effect of Termination.

(a) Except to the extent provided in Section 9.2(b), Section 9.2(c) and Section 9.2(d), in the event of the valid termination of this Agreement pursuant to this Article IX, this Agreement shall become void and of no effect with no liability to any Person on the part of any Party (or any of its Representatives or Affiliates); provided, however, that, notwithstanding anything in this Agreement to the contrary: (i) no such termination shall relieve any Party of any liability or damages to any other Party resulting from any Fraud or Willful Breach of this Agreement; and (ii) the provisions set forth in Article X (Miscellaneous and General), Section 7.13 (Expenses), this Section 9.2 (Effect of Termination) and the Confidentiality Agreement shall survive the termination of this Agreement.

(b) In the event that this Agreement is terminated:

(i) pursuant to: (x) Section 9.1(b)(i) (Outside Date), (y) Section 9.1(b)(iii)(A) (Requisite Company Approval Not Obtained by Consent Time); or (z) Section 9.1(c)(i) (Company Terminable Breach) and, in any such case:

(A) a bona fide Acquisition Proposal with respect to the Company (whether or not conditional) shall have been publicly announced or otherwise received by the Company Board after the Signing Date and prior to: (1) the Consent Time, in the case of a termination of this Agreement pursuant to Section 9.1(b)(iii)(A) (Requisite Company Approval Not Obtained by Consent Time); or (2) the date of termination, in the case of a termination of this Agreement pursuant to Section 9.1(b)(i) (Outside Date) or Section 9.1(c)(i) (Company Terminable Breach); and

(B) within twelve months after the date of such termination: (1) the Company or any of its Subsidiaries shall have entered into an Alternative Acquisition Agreement with respect to any Acquisition Proposal with respect to the Company; or (2) there shall have been consummated any Acquisition Proposal with respect to the Company (in each case of clauses (1) and (2), with 50% being substituted in lieu of 20% in each instance thereof in the definition of "Acquisition Proposal"), then immediately prior to or concurrently with the occurrence of either of the events described in the foregoing clauses (B)(1) or (B)(2); or

(ii) pursuant to Section 9.1(c)(ii) (Breach of No Shop), then promptly, but in no event later than two Business Days after the date of such termination;

the Company shall, in the case of Section 9.2(b)(i) or Section 9.2(b)(ii), pay the Company Termination Fee to Parent or its designee by wire transfer of immediately available cash funds to the account designated by Parent in writing. In no event shall the Company be required to pay the Company Termination Fee on more than one occasion.

(c) In the event that this Agreement is terminated:

(i) pursuant to (x) Section 9.1(b)(i) (Outside Date), (y) Section 9.1(b)(iii)(B) (Requisite Parent Vote Not Obtained) or (z) Section 9.1(d)(ii) (Parent Terminable Breach) and, in any such case:

(A) a bona fide Acquisition Proposal with respect to Parent (whether or not conditional) shall have been publicly announced or otherwise received by the Parent Board after the Signing Date and prior

to: (1) the date of the Parent Shareholders Meeting, in the case of a termination of this Agreement pursuant to Section 9.1(b)(iii)(B) (Requisite Parent Vote Not Obtained), or (2) the date of termination, in the case of a termination of this Agreement pursuant to Section 9.1(b)(i) (Outside Date) or Section 9.1(d)(ii) (Parent Terminable Breach); and

(B) within twelve months after the date of such termination, (1) Parent or any of its Subsidiaries shall have entered into an Alternative Acquisition Agreement with respect to any Acquisition Proposal with respect to Parent or (2) there shall have been consummated any Acquisition Proposal with respect to Parent (in each case of clauses (1) and (2), with 50% being substituted in lieu of 20% in each instance thereof in the definition of “Acquisition Proposal”), then immediately prior to or concurrently with the occurrence of either of the events described in the foregoing clauses (B)(1) or (B)(2);

(ii) pursuant to Section 9.1(d)(i) (Parent Change of Recommendation) or Section 9.1(d)(iii) (Breach of No Shop), then promptly, but in no event later than two Business Days after the date of such termination; or

(iii) pursuant to Section 9.1(b)(iii)(B) (Requisite Parent Vote Not Obtained) (and, at the time of such termination pursuant to Section 9.1(b)(iii)(B) (Requisite Parent Vote Not Obtained), the Company had the right to terminate this Agreement pursuant to Section 9.1(d)(i) (Parent Change of Recommendation)), then promptly, but in no event later than, in the case of such termination by the Company, two Business Days or, in the case of such termination by Parent, one Business Day after the date of such termination; or

(iv) pursuant to Section 9.1(d)(iv), then, promptly, but in no event later than two Business Days after the date of such termination;

Parent shall, in the case of Section 9.2(c)(i), Section 9.2(c)(ii), Section 9.2(c)(iii) or Section 9.2(c)(iv) pay the Parent Termination Fee to the Company or its designee by wire transfer of immediately available cash funds to the account designated by the Company in writing. In no event shall Parent be required to pay the Parent Termination Fee on more than one occasion.

(d) In the event that this Agreement is terminated:

(i) pursuant to Section 9.1(b)(iii)(A) (Requisite Company Approval Not Obtained by Consent Time), then promptly, but in no event later than, in the case of such termination by Parent, four Business Days or, in the case of such termination by the Company, one Business Day after the date of such termination, the Company shall pay all of the documented out-of-pocket costs, fees and expenses of counsel, accountants, financial advisors and other experts and advisors as well as fees and expenses incident to negotiation, preparation and execution of this Agreement and related documentation and stockholders’ meetings and consents (collectively, “**Costs**”) of Parent up to a maximum amount equal to \$16,500,000 (the “**Parent Expense Amount**”), to Parent or its designee by wire transfer of immediately available cash funds; provided, that any amounts paid under this Section 9.2(d)(i) shall be credited (without interest) against any Company Termination Fee if it becomes payable to Parent (or its designee) pursuant to the terms of this Agreement; and

(ii) pursuant to Section 9.1(b)(iii)(B) (Requisite Parent Vote Not Obtained), then promptly, but in no event later than, in the case of such termination by the Company, four Business Days or, in the case of such termination by Parent, one Business Day after the date of such termination, Parent shall pay all of the documented out-of-pocket Costs of the Company up to a maximum amount equal to \$13,500,000 (the “**Company Expense Amount**”) to the Company or its designee by wire transfer of immediately available cash funds; provided, that any amounts paid under this Section 9.2(d)(ii) shall be credited (without interest) against any Parent Termination Fee if it becomes payable to the Company (or its designee) pursuant to the terms of this Agreement.

(e) The Parties hereby acknowledge and agree that the agreements contained in this Section 9.2 are an integral part of the Transactions, and that, without these agreements, the other Party would not enter into this Agreement. Accordingly, if the Company or Parent, as applicable, fails to promptly pay the amount due pursuant to this Section 9.2, and, in order to obtain such payment, Parent or the Company, as applicable, commences a suit that results in a judgment against the Company or Parent, as applicable, for the fees set forth in this Section 9.2 or any portion of such fees, such paying Party shall pay the other Party its costs and expenses (including reasonable attorneys’ fees, costs and expenses) in connection with such suit, together with interest on the amount of the fee at the prime rate as published by *The Wall Street Journal* (in effect on the date such payment was required to be made) *plus* three percent from the date such payment was required to be made through the date of payment (collectively,

the “**Collection Costs**”). Notwithstanding anything in this Agreement to the contrary, the Parties hereby acknowledge and agree that in the event that the Company Termination Fee or the Parent Termination Fee, as applicable, becomes payable by, and is paid by, the Company or becomes payable by, and is paid by, Parent, as applicable, such fee, together with any Collection Costs (if any), shall be the receiving Party’s sole and exclusive remedy for damages against the other Party and their respective former, current or future stockholders, directors, officers, Affiliates, agents or other Representatives for any loss suffered as a result of any breach of any representation, warranty, covenant or agreement set forth in this Agreement or the failure of the Transactions to be consummated; provided, however, that no such payment shall relieve any Party of any liability or damages to any other Party resulting from any Fraud or Willful Breach of this Agreement.

ARTICLE X

MISCELLANEOUS AND GENERAL

10.1 Survival. This Article X and the agreements of the Company and Parent contained in Article II (Merger Consideration; Effect of the Merger on Capital Stock), Article III (Delivery of Merger Consideration; Procedures for Surrender), Section 4.1 (Governance and Additional Matters), Section 7.11 (Employee Benefits), Section 7.12 (Certain Tax Matters), Section 7.13 (Expenses) and Section 7.14 (Indemnification; Directors’ and Officers’ Insurance) shall survive the consummation of the Mergers. All other representations, warranties, covenants and agreements in this Agreement or in any instrument or other document delivered pursuant to this Agreement shall not survive the consummation of the Mergers.

10.2 Amendment; Waiver. Subject to the provisions of applicable Laws, at any time prior to the Effective Time, this Agreement may be amended, modified or waived if, and only if, such amendment, modification or waiver is in writing and signed, in the case of an amendment or modification, by the Company and Parent, or in the case of a waiver, by the Party against whom the waiver is to be effective; provided, however, that after receipt of the Requisite Company Approval, the Requisite Parent Vote or the Parent Consents, no such amendment, modification or waiver shall be made that pursuant to applicable Law or the rules and regulations of the NYSE requires further approval of the stockholders of the Company, the shareholders of Parent or the shareholders of Parent Sub, as applicable, without such further approval. The conditions to each of the respective parties’ obligations to consummate the Transactions are for the sole benefit of such Party and may be waived by such Party in whole or in part to the extent permitted by applicable Law; provided, however, that any such waiver shall only be effective if made in writing and executed by the Party against whom the waiver is to be effective. No failure or delay by any Party in exercising any right, power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies herein provided shall be cumulative and not exclusive of any rights or remedies provided by Law.

10.3 Counterparts. This Agreement may be executed in any number of counterparts, each such counterpart being deemed to be an original instrument, and all such counterparts shall together constitute the same agreement. A signed copy of this Agreement delivered by facsimile, e-mail or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

10.4 Governing Law and Venue; Submission to Jurisdiction; Selection of Forum; Waiver of Trial by Jury.

(a) THIS AGREEMENT SHALL BE DEEMED TO BE MADE IN, AND IN ALL RESPECTS SHALL BE INTERPRETED, CONSTRUED AND GOVERNED BY AND IN ACCORDANCE WITH THE LAWS OF THE STATE OF DELAWARE WITHOUT REGARD TO THE CONFLICT OF LAW PRINCIPLES THEREOF (OR ANY OTHER JURISDICTION) TO THE EXTENT THAT SUCH PRINCIPLES WOULD DIRECT A MATTER TO ANOTHER JURISDICTION, EXCEPT THAT THE LAW OF MINNESOTA SHALL APPLY TO THE CONVERSION AS A MATTER OF MINNESOTA LAW AND ANY CLAIMS RELATED TO THE INTERNAL AFFAIRS OF PARENT PRIOR TO THE CONVERSION.

(b) Each of the Parties agrees that it shall bring any action or Proceeding in respect of any claim arising under or relating to this Agreement or the Transactions exclusively in the Court of Chancery for the State of Delaware in and for New Castle County, Delaware (or, in the event that such court does not have subject matter jurisdiction over such action or Proceeding, the United States District Court for the District of Delaware) (the “**Chosen Court**”) and, solely in connection with such claims: (i) irrevocably submits to the exclusive jurisdiction of the Chosen Court; (ii) waives any objection to the laying of venue in any such action or Proceeding in the Chosen Court; (iii) waives any objection that the Chosen Court is an inconvenient forum or does not have jurisdiction over

any Party; and (iv) agrees that mailing of process or other papers in connection with any such action or Proceeding in the manner provided in Section 10.6 or in such other manner as may be permitted by Law shall be valid and sufficient service thereof.

(c) EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY WHICH MAY BE IN CONNECTION WITH, ARISE OUT OF OR OTHERWISE RELATE TO THIS AGREEMENT, ANY INSTRUMENT OR OTHER DOCUMENT DELIVERED PURSUANT TO THIS AGREEMENT OR THE TRANSACTIONS, IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES, AND THEREFORE EACH PARTY HERETO IRREVOCABLY AND UNCONDITIONALLY WAIVES TO THE FULLEST EXTENT PERMITTED BY LAW ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO ANY ACTION OR PROCEEDING DIRECTLY OR INDIRECTLY IN CONNECTION WITH, ARISING OUT OF OR OTHERWISE RELATING TO THIS AGREEMENT, ANY INSTRUMENT OR OTHER DOCUMENT DELIVERED PURSUANT TO THIS AGREEMENT OR THE TRANSACTIONS. EACH PARTY HEREBY ACKNOWLEDGES AND CERTIFIES (I) THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF THE OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF ANY ACTION OR PROCEEDING, SEEK TO ENFORCE THE FOREGOING WAIVER, (II) IT UNDERSTANDS AND HAS CONSIDERED THE IMPLICATIONS OF THIS WAIVER, (III) IT MAKES THIS WAIVER VOLUNTARILY AND (IV) IT HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT AND THE TRANSACTIONS BY AMONG OTHER THINGS, THE MUTUAL WAIVERS, ACKNOWLEDGMENTS AND CERTIFICATIONS CONTAINED IN THIS SECTION 10.4(c).

10.5 Specific Performance. Each of the Parties acknowledges and agrees that the rights of each Party to consummate the Transactions are special, unique and of extraordinary character and that if for any reason any of the provisions of this Agreement are not performed in accordance with their specific terms or are otherwise breached, immediate and irreparable harm or damage would be caused for which money damages would not be an adequate remedy. Accordingly, each Party agrees that, in addition to any other available remedies a Party may have in equity or at Law, each Party shall be entitled to enforce specifically the terms and provisions of this Agreement and to obtain an injunction restraining any breach or violation or threatened breach or violation of the provisions of this Agreement in the Chosen Court without necessity of posting a bond or other form of security or proof of damages. In the event that any action or Proceeding should be brought in equity to enforce the provisions of this Agreement, no Party shall allege, and each Party hereby waives the defense, that there is an adequate remedy at Law. The pursuit of specific performance or other equitable remedies by any Party hereto will not be deemed an election of remedies or waiver of the right to pursue any other right or remedy (whether at law or in equity) to which such Party may be entitled at any time. Any and all remedies herein expressly conferred upon a Party will be deemed cumulative with and not exclusive of any other remedy conferred hereby, or by law or equity upon such Party, and the exercise by a Party of any one remedy will not preclude the exercise at any time of any other remedy. The Parties further agree that: (i) by seeking the remedies provided for in this Section 10.5, a Party shall not in any respect waive its right to seek at any time any other form of relief that may be available to a Party under this Agreement (including monetary damages) in the event that this Agreement has been terminated or in the event that the remedies provided for in this Section 10.5 are not available or otherwise are not granted; and (ii) nothing set forth in this Section 10.5 shall require any Party hereto to institute any proceeding for (or limit any Party's right to institute any proceeding for) specific performance under this Section 10.5 prior or as a condition to exercising any termination right under Section 9.1 (and pursuing monetary damages after such termination), nor shall the commencement of any legal proceeding pursuant to this Section 10.5 or anything set forth in this Section 10.5 restrict or limit any Party's right to terminate this Agreement in accordance with the terms of Section 9.1 or pursue any other remedies under this Agreement that may be available then or thereafter; provided, however, that in no event shall any Party be entitled to both: (x) an award of specific performance to cause the other Party to consummate (and the consummation of) the Transactions; and (y) payment of the Company Termination Fee, Company Expense Amount, Parent Termination Fee, or Parent Expense Amount, as applicable, together with any applicable Collection Costs (if any) (or for the avoidance of doubt, payment of any monetary damages). Notwithstanding anything to the contrary contained herein or otherwise, the Parties agree that in the event of any Fraud or Willful Breach by a Party, the actual or potential damages under this Agreement shall not be limited to reimbursement of expenses or out-of-pocket costs, and the non-breaching Party shall, in addition to any damage to such Party and its Subsidiaries, be entitled to bring a claim for the benefit of the bargain lost by such Party.

10.6 Notices. All notices, requests, instructions or other communications or documents to be given or made hereunder by any party hereto to the other Parties shall be in writing and shall be deemed to have been duly given upon

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delivery, if (a) served by personal delivery or by an internationally recognized overnight courier service upon the party or parties for whom it is intended, (b) delivered by registered or certified mail, return receipt requested or (c) sent by e-mail; provided, that no “bounce back” or similar message of nondelivery is received with respect thereto:

If to the Company:

Hornbeck Offshore Services, Inc.
103 Northpark Boulevard, Suite 300
Covington, Louisiana 70433

Attention: Todd M. Hornbeck
Sam Giberga
Michael Nicaud
E-mail: [***]
[***]
[***]

With a copy (which shall not constitute notice) to:

Kirkland & Ellis LLP
4550 Travis Street
Dallas, Texas 75205
Attention: Jonathan Benloulou, P.C.
E-mail: [***]

Kirkland & Ellis LLP
401 W. 4th Street
Austin, Texas 78701
Attention: Kim Hicks, P.C.
E-mail: [***]

Kirkland & Ellis LLP
555 California Street
30th Floor
San Francisco, California 94104
Attention: F. Walton Dumas
E-mail: [***]

If to any Parent Party:

Helix Energy Solutions Group, Inc.
3505 West Sam Houston Parkway North, Suite 400
Houston, Texas 77043
Attention: Erik Staffeldt
Ken Neikirk
E-mail: [***]
[***]

With a copy (which shall not constitute notice) to:

Baker Botts L.L.P.
910 Louisiana Street
Houston, Texas 77002
Attention: Travis Wofford
E-mail: [***]

or to such other Person or addressees as has been designated in writing by the party to receive such notice provided above.

10.7 Definitions. For purposes of this Agreement, the following terms (including, with correlative meaning, their singular and plural variations) shall have the following meanings:

“**Acquisition Proposal**” means: (a) any proposal, offer or indication of interest relating to a merger, joint venture, partnership, consolidation, dissolution, liquidation, tender offer, recapitalization, reorganization, spin-off, share exchange, business combination or similar transaction involving the Company or Parent, as applicable, or any of their respective Subsidiaries and involving, directly or indirectly, 20% or more of the consolidated net revenues, net income or total assets (it being understood that total assets include equity securities of Subsidiaries of the Company or Parent, as applicable); or (b) any acquisition by any Person or group (as defined under Section 13 of the Exchange Act) resulting in, or any proposal, offer, inquiry or indication of interest that if consummated would result in, any Person or group (as defined under Section 13 of the Exchange Act) becoming the beneficial owner of, directly or indirectly, in one or a series of related transactions, 20% or more of the total voting power or of any class of equity securities of the Company or Parent, as applicable, or 20% or more of the consolidated net revenues, net income or total assets (it being understood that total assets include equity securities of Subsidiaries) of the Company or Parent, as applicable, in each case of clauses (a) and (b), other than the Transactions; provided, that any proposal or offer to the extent related to the sale of assets required to be divested or held separate (including by trust or otherwise) pursuant to Regulatory Remedy in accordance with Section 7.5(d) shall not be deemed an Acquisition Proposal.

“**Affiliate**” means, with respect to any Person, any other Person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such first Person.

“**Agreement**” has the meaning set forth in the introductory paragraph of this Agreement.

“**Alternative Acquisition Agreement**” has the meaning set forth in Section 7.2(d)(i)(D) of this Agreement.

“**Anti-Corruption Laws**” has the meaning set forth in Section 5.9(d) of this Agreement.

“**Antitrust Law**” means the Sherman Antitrust Act of 1890, as amended, the Clayton Act of 1914, as amended, the HSR Act, the Federal Trade Commission Act of 1914, as amended, and all other United States or non-United States, including state, national, or supranational, antitrust, competition or other Laws that are designed or intended to prohibit, restrict or regulate actions having the purpose or effect of monopolization or restraint of trade or lessening of competition through merger or acquisition.

“**Applicable Date**” has the meaning set forth in Section 6.8(a) of this Agreement.

“**Approvals**” has the meaning set forth in Section 5.4(a) of this Agreement.

“**Assumed Creditor Warrant**” has the meaning set forth in Section 2.3(b) of this Agreement.

“**Assumed Warrant**” has the meaning set forth in Section 2.3(b) of this Agreement.

“**A&R Jones Act Warrant Agreement**” has the meaning set forth in Section 7.20.

“**Bankruptcy and Equity Exception**” has the meaning set forth in Section 5.3 of this Agreement.

“**Beneficial Owner**” has the meaning specified in Section 262(a) of the DGCL. The terms “Beneficial Ownership” and “Beneficially Owned” have correlative meanings.

“**Benefit Plan**” means (i) any plan, program, policy, agreement or other arrangement providing benefits or compensation, including to any Service Provider or any beneficiary or dependent thereof, that is entered into, sponsored or maintained by the Company or Parent or any of their respective Subsidiaries or to which the Company or Parent or any of their respective Subsidiaries contributes or is obligated to contribute, including any “employee welfare benefit plan” within the meaning of Section 3(1) of ERISA, any “employee pension benefit plan” within the meaning of Section 3(2) of ERISA (whether or not such plan is subject to ERISA) and any bonus, incentive, commission, retention, deferred compensation, profit sharing, vacation, equity or equity-based (including equity purchase and phantom equity), severance, termination, separation, employment, change of control, health, welfare, retirement, or fringe benefit plan, program, agreement, arrangement or policy, or (ii) any such plan, program, agreement, arrangement or policy with respect to which the Company or Parent or any of their respective Subsidiaries has any direct or indirect liability, other than, in the case of each of clauses (i) and (ii), any plan required to be maintained or contributed to under applicable Law that is maintained by a Governmental Entity.

“**Board Recommendation Notice**” has the meaning set forth in Section 7.2(d)(ii) of this Agreement.

“**BOEM**” means the United States Department of the Interior, Bureau of Ocean Energy Management, as a successor to (a) the Bureau of Ocean Energy Management, Regulation and Enforcement and (b) the Minerals Management Service, or any subsequent successor agency.

“**Book-Entry Share**” has the meaning set forth in Section 2.2 of this Agreement.

“**Business Day**” means any day ending at 11:59 p.m. (Eastern time) other than a Saturday or Sunday or a day on which banks in the City of New York or Houston are required or authorized by Law to be closed.

“**CEO**” has the meaning set forth in Section 4.1(e) of this Agreement.

“**Change of Recommendation**” has the meaning set forth in Section 7.2(d)(i)(D) of this Agreement.

“**Chosen Court**” has the meaning set forth in Section 10.4(b) of this Agreement.

“**Closing**” has the meaning set forth in Section 1.2 of this Agreement.

“**Closing Date**” has the meaning set forth in Section 1.2 of this Agreement.

“**Coastwise Trade**” means the carriage or transport of merchandise and/or other materials and/or passengers in the coastwise trade of the United States of America within the meaning of 46 U.S.C. ch. 551.

“**COBRA**” has the meaning set forth in Section 5.7(e) of this Agreement.

“**Code**” has the meaning set forth in the Recitals of this Agreement.

“**Company**” has the meaning set forth in the introductory paragraph of this Agreement.

“**Company Audited Financial Statements**” has the meaning set forth in Section 6.17.

“**Company Benefit Plan**” means any Benefit Plan that is entered into, sponsored or maintained by the Company or any of its Subsidiaries or to which the Company or any of its Subsidiaries contributes or is obligated to contribute or to which the Company or any of its Subsidiaries has any current or contingent liability.

“**Company Board**” has the meaning set forth in the Recitals of this Agreement.

“**Company Coastwise Vessel**” has the meaning set forth in Section 6.16(b) of this Agreement.

“**Company Common Stock**” has the meaning set forth in the Recitals of this Agreement.

“**Company Credit Agreements**” means the (i) Company Senior Credit Agreement, and (ii) Company Junior Credit Agreement.

“**Company Creditor Warrant**” means Company Warrants issued pursuant to the Creditor Warrant Agreement, dated September 4, 2020, between the Company and Computershare, Inc. and Computershare Trust Company, N.A., collectively as warrant agent, as amended by the Amendment No. 1 to Creditor Warrant Agreement, dated December 10, 2024 and Amendment No. 2 to the Creditor Warrant Agreement, dated as of the Signing Date (as so amended, the “**Creditor Warrant Agreement**” and such second amendment, “**Amendment No. 2 to the Creditor Warrant Agreement**”).

“**Company Designees**” has the meaning set forth in Section 4.1(d) of this Agreement.

“**Company Disclosure Letter**” has the meaning set forth in Article V of this Agreement.

“**Company Equity Awards**” has the meaning set forth in Section 2.3(c) of this Agreement.

“**Company Expense Amount**” has the meaning set forth in Section 9.2(d)(ii) of this Agreement.

“**Company Intellectual Property**” means all Intellectual Property owned or purported to be owned by Parent or its Subsidiaries, or the Company or its Subsidiaries, as applicable.

“**Company Interim Financial Statements**” has the meaning set forth in Section 7.3(e) of this Agreement.

“**Company Jones Act Warrant**” means Company Warrants issued pursuant to the Jones Act Warrant Agreement, dated September 4, 2020, between the Company and Computershare, Inc. and Computershare Trust Company, N.A., collectively as warrant agent, as amended by that certain Amendment No. 1 to Jones Act Warrant Agreement, dated as of December 31, 2020 (as so amended, the “**Existing Jones Act Warrant Agreement**”).

“**Company Junior Credit Agreement**” means the Second Lien Term Loan Credit Agreement, dated December 27, 2024, by and among the Company, as borrower, Stonebriar Commercial Finance LLC, as administrative agent, Wilmington Trust, National Association, as collateral trustee, and the lenders party thereto, as amended, restated, amended and restated, supplemented or otherwise modified from time to time.

“**Company Option**” means each option to purchase shares of Company Common Stock that has been granted under the Company Stock Plans.

“**Company PSU Award**” means each award of performance restricted stock units that is subject, in whole or in part, to performance-based vesting and that has been granted under the Company Stock Plans.

“**Company Recommendation**” has the meaning set forth in [Section 6.13](#) of this Agreement.

“**Company Registration Statement**” has the meaning set forth in [Article V](#) of this Agreement.

“**Company RSU Award**” means each award of restricted stock units that is subject solely to time-based vesting and that has been granted under the Company Stock Plans.

“**Company Senior Credit Agreement**” means the Credit Agreement, dated as of August 13, 2024, by and among the Company, as borrower, DNB Bank ASA, New York Branch, as administrative agent, Wilmington Trust, National Association, as collateral agent and collateral trustee, and the lenders party thereto, as amended, restated, amended and restated, supplemented or otherwise modified from time to time.

“**Company Stock Plans**” means, collectively, the 2020 Management Incentive Plan of Hornbeck, as amended from time to time, and any other plans or arrangements of the Company providing for the compensatory grant of equity, equity-based, phantom, or other long-term incentive awards.

“**Company Tax Representation Letter**” has the meaning set forth in [Section 7.12\(b\)](#) of this Agreement.

“**Company Termination Fee**” means an amount in cash equal to \$49,500,000.

“**Company Vessel**” means a Vessel owned, leased or operated (excluding Vessels owned by a third party but operated by the Company on behalf of a third party) by the Company or any Subsidiary of the Company, including offshore supply vessels and multipurpose support vessels.

“**Company Warrant**” means a warrant that is convertible into, or exercisable for, shares of Company Common Stock, pursuant to an agreement entered into by and between the Company and the holder of such warrant.

“**Company’s Counsel**” has the meaning set forth in [Section 7.12\(b\)](#) of this Agreement.

“**Confidentiality Agreement**” has the meaning set forth in [Section 10.8](#) of this Agreement.

“**Consent Time**” has the meaning set forth in [Section 7.4\(a\)](#).

“**Consenting Stockholders**” means, collectively, those Persons listed in [Section 10.7\(a\)](#) of the Company Disclosure Letter.

“**Consents**” has the meaning set forth in [Section 7.5\(a\)](#) of this Agreement.

“**Continuing Employees**” has the meaning set forth in [Section 7.11\(a\)](#) of this Agreement.

“**Contract**” means any oral or written contract, subcontract, agreement, lease, license, sublicense, note, mortgage, indenture, arrangement or other binding obligation.

“**Controlled Group**” means any organization which is a member of a controlled, affiliated or otherwise related group of entities within the meaning of Code Sections 414(b), (c), (m) or (o).

“**Conversion**” has the meaning set forth in the Recitals of this Agreement.

“**Converted Option Award**” has the meaning set forth in [Section 2.3\(a\)\(iii\)](#) of this Agreement.

“**Converted Parent Common Stock**” has the meaning set forth in the Recitals of this Agreement.

“**Costs**” has the meaning set forth in [Section 9.2\(d\)\(i\)](#) of this Agreement.

“**D&O Citizenship Matters**” has the meaning set forth in [Section 5.3](#) of this Agreement.

“**D&O Indemnification Agreement**” has the meaning set forth in [Section 4.1\(d\)](#) of this Agreement.

“**D&O Insurance**” has the meaning set forth in Section 7.14(b) of this Agreement.

“**Data Requirements**” means, in each case to the extent applicable to a Party or its Subsidiaries and relating to data privacy, protection, or security, or any Personal Data: (i) all applicable data privacy and data security Laws (including any security breach notification requirements); (ii) such Party’s or any of its Subsidiaries’ own published privacy policies, in each case as in effect as of the Signing Date; (iii) industry standards applicable to the industries in which such Party or any of its Subsidiaries operates that are legally binding on such Party or its Subsidiaries (including, if applicable, PCI-DSS); and (iv) contractual obligations related to data privacy or data security into which such Party or any of its Subsidiaries have entered.

“**DCSA**” means the Defense Counterintelligence and Security Agency of the United States Department of Defense, or any successor thereto.

“**Decommissioning Obligations**” means any and all liabilities relating to abandoning and decommissioning obligations, whether incurred under or pursuant to any agreement, lease, Contract or applicable Law (including Environmental Laws) or Governmental Order. Decommissioning Obligations shall also include all of the following:

- (a) the plugging, replugging and abandonment of all wells and other assets, either active or inactive;
- (b) the dismantlement, disposal and removal of structures, facilities, foundations, wellheads, tanks, pipelines, flowlines, pumps, compressors, separators, heater treaters, valves, fittings, platforms, fixtures and equipment and machinery of any nature, and other real, personal, or mixed property, operational or nonoperational, and all materials contained therein, located on or used in connection with the assets;
- (c) the clearance, restoration and remediation of the lands, groundwater and water bottoms covered or burdened by any lease, units, or otherwise affected by the assets and the cleanup and complete reclamation of the sea floor portion of leases, wells or units associated with the assets;
- (d) the removal, remediation and abatement of any petroleum material, any contamination or pollution (including the Release of any Hazardous Materials, including naturally occurring radioactive material, waste, saltwater, cuttings, muds, crude oil, or petroleum product) of surface soils and water, subsurface soils, air, groundwater, or any vessel, piping, equipment, tubing or subsurface structure or strata associated with the assets; and
- (e) any other closure, decommissioning or end-of-life activity required to comply with Law (including Environmental Law) or Licenses.

“**Delaware Secretary of State**” has the meaning set forth in Section 1.1(a) of this Agreement.

“**DGCL**” has the meaning set forth in the Recitals of this Agreement.

“**Disclosure Letter**” has the meaning set forth in Article V of this Agreement.

“**Dissenting Shares**” means shares of Company Common Stock outstanding immediately prior to the Effective Time and held by a stockholder of the Company, or owned by a Beneficial Owner of Company Common Stock, as applicable, who has not voted in favor of the First Company Merger or consented thereto in writing or by electronic transmission and has properly demanded appraisal for such shares in accordance with, and who complies in all respects with, Section 262 of the DGCL.

“**Dissenting Stockholder**” has the meaning set forth in Section 2.5 of this Agreement.

“**DLLCA**” has the meaning set forth in the Recitals of this Agreement.

“**EDGAR**” has the meaning set forth in Article V of this Agreement.

“**Effect**” means any effect, event, development, change, state of facts, condition, circumstance or occurrence.

“**Effective Time**” has the meaning set forth in Section 1.1(a) of this Agreement.

“**Eligible Shares**” has the meaning set forth in Section 2.1 of this Agreement.

“**Emergency**” means a sudden or unexpected event that causes, or risks causing, imminent or immediate (a) substantial damage to all or a material portion of the assets, facilities or property of any Party, (b) death or serious bodily injury to any Person, (c) damage or substantial risk of damage to natural resources (including endangered or protected wildlife) or the environment or (d) any other compromise of the health or safety of a Person.

“**Encumber**” has the meaning set forth in Section 6.1 of this Agreement.

“**Encumbrance**” has the meaning set forth in Section 6.1 of this Agreement.

“**Environmental Law**” means any Law (including any Maritime Guideline) enacted or in effect on or prior to the Closing Date relating to: (a) pollution or the protection of the environment (including, without limitation, ambient air, surface water, ground water, land surface or subsurface strata), wildlife, or natural resources, (b) the handling, use, disposal, Release or threatened Release of, or exposure to any Hazardous Materials or (c) public or worker health and safety (solely to the extent relating to exposure to any Hazardous Materials).

“**ERISA**” means the Employee Retirement Income Security Act of 1974, as amended.

“**Exchange Act**” means the Securities Exchange Act of 1934, as amended.

“**Exchange Agent**” has the meaning set forth in Section 3.1 of this Agreement.

“**Exchange Fund**” has the meaning set forth in Section 3.1 of this Agreement.

“**Exchange Ratio**” has the meaning set forth in Section 2.1 of this Agreement.

“**Excluded Shares**” means any shares of Company Common Stock owned by Parent, the Company or their respective Subsidiaries immediately prior to the Effective Time, excluding any such shares of Company Common Stock owned by a Company Benefit Plan or held on behalf of third parties.

“**Existing Securityholders Agreement**” means that certain Securityholders Agreement, dated as of September 4, 2020, by and among Company and the other parties thereto, as amended by that certain Amendment No. 1 thereto on December 2, 2021, and as further amended by that certain Amendment No. 2 thereto on July 7, 2023, as may be further amended, restated or supplemented.

“**Filings**” has the meaning set forth in Section 5.4(a) of this Agreement.

“**Financial Assurances**” means the bonds, letters of credit, guarantees and other financial assurances, posted by such Party, its Subsidiaries or any of their Affiliates with Governmental Entities (including BOEM) or third parties and relating to the assets, including any sinking fund, reserve, bond, escrow, cash deposit or other financial instrument.

“**First Certificate of Merger**” has the meaning set forth in Section 1.1(a) of this Agreement.

“**First Company Merger**” has the meaning set forth in the Recitals of this Agreement.

“**Foreign Investment Law**” means any applicable Law that provides for the review, clearance or notification of transactions on grounds of national security or other national or public interest, including any state, national or multi-jurisdictional applicable Law that is designed or intended to prohibit, restrict or regulate actions by foreigners to acquire interests in or control over domestic equities, securities, entities, assets, land or interests.

“**Fraud**” with respect to any Party means actual and intentional common law fraud under Delaware common law by such Party in the making of any representation or warranty by such Party in Article V or Article VI, or in any certificate delivered by such Party pursuant to Article VIII (and excludes any theory of fraud premised upon equitable fraud, constructive fraud, negligent misrepresentation or omission, recklessness or negligence).

“**GAAP**” has the meaning set forth in Section 6.8(e) of this Agreement.

“**Governance Period**” has the meaning set forth in Section 4.1(j) of this Agreement.

“**Governance Policy**” has the meaning set forth in Section 4.1(j) of this Agreement.

“**Government Contract**” means with respect to any Person any material Contract for the delivery of supplies or provision of services by or between such Person on the one hand and any (i) Governmental Entity (other than any arbitrator or arbitral body) on the other or (ii) by or between a Person as a subcontractor at any tier and any other Person in connection with any contract with a Governmental Entity (other than any arbitrator or arbitral body).

“**Governmental Entity**” means any United States, non-United States, supranational or transnational governmental (including public international organizations), quasi-governmental, regulatory or self-regulatory authority, agency, commission, body, department or instrumentality or any court, tribunal or arbitrator or arbitral body (public or private) or other entity or subdivision thereof or other legislative, executive or judicial entity or subdivision thereof, in each case, of competent jurisdiction.

“**Governmental Order**” means any order, writ, judgment, temporary, preliminary or permanent injunction, decree, ruling or award entered by or with any Governmental Entity (other than any arbitrator or arbitral body).

“**Hazardous Materials**” means (a) any material, substance or waste or pollutant or contaminant that is defined or regulated by, or for which liability or standards of conduct may be imposed pursuant to, any Environmental Law due to its dangerous or deleterious properties or characteristics, and (b) for the avoidance of doubt petroleum, petroleum products and by-products or wastes, asbestos and asbestos-containing materials, polychlorinated biphenyls, toxic mold, urea formaldehyde foam insulation, radon gas, per- and polyfluoroalkyl substances and radioactive substances.

“**HSR Act**” means the Hart-Scott-Rodino Antitrust Improvement Act of 1976, as amended and the rules and regulations promulgated thereunder.

“**Indebtedness**” means, with respect to any Person and a date of determination, without duplication, all obligations or undertakings by such Person: (i) for borrowed money (including deposits or advances of any kind to such Person); (ii) evidenced by bonds, debentures, notes, other debt securities or similar instruments; (iii) for capitalized leases or to pay the deferred and unpaid purchase price of property, equipment, goods or services (including the maximum amount payable of any “earn-out” or similar payment, whether or not contingent); (iv) pursuant to securitization or factoring programs or arrangements; (v) pursuant to guarantees and arrangements having the economic effect of a guarantee of any Indebtedness of any other Person (other than between or among any of Parent and its wholly owned Subsidiaries or between or among any of the Company and its wholly owned Subsidiaries); (vi) to maintain or cause to be maintained the financing, financial position or financial covenants of others; (vii) for net cash payment obligations of such Person under Swaps, or other similar hedging Contracts or arrangements that would be payable upon termination (including upon early termination) thereof (assuming termination on the date of determination); (viii) letters of credit (whether or not cash collateralized), bank guarantees and banker’s acceptances, surety bonds, and other similar Contracts or arrangements entered into by or on behalf of such Person, but in each case, only to the extent drawn or called (and not paid in full or otherwise discharged); or (ix) to pay accrued and unpaid interest, prepayment penalties, premiums, breakage costs, late charges, penalties, make-whole payments, collection fees, termination fees, and other similar fees relating to any Indebtedness described in the foregoing clauses (i) through (viii) above (to the extent due and owing).

“**Insurance Policies**” has the meaning set forth in Section 5.13 of this Agreement.

“**Integration Planning Committee**” has the meaning set forth in Section 4.1(f) of this Agreement.

“**Intellectual Property**” means all intellectual property rights anywhere in the world (whether foreign, state or domestic, registered or unregistered), including rights arising under or with respect to: (i) patents and utility models of any kind, patent applications, including provisional applications, statutory invention registrations, inventions, discoveries and invention disclosures (whether or not patented), and all related continuations, continuations-in-part, divisional, reissues, re-examinations, substitutions, and extensions thereof, (ii) trademarks, service marks, trade dress, logos, Internet domain names, uniform resource locators, social and mobile media identifiers and other similar identifiers of origin, trade names and corporate names, whether registered or unregistered, and the goodwill associated therewith, together with any registrations and applications for registration thereof, (iii) copyrights, mask works, rights in, industrial designs, and works of authorship (including computer software and documentation), applications, source code, and object code, and databases, whether registered or unregistered, derivative works thereof, and any registrations, renewals and applications for registration thereof, (iv) trade secrets and other rights in know-how and confidential or proprietary information, including in any technical data, specifications, designs, techniques, processes, methods, inventions, discoveries, software and algorithms, and (v) all other intellectual, proprietary, moral, and similar rights recognized by applicable Law.

“**Intended Tax Treatment**” has the meaning set forth in Section 7.12(c) of this Agreement.

“**Intervening Event**” means any material Effect that was not known or reasonably foreseeable by the Parent Board on the Signing Date (or, if known or reasonably foreseeable, the consequences of which were not known or reasonably foreseeable by such board of directors as of the Signing Date), which Effect or consequences, as applicable, become known by such board of directors prior to the time the Parent receives the Requisite Parent Vote; provided, that: (a) in no event shall the receipt, existence or terms of an Acquisition Proposal or a Superior Proposal or any inquiry or communications relating thereto, or any matter relating thereto or consequence thereof, be taken into account for purposes of determining whether an Intervening Event has occurred; (b) in no event shall any changes in the market price or trading volume of Parent Common Stock or the fact that Parent meets, exceeds or fails to meet internal or

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published projections, forecasts or revenue or earnings predictions for any period constitute an Intervening Event, except that the underlying cause or causes of such change or fact may be taken into account for purposes of determining whether an Intervening Event has occurred; (c) in no event shall any Effect resulting from any action taken or omitted by the Company or Parent, as applicable, that is required to be taken or omitted by the Company or Parent, as applicable, pursuant to this Agreement be taken into account for purposes of determining whether an Intervening Event has occurred; or (d) in no event shall any Effect resulting from changes after the Signing Date in general economic or business conditions in the United States or elsewhere in the world (including the prices of oil, gas, natural gas, condensates or natural gas liquids, refined products or other commodities for the Parties' raw material inputs and end products) be taken into account for purposes of determining whether an Intervening Event has occurred.

"International Trade Laws" means all applicable Laws, rules, and regulations relating to (i) export, re-export, transfer or import controls, including the Export Administration Regulations administered by the U.S. Department of Commerce, the International Traffic in Arms Regulations, and the EU Dual Use Regulation; (ii) customs and import Laws, including the Laws and regulations administered by U.S. Customs and Border Protection; and (iii) the anti-boycott Laws administered by the U.S. Department of Commerce and the U.S. Department of the Treasury.

"IRS" has the meaning set forth in Section 5.7(a) of this Agreement.

"IT Assets" means computers, software, firmware, middleware, servers, workstations, routers, hubs, switches, networks, data communications lines and all other information technology equipment and all associated documentation.

"Jones Act" has the meaning set forth in Section 5.18 of this Agreement.

"Jones Act Anti-Dilution Warrant Agreement" means the Jones Act Anti-Dilution Warrant Agreement, dated as of September 4, 2020, between Hornbeck Offshore Services, Inc. and Computershare, Inc. and Computershare Trust Company, N.A.

"Jones Act Provisions" has the meaning set forth in Section 5.3 of this Agreement.

"Knowledge" means (a) with respect to the Company or any of its Subsidiaries, the actual knowledge of the Persons listed on Section 10.7(b) of the Company Disclosure Letter and (b) with respect to Parent or any of its Subsidiaries, the actual knowledge of the Persons listed on Section 10.7(c) of the Parent Disclosure Letter, in each case after reasonable inquiry.

"Labor Agreement" has the meaning set forth in Section 5.8(a) of this Agreement.

"Laws" means any federal, state, local, foreign, international or transnational law, act, statute, ordinance, common law, rule, regulation, standard, judgment, determination, Governmental Order, writ, injunction, decree, arbitration award, treaty, or requirement of any Governmental Entity.

"Leased Real Property" with respect to the Company or Parent, means all leasehold or subleasehold estates and other rights to use and occupy any land, buildings, structures, improvements, fixtures or other interest in Real Property held by the Company and/or any of its Subsidiaries or Parent and/or any of its Subsidiaries, as applicable.

"Letter of Transmittal" has the meaning set forth in Section 3.2(a) of this Agreement.

"Licenses" means all permits, licenses, certifications, approvals, registrations, consents, authorizations, franchises, variances, exemptions, plans, decrees and Governmental Orders issued or granted by a Governmental Entity.

"LLC Sub" has the meaning set forth in the introductory paragraph of this Agreement.

"Maritime Guidelines" means any U.S., international or non-U.S. Law, treaty, code of practice, convention, protocol, guideline or similar requirement or restriction concerning or relating to a Company Vessel or Parent Vessel, as applicable, and to which a Company Vessel or Parent Vessel (as applicable) is subject and required to comply with, imposed, published or promulgated by any Governmental Entity, the International Maritime Organization, such Company Vessel's or Parent Vessel's classification society or the insurer(s) of such Company Vessel or Parent Vessel, as applicable.

"Material Adverse Effect" with respect to the Company or Parent, means any Effect that: (a) is materially adverse to the business, financial condition or results of operations of such Party and its Subsidiaries, taken as a whole;

or (b) prevents or materially impairs the ability of such Party to consummate the Transactions; provided, however, that, for purposes of the foregoing clause (a) only, none of the following, alone or in combination, shall be deemed to constitute a Material Adverse Effect, or be taken into account in determining whether a Material Adverse Effect has occurred or would reasonably be expected to occur:

(A) Effects generally affecting: (1) the economy, credit, capital, securities or financial markets in the United States or elsewhere in the world, including changes to interest rates and exchange rates; or (2) political, regulatory or business conditions in any jurisdiction in which such Party or any of its Subsidiaries has material operations or where any of such Party's or any of its Subsidiaries' products or services are sold;

(B) Effects that are the result of factors generally affecting the oil and gas services industry, including changes in or Effects generally affecting the prices or supply and demand of oil, gas, natural gas, natural gas liquids or other commodities, or any industry, markets or geographical areas in which such Party and its Subsidiaries operate;

(C) any loss of, or adverse Effect in, the relationship of such Party or any of its Subsidiaries, contractual or otherwise, with customers, suppliers, financing sources, partners or similar relationship to the extent caused by the entry into, announcement or consummation of the Transactions;

(D) the performance by any Party of its obligations to the extent expressly required under this Agreement (other than such obligations under Section 7.1);

(E) any action taken (or not taken) by such Party or any of its Subsidiaries at the written request of the other Party, which action taken (or not taken) is not required under the terms of this Agreement;

(F) changes or modifications, and prospective changes or modifications, in GAAP or in any Law of general applicability, including the repeal thereof, or in the interpretation or enforcement thereof, after the Signing Date;

(G) any failure, in and of itself, by such Party to meet any internal or public projections or forecasts or estimates of revenues or earnings for any period; provided, that the exception in this clause (G) shall not prevent or otherwise affect a determination that any Effect underlying such failure has resulted in, or contributed to, or would reasonably be expected to result in, or contribute to, a Material Adverse Effect (if not otherwise falling within any of the exceptions in clauses (A) through (F) or (H) and (I));

(H) any Effect resulting from acts of war (whether or not declared), civil disobedience, cyberattack, hostilities, sabotage, terrorism, geopolitical conditions, military actions or the escalation or worsening of any of the foregoing, any hurricane, flood, tornado, earthquake or other weather or natural disaster, or any outbreak or worsening of illness, pandemic or other public health event or any other force majeure event, whether or not caused by any Person;

(I) (1) a decline in the market price, or change in trading volume, in and of itself, of the shares of common stock of such Party on the NYSE, if applicable; or (2) any ratings downgrade or change in ratings outlook for any Party or any of its Subsidiaries; provided, that the exceptions in this clause (I) shall not prevent or otherwise affect a determination that any Effect underlying such decline or change has resulted in, or contributed to, or would reasonably be expected to result in, or contribute to, a Material Adverse Effect (if not otherwise falling within any of the exceptions in clauses (A) through (H));

provided, that, with respect to clauses (A), (B), (E) and (H), such Effect may be taken into account in determining whether a Material Adverse Effect has occurred to the extent such Effect disproportionately adversely affects such Party and its Subsidiaries, taken as a whole, compared to other companies and their respective Subsidiaries, taken as a whole, of comparable size, operating in the industries in which such Party and its Subsidiaries operate, but, in such event, only the incremental disproportionate impact of any such Effect will be taken into account in determining whether a Material Adverse Effect has occurred.

"Material Contract" has the meaning set forth in Section 5.14(a) of this Agreement.

"MBCA" has the meaning set forth in the Recitals of this Agreement.

"Measurement Date" has the meaning set forth in Section 6.1 of this Agreement.

"Merger Consideration" has the meaning set forth in Section 2.1 of this Agreement.

"Mergers" has the meaning set forth in the Recitals of this Agreement.

“**Multiemployer Plan**” means a “multiemployer plan” within the meaning of Section 3(37) of ERISA or Section 4001(a)(3) of ERISA.

“**New Board**” has the meaning set forth in Section 4.1(d) of this Agreement.

“**New Jones Act Warrant**” means a Warrant (as defined in the A&R Jones Act Warrant Agreement) issued pursuant to the A&R Jones Act Warrant Agreement in accordance with the terms of this Agreement or Amendment No. 2 to the Creditor Warrant Agreement.

“**New Plans**” has the meaning set forth in Section 7.11(a) of this Agreement.

“**New Securityholders Agreement**” has the meaning set forth in the recitals of this Agreement.

“**NISPOM**” means the National Industrial Security Program Operating Manual.

“**NISPOM Rule**” means 32 CFR Part 117.

“**Non-U.S. Benefit Plans**” has the meaning set forth in Section 5.7(h) of this Agreement.

“**NYSE**” means the New York Stock Exchange, Inc.

“**Optional Parent Vote**” means, collectively, the approval of: (i) the submission to jurisdiction provisions set forth in Article XIV of the Parent Certificate of Incorporation upon Conversion by the holders of a majority of the outstanding shares of Parent Common Stock entitled to vote on such matter; (ii) the provisions limiting liability of officers set forth in Article VII of the Parent Certificate of Incorporation upon Conversion by the holders of a majority of the outstanding shares of Parent Common Stock entitled to vote on such matter; (iii) the removal of the supermajority amendment approval requirements set forth in Article XI of the Parent’s existing Articles of Incorporation from the Parent Certificate of Incorporation upon Conversion by the holders of 80% of the outstanding shares of Parent Common Stock entitled to vote on such matter; and (iv) the corporate opportunities provisions set forth in Article IX of the Parent Certificate of Incorporation upon Conversion by the holders of a majority of the outstanding shares of Parent Common Stock entitled to vote on such matter, in each case, at a meeting of the Parent shareholders duly called and held for such purpose (the matters set forth in clauses (i) through (iv), collectively, the “**Optional Parent Vote Matters**”).

“**Ordinary Course**” means, with respect to an action taken by any Person, that such action is in the ordinary course of business and consistent with the past practices of such Person.

“**Organizational Documents**” means: (i) with respect to any Person that is a corporation, its articles or certificate of incorporation, memorandum and articles of association, as applicable, and bylaws, or comparable documents; (ii) with respect to any Person that is a partnership, its certificate of partnership and partnership agreement, or comparable documents; (iii) with respect to any Person that is a limited liability company, its certificate of formation and limited liability company or operating agreement, or comparable documents; (iv) with respect to any Person that is a trust or other entity, its declaration or agreement of trust or other constituent document or comparable documents; and (v) with respect to any other Person that is not an individual, its comparable organizational documents.

“**Outside Date**” has the meaning set forth in Section 9.1(b)(i) of this Agreement.

“**Owned Real Property**” with respect to the Company or Parent, means all land, together with all buildings, structures, improvements and fixtures located thereon, and all easements and other rights and interests appurtenant thereto, owned by the Company and/or any of its Subsidiaries or Parent and/or any of its Subsidiaries, as applicable.

“**Parent**” has the meaning set forth in the introductory paragraph of this Agreement.

“**Parent ABL Credit Agreement**” means the Loan, Security and Guaranty Agreement, dated as of September 30, 2021, by and among the Company, Helix Well Ops Inc., Helix Robotics Solutions, Inc., Deepwater Abandonment Alternatives, Inc., Alliance Offshore, L.L.C., Triton Diving Services, LLC, Alliance Energy Services, LLC, Helix Well Ops (U.K.) Limited, Helix Robotics Solutions Limited, Helix International Group Holdings (U.K.) Limited, the financial institutions party thereto from time to time as Lenders (as defined in the Parent ABL Credit Agreement), and Bank of America, N.A., as agent and security trustee for the Lenders, as amended, restated, amended and restated, supplemented or otherwise modified from time to time.

“**Parent Benefit Plan**” means any Benefit Plan that is entered into, sponsored or maintained by Parent or any of its Subsidiaries or to which Parent or any of its Subsidiaries contributes or is obligated to contribute or to which Parent or any of its Subsidiaries has any current or contingent liability.

“**Parent Board**” has the meaning set forth in the Recitals of this Agreement.

“**Parent Bylaws upon Conversion**” has the meaning set forth in the Recitals of this Agreement.

“**Parent Certificate of Incorporation upon Conversion**” has the meaning set forth in the Recitals of this Agreement.

“**Parent Coastwise Vessel**” has the meaning set forth in [Section 6.6\(c\)](#) of this Agreement.

“**Parent Common Stock**” has the meaning set forth in the Recitals of this Agreement.

“**Parent Consents**” has the meaning set forth in the Recitals of this Agreement.

“**Parent Credit Agreements**” means the (i) Parent ABL Credit Agreement and (ii) Credit Agreement, dated as of August 16, 2000, by and among Cal Dive I – Title XI, Inc., as shipowner, Govco Incorporated, as primary lender, Citibank, N.A., as the alternate lender, Citibank International plc, as facility agent and Citicorp North America, Inc., as administrative agent for the primary lender and commercial paper holder of the primary lender, as amended, restated, amended and restated, supplemented or otherwise modified from time to time.

“**Parent Designees**” has the meaning set forth in [Section 4.1\(d\)](#) of this Agreement.

“**Parent Disclosure Letter**” has the meaning set forth in [Article V](#) of this Agreement.

“**Parent Equity Awards**” means, collectively, the Parent Restricted Stock Awards, the Parent RSU Awards and the Parent PSU Awards.

“**Parent Expense Amount**” has the meaning set forth in [Section 9.2\(d\)\(i\)](#) of this Agreement.

“**Parent Indebtedness Payoff Amount**” has the meaning set forth in [Section 7.7](#) of this Agreement.

“**Parent Parties**” has the meaning set forth in the introductory paragraph of this Agreement.

“**Parent Preferred Stock**” has the meaning set forth in [Section 6.1](#) of this Agreement.

“**Parent PSU Award**” means each award of performance share units that is subject, in whole or in part, to performance-based vesting and that has been granted under the Parent Stock Plans.

“**Parent Recommendation**” has the meaning set forth in [Section 6.2](#) of this Agreement.

“**Parent Restricted Stock Award**” means each award of restricted Parent Common Stock that is subject to vesting, repurchase or other lapse restriction and that has been granted under the Parent Stock Plans.

“**Parent RSU Award**” means each award of restricted stock units that is subject solely to time-based vesting and that has been granted under the Parent Stock Plans.

“**Parent Senior Notes**” means the 9.750% Senior Notes due 2029 issued pursuant to that certain Indenture, dated as of December 1, 2023, by and between the Parent and The Bank of New York Mellon Trust Company, N.A., as trustee.

“**Parent Senior Notes Indenture**” means the indenture governing the Parent Senior Notes, as may be amended, supplemented or otherwise modified in accordance with its terms.

“**Parent Shareholders Meeting**” means the meeting of shareholders of Parent to be held in connection with the Mergers, as may be adjourned or postponed from time to time.

“**Parent Stock Plans**” means, collectively, the 2005 Long Term Incentive Plan of Helix, Inc., as amended from time to time, and any other plans or arrangements of Parent providing for the compensatory grant of equity, equity-based, phantom, or other long-term incentive awards.

“**Parent Sub**” has the meaning set forth in the introductory paragraph of this Agreement.

“**Parent Sub Stockholder Consent**” has the meaning set forth in [Section 7.18](#) of this Agreement.

“**Parent Tax Representation Letter**” has the meaning set forth in [Section 7.12\(b\)](#) of this Agreement.

“**Parent Termination Fee**” means an amount in cash equal to \$40,500,000.

“**Parent Vessel**” means a Vessel owned, leased or operated by any Parent Party or any Subsidiary of Parent, including well intervention vessels, liftboats, offshore supply vessels, dive support vessels, heavy lift derrick barges, and crew boats.

“**Parent’s Counsel**” has the meaning set forth in Section 7.12(b) of this Agreement.

“**Parties**” has the meaning set forth in the introductory paragraph of this Agreement.

“**Party**” has the meaning set forth in the introductory paragraph of this Agreement.

“**Payoff Letters**” has the meaning set forth in Section 7.7 of this Agreement.

“**Permitted Encumbrances**” means: (i) mechanics’, materialmen’s, carriers’, workmen’s, repairmen’s, vendors’, operators’, landlords’ or other like Encumbrances, if any, arising or incurred in the Ordinary Course that are not yet due and payable or delinquent and: (A) relate to obligations as to which there is no default on the part of the Company, Parent or any of their Subsidiaries, as applicable, and that do not materially detract from the value of or materially interfere with the use of any of the assets of the Party and its Subsidiaries as currently conducted; or (B) are being contested in good faith through appropriate Proceedings and for which adequate reserves have been established in accordance with GAAP; (ii) Encumbrances arising under original purchase price conditional sales contracts, purchase-money security interests, equipment financings, and capital or finance leases with third parties entered into in the Ordinary Course, containing terms consistent with arm’s length transactions of a similar type and only on the assets so acquired, financed or leased; (iii) Rights-of-Way, covenants, conditions, restrictions and other similar matters of record affecting title and other matters of record or Encumbrances (other than those constituting Encumbrances for the payment of Indebtedness), if any, of such Person’s Owned Real Property or Leased Real Property that do not or would not, individually or in the aggregate, impair in any material respect the value, use or occupancy of such property for the purposes for which such properties are at present, or planned to be, used or occupied as of the Signing Date; (iv) Encumbrances for Taxes or other governmental charges: (A) that are not yet due or payable; or (B) that are being contested in good faith through appropriate Proceedings and for which adequate reserves have been established in accordance with GAAP; (v) deposits made in the Ordinary Course to secure surety bonds, performance bonds and similar obligations issued in the Ordinary Course in connection with the businesses of the Party and its Subsidiaries; (vi) Encumbrances not created by the Party or its Subsidiaries that affect the underlying fee interest of a Leased Real Property that do not, individually or in the aggregate, impair in any material respect the use or occupancy of the assets of the Party and its Subsidiaries, taken as a whole; (vii) pledges or deposits in connection with workers’ compensation, unemployment insurance, social security and other similar legislation arising in the Ordinary Course; (viii) Encumbrances securing the Indebtedness and other obligations under the Company Credit Agreements and the Parent Credit Agreements, as applicable, (ix) with respect to Rights-of-Way, restrictions on the exercise of any of the rights under a granting instrument that are set forth therein or in another executed agreement, that is of public record or to which the Party or any of its Subsidiaries otherwise has access, between the parties thereto; (x) with respect to a Vessel of a Party: (A) Encumbrances for master, officer and crew wages (including the wages of the master) that are incurred and are outstanding in the Ordinary Course with usual maritime practice and: (1) are not yet overdue; or (2) are being contested in good faith by appropriate proceedings and for which adequate reserves have been established in accordance with GAAP, and such Encumbrance would not reasonably be expected to have a Material Adverse Effect; (B) Encumbrances for salvage (including contract salvage) or general average, and Encumbrances for wages of stevedores employed by the owner of such Vessel, which, in each case, (1) has existed for not more than 60 days, or (2) is being contested in good faith by appropriate proceedings and proceedings for which adequate reserves have been established in accordance with GAAP, and such Encumbrance would not reasonably be expected to have a Material Adverse Effect; (C) shipyard Encumbrances, Encumbrances for necessities and other Encumbrances arising under applicable Law in the Ordinary Course in operating, maintaining and repairing such Vessel (other than those referred to in the foregoing clause (A) and (B)), which, in each case, (1) has existed for not more than 60 days, or (b) are being contested in good faith by appropriate proceedings and proceeding for which adequate reserves have been

established in accordance with GAAP, and such Encumbrance would not reasonably be expected to have a Material Adverse Effect; (D) Encumbrances for damages arising from maritime torts (1) in respect of which a bond or other security has been posted on behalf of the Party or any of its subsidiaries with the appropriate court to prevent the arrest or secure the release of such Vessel from arrest within 45 days of seizure, or (2) which are being contested in good faith by appropriate proceedings and for which adequate reserves have been established in accordance with GAAP, and such proceedings would not reasonably be expected to have a Material Adverse Effect; (E) Encumbrances for charters or contracts of employment of such Vessel, (F) other common law maritime Encumbrances or Encumbrances arising under

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the Federal Maritime Lien Act (or similar state statute); (xi) bankers' Encumbrances, rights of setoff or recoupment and other Encumbrances in favor of banks, securities intermediaries and other depository or custodial institutions, in each case arising by operation of law or under customary documentation in connection with cash-management, deposit, securities account or custodial arrangements entered into in the Ordinary Course; (xii) landlords' or lessors' Encumbrances and interests under leases and subleases entered into in the Ordinary Course and permitted under the terms of the applicable lease or sublease; (xiii) non-exclusive licenses (and sublicenses) of Intellectual Property granted in the Ordinary Course; and (xiv) specified Encumbrances described in Section 10.7(d) of such Party's Disclosure Letter.

"Person" means an individual, corporation (including not-for-profit), Governmental Entity, general or limited partnership, limited liability company, joint venture, estate, trust, association, organization, unincorporated organization, other entity of any kind or nature or group (as defined in Section 13(d)(3) of the Exchange Act).

"Personal Data" means any information that, directly or indirectly, identifies, describes or can be linked to a natural person, or any information that is otherwise considered personal information, personal data, or personally identifiable information under applicable Law.

"Plan of Conversion" has the meaning set forth in the Recitals of this Agreement.

"Predecessor Warrant" has the meaning set forth in Section 2.3(b).

"Proceeding" means any action, cause of action, claim, demand, litigation, suit, grievance, citation, summons, subpoena, inquiry, audit, hearing, originating application to a tribunal, arbitration or other similar proceeding of any nature, civil, criminal, regulatory, administrative or otherwise, whether in equity or at law, in contract, in tort or otherwise.

"Proxy Statement/Prospectus" has the meaning set forth in Section 7.3(a) of this Agreement.

"Real Property" means, collectively, the Owned Real Property and the Leased Real Property.

"Registration Rights Agreement" has the meaning set forth in the recitals of this Agreement.

"Registration Rights Agreement Parties" means, collectively, those Persons listed in Section 10.7(a) of the Company Disclosure Letter.

"Registration Statement" has the meaning set forth in Section 7.3(a) of this Agreement.

"Regulatory Remedy" has the meaning set forth in Section 7.5(d)(ii) of this Agreement.

"Release" means any releasing, spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, disposing or migration of Hazardous Materials into or through the environment.

"Reports" has the meaning set forth in Section 6.8(a) of this Agreement.

"Representatives" has the meaning set forth in Section 7.2(a) of this Agreement.

"Requisite Company Approval" has the meaning set forth in Section 5.3 of this Agreement.

"Requisite Parent Vote" has the meaning set forth in Section 5.3 of this Agreement.

"Requisite Parent Vote Matters" has the meaning set forth in Section 5.3 of this Agreement.

"Rights of Way" has the meaning set forth in Section 5.17 of this Agreement.

"Sarbanes-Oxley Act" has the meaning set forth in Section 6.8(a) of this Agreement.

"Sanctioned Person" has the meaning set forth in Section 5.9(f) of this Agreement.

"Sanctions" has the meaning set forth in Section 5.9(f) of this Agreement.

"SEC" has the meaning set forth in Section 2.3(d) of this Agreement.

"Second Certificate of Merger" has the meaning set forth in Section 1.1(b) of this Agreement.

"Second Company Merger" has the meaning set forth in the Recitals of this Agreement.

"Second Company Merger Effective Time" has the meaning set forth in Section 1.1(b) of this Agreement.

“**Second Merger Approval**” has the meaning set forth in [Section 5.3](#) of this Agreement.

“**Securities Act**” has the meaning set forth in [Section 2.3\(d\)](#) of this Agreement.

“**Service Provider**” means any current or former employee, officer, director or independent contractor (who is a natural person) of the Company or Parent or any of their respective Subsidiaries, as applicable.

“**Share Increase**” has the meaning set forth in [Section 5.3](#) of this Agreement.

“**Share Issuance**” has the meaning set forth in [Section 5.3](#) of this Agreement.

“**Significant Subsidiary**” has the meaning ascribed to such term in Rule 1.02(w) of Regulation S-X promulgated pursuant to the Exchange Act.

“**Subsidiary**” means, with respect to any Person, any other Person of which (a) at least a majority of the securities or ownership interests of such other Person is directly or indirectly owned or controlled by such Person, or (b) the power to vote or direct voting of sufficient voting securities, other voting rights or voting partner interests to elect a majority of the board of directors or other persons performing similar functions is directly or indirectly owned or controlled by such Person or by one or more of its Subsidiaries.

“**Superior Proposal**” means an unsolicited, bona fide written Acquisition Proposal (except that the references in the definition thereof to “20% or more” shall be deemed to be references to “50% or more”) made after the Signing Date that the Parent Board has determined in good faith, after consultation with its outside legal counsel and its financial advisor: (a) would, if consummated, result in a transaction more favorable from a financial point of view to Parent’s shareholders than the Transactions; and (b) is reasonably likely to be consummated on the terms proposed, in the case of each of clauses (a) and (b), taking into account any legal, financial, regulatory and stockholder approval requirements, the sources, availability and terms of any financing, financing market conditions and the existence of a financing contingency, the likelihood of termination, the timing of closing, the identity of the Person or Persons making the proposal and any other aspects considered relevant by the Parent Board including any revisions to the terms of this Agreement proposed by the Company pursuant to [Section 7.2\(d\)\(ii\)](#).

“**Surviving Company**” has the meaning set forth in the Recitals of this Agreement.

“**Surviving Corporation**” has the meaning set forth in the Recitals of this Agreement.

“**Swap**” has the meaning given to such term in Section 1(a)(47) of the Commodity Exchange Act.

“**Tail Period**” has the meaning set forth in [Section 7.14\(b\)](#) of this Agreement.

“**Tail Policies**” has the meaning set forth in [Section 7.14\(b\)](#) of this Agreement.

“**Takeover Statute**” has the meaning set forth in [Section 7.15](#) of this Agreement.

“**Tax**” means all federal, state, local and foreign income, windfall or other profits, capital gain, franchise, premium, gross receipts, environmental, customs duty, capital stock, severances, stamp, transfer, payroll, sales, employment, unemployment, disability, social security, use, property, withholding, excise, production, conservation, fuel, ad valorem, value added, occupancy, net worth, estimated, alternative or add-on minimum, and any other taxes, duties or assessments in the nature of a tax, together with all interest, penalties and additional amounts imposed with respect to such amounts and any interest in respect of such penalties and additional amounts.

“**Tax Return**” means all returns and reports (including elections, declarations, disclosures, statements, schedules, estimates, claims for refund, and information returns), including any attachments thereto and any amendments or modifications thereof, supplied to or required to be supplied to a Tax authority relating to Taxes.

“**Trading Day**” means any day on which shares of Parent Common Stock or Converted Parent Common Stock are traded on the NYSE.

“**Transactions**” has the meaning set forth in the Recitals of this Agreement.

“**Treasury Regulation**” means Part 1 of Title 26, Chapter I, Subchapter A of the Code of Federal Regulations.

“**Union**” has the meaning set forth in [Section 5.8\(a\)](#) of this Agreement.

“**Vessel**” means, at any time (a) each vessel owned by a Party or a Subsidiary of a Party, and (b) each vessel (i) owned by a third party and (ii) either (A) managed by the Party or a Subsidiary of a Party pursuant to a management agreement or (B) chartered by the Party or a Subsidiary of the Party pursuant to a bareboat or demise charter.

“**WARN Act**” means the Worker Adjustment and Retraining Notification Act of 1988, as amended, or any similar Law.

“**Willful Breach**” means a material breach of this Agreement that is the result of a willful, deliberate or intentional act or failure to act where the breaching party has actual knowledge that the taking of such act or failure to take such act would, or would be reasonably expected to, cause a material breach of this Agreement.

10.8 Entire Agreement. This Agreement (including any exhibits hereto), the Company Disclosure Letter, the Parent Disclosure Letter and the Confidentiality Agreement, dated as of February 1, 2026, between the Company and Parent (the “**Confidentiality Agreement**”), constitute the entire agreement among the Parties with respect to the subject matter of this Agreement and supersede all prior and contemporaneous agreements, negotiations, understandings and representations and warranties, whether oral or written, with respect to such matters, except for the Confidentiality Agreement, which shall remain in full force and effect until the Closing.

10.9 No Other Representations or Warranties; Non-Reliance. Except for the representations and warranties made by such Party in Article V or in Article VI or in any certificate delivered by such Party pursuant to Article VIII, neither such Party nor any other Person makes any express or implied representation or warranty with respect to such Party or any of its Affiliates or any of their respective businesses, operations, assets, liabilities, conditions (financial or otherwise) or prospects in connection with this Agreement or the Transactions, and such Party expressly disclaims any such other representations or warranties. Each Party expressly disclaims reliance upon any representations, warranties or statements relating to a Party or its Subsidiaries whatsoever, express or implied, beyond those expressly given by such Party in Article V and in Article VI and in any certificate delivered by such Party pursuant to Article VIII. In particular, without limiting the foregoing, neither such Party nor any other Person makes or has made, and each Party acknowledges that neither such Party nor any other Person has made, any representation or warranty to any other Party or any of such other Party’s Affiliates or Representatives with respect to: (a) any financial projection, forecast, estimate, budget or prospect information relating to such Party, any of its Affiliates or any of their respective businesses that may have been made available to a Party or any of its Representatives (including in certain “data rooms,” “virtual rooms,” management presentations or in any other form in expectation of, or in connection with, the Transactions) unless such material or information is otherwise the subject of any representation or warranty herein; or (b) except for the representations and warranties made by such Party in Article V or in Article VI or in any certificate delivered by such Party pursuant to Article VIII, any oral or written information made available to any other Party or any of such other Party’s Affiliates or Representatives in the course of their evaluation of such Party, the negotiation of this Agreement or in the course of the Transactions. Nothing in this Section 10.9 shall limit a Party’s remedies in the event of Fraud.

10.10 Third-Party Beneficiaries. The Company and Parent hereby agree that their respective representations, warranties and covenants set forth in this Agreement are solely for the benefit of the other Party, in accordance with and subject to the terms of this Agreement, and this Agreement is not intended to, and does not, confer upon any Person other than Parent, the Company and their respective successors, legal representatives and permitted assigns any rights or remedies, express or implied, hereunder, including the right to rely upon the representations and warranties set forth in this Agreement, except with respect to (i) Section 4.1(d) (Board of Directors of Parent), Section 4.1(e) (Officers of Parent), Section 4.1(g) (Committees of the New Board) and Section 4.1(j) (Governance Period), (ii) Section 7.14 (Indemnification; Directors’ and Officers’ Insurance) and (iii) after the Effective Time and subject to the consummation of the Mergers, the provisions of Article II relating to the payment of the Merger Consideration, and any cash in lieu of any fractional shares payable pursuant thereto, which shall inure to the benefit of, and be enforceable by, holders of Eligible Shares as of immediately prior to the Effective Time to the extent necessary to receive the consideration and amounts due to such Persons thereunder. The representations and warranties in this Agreement are the product of negotiations among the Parties and are for the sole benefit of the Parties. Any inaccuracies in such representations and warranties are subject to waiver by the Parties in accordance with Section 10.2 without notice or liability to any other Person. In some instances, the representations and warranties in this Agreement may represent an allocation among the Parties of risks associated with particular matters regardless of the knowledge of any of the Parties. Consequently, Persons other than the Parties may not rely upon the representations and warranties in this Agreement as characterizations of actual facts or circumstances as of the Signing Date, the Closing Date or as of any other date.

10.11 Fulfillment of Obligations. Whenever this Agreement requires a Subsidiary of Parent to take any action, such requirement shall be deemed to include an undertaking on the part of Parent to cause such Subsidiary to take such action. Whenever this Agreement requires a Subsidiary of the Company to take any action, such requirement shall be deemed to include an undertaking on the part of the Company to cause such Subsidiary to take such action. Any obligation of one Party to another Party under this Agreement, which obligation is performed, satisfied or fulfilled by an Affiliate of such Party, shall be deemed to have been performed, satisfied or fulfilled by such Party.

10.12 Non-Recourse. Unless expressly agreed to otherwise by the Parties in writing, this Agreement may only be enforced against, and any Proceeding in connection with, arising out of or otherwise resulting from this Agreement, any instrument or other document delivered pursuant to this Agreement or the transactions may only be brought against the Persons expressly named as Parties and then only with respect to the specific obligations set forth herein with respect to such Party. No past, present or future Service Provider, incorporator, manager, member, partner, stockholder, other equity holder or Persons in a similar capacity, controlling person, Affiliate or other Representative of any Party or of any Affiliate of any Party, or Service Provider, incorporator, manager, member, partner, stockholder, other equityholder or Persons in similar capacity, controlling person, Affiliate or other Representative of any of the foregoing (excluding, for the avoidance of doubt, the Parties) and any of their respective successors, Representatives and permitted assigns, shall have any liability or other obligation for any obligation of any Party under this Agreement or for any Proceeding in connection with, arising out of or otherwise resulting from this Agreement, any instrument or other document delivered pursuant to this Agreement or the Transactions.

10.13 Severability. The provisions of this Agreement shall be deemed severable, and the illegality, invalidity or unenforceability of any provision of this Agreement shall not affect the legality, validity or enforceability of the other provisions of this Agreement. If any provision of this Agreement, or the application of such provision to any Person or any circumstance, is illegal, invalid or unenforceable: (a) a suitable and equitable provision shall be substituted therefor in order to carry out, insofar as may be legal, valid and enforceable, the intent and purpose of such illegal, invalid or unenforceable provision; and (b) neither the remainder of this Agreement and the application of such provision to other Persons or circumstances shall be affected by such illegality, invalidity or unenforceability, nor shall such illegality, invalidity or unenforceability affect the legality, validity or enforceability of such provision, or the application of such provision, in any other jurisdiction.

10.14 Interpretation; Construction.

(a) The table of contents and headings herein are for convenience of reference only, do not constitute part of this Agreement and shall not be deemed to limit or otherwise affect any of the provisions hereof. All article, section, subsection, schedule, annex and exhibit references used in this Agreement are to articles, sections, subsections, schedules, annexes and exhibits to this Agreement unless otherwise specified. The exhibits, schedules and annexes attached to this Agreement constitute a part of this Agreement and are incorporated herein for all purposes.

(b) If a term is defined as one part of speech (such as a noun), it shall have a corresponding meaning when used as another part of speech (such as a verb). Unless the context of this Agreement clearly requires otherwise, words importing the masculine gender shall include the feminine and neutral genders and vice versa. The words “includes” or “including” shall mean “including without limitation,” the words “hereof,” “hereby,” “herein,” “hereunder” and similar terms in this Agreement shall refer to this Agreement as a whole and not any particular section or article in which such words appear and any reference to a Law shall include any rules and regulations promulgated thereunder, and any reference to any Law in this Agreement shall only be a reference to such Law as of the Signing Date. Currency amounts referenced herein are in U.S. Dollars.

(c) Whenever this Agreement refers to a number of days, such number shall refer to calendar days unless Business Days are specified. Whenever any action must be taken hereunder on or by a day that is not a Business Day, then such action may be validly taken on or by the next day that is a Business Day.

(d) Each representation and warranty in this Agreement is given independent effect so that if a particular representation and warranty proves to be incorrect or is breached, the fact that another representation and warranty concerning the same or similar subject matter is correct or is not breached, whether such other representation and warranty is more general or more specific, narrower or broader or otherwise, will not affect the incorrectness or breach of such particular representation and warranty.

(e) Documents or other information or materials will be deemed to have been “made available” by the Company or Parent, as applicable, if such documents, information or materials have been: (i) posted to the “Project Helios” virtual data room managed by Parent hosted with Intralinks or the “Project Odyssey” virtual data room managed by the Company hosted by Venue, in each case prior to 5:00 p.m. (Eastern time) on the second day prior to the Signing Date; (ii) filed with or furnished to the SEC and available on EDGAR at least twenty-four hours prior to the Signing Date.

(f) All accounting terms used herein and not expressly defined herein shall have the meanings given to them under GAAP.

(g) The Parties have participated jointly in negotiating and drafting this Agreement. In the event that an ambiguity or a question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the Parties, and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of the authorship of any provision of this Agreement.

10.15 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors, legal representatives and permitted assigns. No Party may assign any of its rights or delegate any of its obligations under this Agreement, in whole or in part, by operation of Law or otherwise, directly or indirectly, without the prior written consent of the other Party.

10.16 Disclosure Letters.

(a) The Disclosure Letters are arranged in separate parts corresponding to the numbered and lettered Sections contained in this Agreement respectively. The information disclosed in any numbered or lettered Section of each Disclosure Letter, shall be deemed to relate to and to qualify any other Section of such Disclosure Letter, to the extent that the relevance of such item to such other Section of such Disclosure Letter is reasonably apparent on its face. Where the terms of a Contract or other disclosure item have been referenced, summarized or described, such reference, summary or description does not purport to be a complete statement of the material terms of such Contract or disclosure item and such disclosures are qualified in their entirety by the specific details of such Contract or disclosure item.

(b) The mere inclusion of any information in a Disclosure Letter shall not be deemed an admission or acknowledgment, in and of itself and solely by virtue of the inclusion of such information in such Disclosure Letter, that such information is required to be listed in such Disclosure Letter or that such items are material to the disclosing party. No disclosure in the Disclosure Letters relating to any possible or alleged breach or violation of applicable Law or Contract shall be construed as an admission or indication that any such breach or violation exists or has actually occurred, or as an admission against any interest of any party hereto or any of its Subsidiaries or its or their respective directors or officers. In disclosing information in a Disclosure Letter, the disclosing party expressly does not waive any attorney-client privilege associated with such information or any protection afforded by the work-product doctrine with respect to any of the matters disclosed or discussed therein. The headings, if any, of the individual sections of each Disclosure Letter are inserted for convenience only and shall not be deemed to constitute a part thereof or a part of this Agreement. The Company Disclosure Letter and the Parent Disclosure Letter are qualified in their entireties by reference to specific provisions of this Agreement, and are not intended to constitute, and shall not be construed as constituting, representations or warranties of the Company or the Parent Parties, as applicable, except as and to the extent provided in this Agreement.

(c) The specification of any dollar amount in the representations and warranties or otherwise in this Agreement or in the Disclosure Letters is not intended and shall not be deemed to be an admission or acknowledgment of the materiality of such amounts or items, nor shall the same be used in any dispute or controversy between the Parties to determine whether any obligation, item or matter (whether or not described herein or included in any schedule) is or is not material for purposes of this Agreement.

(d) The disclosure of any information in a particular section or subsection of the Parent Disclosure Letter, or the Company Disclosure Letter, as applicable, shall be deemed disclosure of such information with respect to the corresponding section or subsection of this Agreement and any other section or subsection of this Agreement to which the relevance of such disclosure is readily apparent on the face of such disclosure.

10.17 Exclusive Remedy. Except in the case of Fraud, the Parties acknowledge and agree that their sole and exclusive remedy with respect to any and all claims for any breach of any representation, warranty, covenant, agreement or obligation set forth herein or otherwise relating to the subject matter of this Agreement shall be pursuant to the

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provisions set forth in this Agreement. In furtherance of the foregoing, except in the case of Fraud, each party hereto hereby waives, to the fullest extent permitted under Law, any and all rights, claims and causes of action for any breach of any representation, warranty, covenant, agreement or obligation set forth herein or otherwise relating to the subject matter of this Agreement it may have against the other Parties and their Affiliates and each of their respective representatives arising under or based upon any Law, including with respect to the Comprehensive Environmental Response, Compensation, and Liability Act and any other Environmental Law, except pursuant to the provisions set forth in this Agreement.

[The remainder of this page is intentionally left blank; signature pages follow.]

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IN WITNESS WHEREOF, this Agreement has been duly executed and delivered by the duly authorized officers of the parties to this Agreement as of the date first written above.

HORNBECK OFFSHORE SERVICES, INC.

By: /s/ Todd M. Hornbeck
Name: Todd M. Hornbeck
Title: President and Chief Executive Officer

HELIX ENERGY SOLUTIONS GROUP, INC.

By: /s/ Scotty Sparks
Name: Scotty Sparks
Title: Executive Vice President and
Chief Operating Officer

ODYSSEY SUB, INC.

By: /s/ Erik Staffeldt
Name: Erik Staffeldt
Title: President

HERCULES SUB LLC

By: Helix Energy Solutions Group, Inc.,
its sole member

By: /s/ Scotty Sparks
Name: Scotty Sparks
Title: Executive Vice President and
Chief Operating Officer

Exhibit A

Plan of Conversion

[Omitted.]

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Exhibit B

Parent Certificate of Incorporation Upon Conversion

[Omitted.]

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Exhibit C

Parent Bylaws Upon Conversion

[Omitted.]

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Exhibit D

Registration Rights Agreement

[Omitted.]

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Exhibit E

New Securityholders Agreement

[Omitted.]

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Exhibit F

D&O Indemnification Agreement

[Omitted.]

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Exhibit G

Governance Policy

[Omitted.]

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Exhibit H

A&R Jones Act Warrant

[*Omitted.*]

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Opinion of Goldman Sachs & Co. LLC

200 West Street | New York, NY 10282-2198
Tel: 212-902-1000 | Fax: 212-902-3000

**PERSONAL AND CONFIDENTIAL**

April 22, 2026

Board of Directors
Helix Energy Solutions Group, Inc.
3505 West Sam Houston Parkway North, Suite 400
Houston, TX 77043

Ladies and Gentlemen:

You have requested our opinion as to the fairness from a financial point of view to Helix Energy Solutions Group, Inc. (the "Company") of the exchange ratio (the "Exchange Ratio") of 10.27167 shares of common stock, par value \$0.00001 per share (the "Company Common Stock"), of the Company to be issued in exchange for each outstanding share of common stock, par value \$0.00001 per share (the "Hornbeck Common Stock"), of Hornbeck Offshore Services, Inc. ("Hornbeck"), other than Excluded Shares and Dissenting Shares (each, as defined in the Agreement), pursuant to the Agreement and Plan of Merger, dated as of April 22, 2026 (the "Agreement"), by and among the Company, Odyssey Sub, Inc., a wholly owned subsidiary of the Company ("Acquisition Sub"), Hercules Sub LLC, a wholly owned subsidiary of the Company ("LLC Sub"), and Hornbeck. The Agreement provides that, among other things, (a) Acquisition Sub will be merged with and into Hornbeck, with Hornbeck continuing as the surviving entity (the "First Merger"); and (b) Hornbeck will then be merged with and into LLC Sub, with LLC Sub continuing as the surviving entity and a direct, wholly owned subsidiary of the Company. At the Effective Time (as defined in the Agreement), by virtue of the First Merger, each issued and outstanding share of Hornbeck Common Stock (other than Excluded Shares and Dissenting Shares) will be converted into the right to receive a number of shares of Company Common Stock equal to the Exchange Ratio.

Goldman Sachs & Co. LLC and its affiliates are engaged in advisory, underwriting, lending and financing, principal investing, sales and trading, research, investment management and other financial and non-financial activities and services for various persons and entities. Goldman Sachs & Co. LLC and its affiliates and employees, and funds or other entities they manage or in which they invest or have other economic interests or with which they co-invest, may at any time purchase, sell, hold or vote long or short positions and investments in securities, derivatives, loans, commodities, currencies, credit default swaps and other financial instruments of the Company, Hornbeck and any of their respective affiliates and third parties, including Whitebox Advisors LLC ("Whitebox"), Ares Management LLC ("Ares") and Highbridge Capital Management LLC ("Highbridge"), each, a significant shareholder of Hornbeck, and JPMorgan Chase & Co. ("JPMorgan"), a significant shareholder of Highbridge, and any of their respective affiliates and, as applicable, portfolio companies or any currency or commodity that may be involved in the transactions contemplated by the Agreement (the "Transaction"). Goldman Sachs Investment Banking has an existing lending relationship with Ares and JPMorgan, or majority-owned subsidiaries (excluding, if applicable, portfolio companies) or funds thereof. We have acted as financial advisor to the Company in connection with, and have participated in certain of the negotiations leading to, the Transaction. We expect to receive fees for our services in connection with the Transaction, the principal portion of which is contingent upon consummation of the Transaction, and the Company has agreed to reimburse certain of our expenses arising, and indemnify us against certain liabilities that may arise, out of our engagement. Goldman Sachs & Co. LLC and/or its affiliates also have provided certain financial advisory and/or underwriting services to Ares and its affiliates from time to time for which Goldman Sachs Investment Banking has received, and may receive, compensation, including having acted as lead arranger in connection with a bank loan to CHG Healthcare Services Inc., a portfolio company of Ares ("CHG"), in July 2024; as bookrunner in connection with a high yield bond offering by EPIC Crude Services, LP, a portfolio company of Ares, in October 2024; as lead arranger in connection with a bank loan to CHG in December 2024; as Ares' financial advisor in connection with the acquisition of GLP Capital Partners Limited's international business (excluding operations in Greater China) in March 2025; as lead arranger in connection with a bank loan to AltaFiber, a portfolio company of Ares, in September 2025; as bookrunner in connection with a high yield bond offering by Asurion, LLC, a portfolio company of Ares ("Asurion"),

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Helix Energy Solutions Group, Inc.
April 22, 2026
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in December 2025; and as bookrunner in connection with a high yield bond offering by Asurion in January 2026. Goldman Sachs & Co. LLC and/or its affiliates also have provided certain financial advisory and/or underwriting services to JPMorgan and its affiliates from time to time for which Goldman Sachs Investment Banking has received, and may receive, compensation, including having acted as arranger in connection with a standalone securitization by J.P. Morgan Asset Management Real Estate, an affiliate of JPMorgan, in September 2025. Goldman Sachs & Co. LLC and/or its affiliates may also in the future provide financial advisory and/or underwriting services to the Company, Hornbeck, Whitebox, Ares, Highbridge, JPMorgan and their respective affiliates and, as applicable, portfolio companies, for which Goldman Sachs Investment Banking may receive compensation. Funds managed by affiliates of Goldman Sachs Investment Banking also are co-invested with Ares and JPMorgan and/or their respective affiliates and have invested in equity interests of funds managed by affiliates of Ares and JPMorgan. Such funds managed by affiliates of Goldman Sachs Investment Banking may co-invest with, and invest in equity interests of, Ares, JPMorgan, Whitebox, Highbridge and/or their respective affiliates or funds managed thereby in the future.

In connection with this opinion, we have reviewed, among other things, the Agreement; annual reports to stockholders and Annual Reports on Form 10-K of the Company for the five years ended December 31, 2025; Hornbeck's Registration Statement on Form S-1 including the prospectus contained therein dated January 13, 2026 relating to an initial public offering of Hornbeck Common Stock; certain other communications from the Company to its stockholders; audited financial statements for Hornbeck for the three years ended December 31, 2025; certain publicly available research analyst reports for the Company; certain internal financial analyses and forecasts for Hornbeck prepared by its management; certain internal financial analyses and forecasts for the Company standalone and pro forma for the Transaction and certain financial analyses and forecasts for Hornbeck, in each case, as prepared by the management of the Company and approved for our use by the Company (the "Forecasts"); and certain operating synergies projected by the management of the Company to result from the Transaction, as approved for our use by the Company (the "Synergies"). We have also held discussions with members of the senior managements of the Company and Hornbeck regarding their assessment of the past and current business operations, financial condition and future prospects of Hornbeck and with the members of senior management of the Company regarding their assessment of the past and current business operations, financial condition and future prospects of the Company and the strategic rationale for, and the potential benefits of, the Transaction; reviewed the reported price and trading activity for the shares of Company Common Stock; compared certain financial and stock market information for the Company and certain financial information for Hornbeck with similar financial and stock market information for certain other companies the securities of which are publicly traded; and performed such other studies and analyses, and considered such other factors, as we deemed appropriate.

For purposes of rendering this opinion, we have, with your consent, relied upon and assumed the accuracy and completeness of all of the financial, legal, regulatory, tax, accounting and other information provided to, discussed with or reviewed by, us, without assuming any responsibility for independent verification thereof. In that regard, we have assumed with your consent that the Forecasts and the Synergies have been reasonably prepared on a basis reflecting the best currently available estimates and judgments of the management of the Company. We have not made an independent evaluation or appraisal of the assets and liabilities (including any contingent, derivative or other off-balance-sheet assets and liabilities) of the Company or Hornbeck or any of their respective subsidiaries and we have not been furnished with any such evaluation or appraisal. We have assumed that all governmental, regulatory or other consents and approvals necessary for the consummation of the Transaction will be obtained without any adverse effect on the Company or Hornbeck or on the expected benefits of the Transaction in any way meaningful to our analysis. We also have assumed that the Transaction will be consummated on the terms set forth in the Agreement, without the waiver or modification of any term or condition the effect of which would be in any way meaningful to our analysis.

Our opinion does not address the underlying business decision of the Company to engage in the Transaction, or the relative merits of the Transaction as compared to any strategic alternatives that may be available to the Company; nor does it address any legal, regulatory, tax or accounting matters. This opinion addresses only the fairness from a financial point of view to the Company, as of the date hereof, of the Exchange Ratio pursuant to the Agreement. We do not express any view on, and our opinion does not address, any other term or aspect of the Agreement or Transaction or any term or aspect of any other agreement or instrument contemplated by the Agreement or entered into or amended in connection

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with the Transaction, including, the fairness of the Transaction to, or any consideration received in connection therewith by, the holders of any class of securities, creditors, or other constituencies of the Company; nor as to the fairness of the amount or nature of any compensation to be paid or payable to any of the officers, directors or employees of the Company or Hornbeck, or any class of such persons in connection with the Transaction, whether relative to the Exchange Ratio pursuant to the Agreement or otherwise. We are not expressing any opinion as to the prices at which shares of Company Common Stock will trade at any time, as to the potential effects of volatility in the credit, financial and stock markets on the Company, Hornbeck or the Transaction, or as to the impact of the Transaction on the solvency or viability of the Company or Hornbeck or the ability of the Company or Hornbeck to pay their respective obligations when they come due. Our opinion is necessarily based on economic, monetary, market and other conditions as in effect on, and the information made available to us as of, the date hereof and we assume no responsibility for updating, revising or reaffirming this opinion based on circumstances, developments or events occurring after the date hereof. Our advisory services and the opinion expressed herein are provided for the information and assistance of the Board of Directors of the Company in connection with its consideration of the Transaction and such opinion does not constitute a recommendation as to how any holder of Company Common Stock should vote with respect to such Transaction or any other matter. This opinion has been approved by a fairness committee of Goldman Sachs & Co. LLC.

Based upon and subject to the foregoing, it is our opinion that, as of the date hereof, the Exchange Ratio pursuant to the Agreement is fair from a financial point of view to the Company.

Very truly yours,

/s/ Goldman Sachs & Co. LLC
(GOLDMAN SACHS & CO. LLC)

**PLAN OF CONVERSION
OF
HELIX ENERGY SOLUTIONS GROUP, INC.,
A MINNESOTA CORPORATION
TO
HELIX ENERGY SOLUTIONS GROUP, INC.,
A DELAWARE CORPORATION**

This Plan of Conversion (the “**Plan**”), dated as of [•], 2026, is hereby adopted by Helix Energy Solutions Group, Inc., a Minnesota corporation, in order to set forth the terms, conditions and procedures governing its conversion from a Minnesota corporation to a Delaware corporation pursuant to Minnesota Statutes Sections 302A.682-692 of the Minnesota Business Corporations Act, as amended (the “**MBCA**”), and Section 265 of the Delaware General Corporation Law, as amended (the “**DGCL**”).

1. **Converting Corporation.** The name of the converting corporation is Helix Energy Solutions Group, Inc., a corporation organized under the laws of the State of Minnesota (the “**Converting Company**”).

2. **Converted Corporation.** The name of the converted company shall be Helix Energy Solutions Group, Inc., a corporation organized under the laws of the State of Delaware (the “**Converted Company**”).

3. **Conversion.**

(a) At the Effective Time (as defined in Section 5 below), the Converting Company shall be converted to the Converted Company pursuant to Section 302A.691 of the MBCA and Section 265 of the DGCL (the “**Conversion**”).

(b) The Converting Company intends for the Conversion to constitute a reorganization within the meaning of Section 368(a)(1)(F) of the Internal Revenue Code of 1986, as amended, and for this Plan to constitute a “plan of reorganization” within the meaning of Treasury Regulation Section 1.368-2(g).

4. **Filings.** As promptly as practicable following the date hereof, the Converting Company shall cause the Conversion to be effective by:

(a) executing and filing (or causing to be executed and filed) Articles of Conversion pursuant to Section 302A.686 of the MBCA in a form reasonably acceptable to any officer of the Converting Company (the “**Minnesota Articles of Conversion**”) with the Minnesota Secretary of State;

(b) executing and filing (or causing to be executed and filed) a Certificate of Conversion pursuant to Sections 103 and 265 of the DGCL in a form reasonably acceptable to any officer of the Converting Company (the “**Delaware Certificate of Conversion**”) with the Delaware Secretary of State; and

(c) executing, acknowledging and filing (or causing to be executed, acknowledged and filed) a Certificate of Incorporation of Helix Energy Solutions Group, Inc. in the form set forth on **Exhibit A** hereto (the “**Delaware Certificate of Incorporation**”) with the Delaware Secretary of State.

5. **Effective Time.** The Conversion shall become effective upon the filing and effectiveness of the Minnesota Articles of Conversion, the Delaware Certificate of Conversion and the Delaware Certificate of Incorporation with the applicable secretary of state (the time of the effectiveness of the Conversion, the “**Effective Time**”).

6. **Organizational Documents of Converted Company.** From and after the Effective Time, the certificate of incorporation of the Converted Company shall be in the form set forth on **Exhibit A** hereto, until amended in accordance with its terms and applicable law, and the bylaws of the Converted Company shall be substantially in the form set forth on **Exhibit B** hereto (the “**Delaware Bylaws**”), until amended in accordance with its terms and applicable law.

7. **Effect on Common Stock.** Upon the terms and subject to the conditions of this Plan, at the Effective Time, by virtue of the Conversion and without any further action on the part of the Converting Company or its shareholders, each share of issued Common Stock, no par value per share, of the Converting Company (“**Converting Company Common Stock**”) shall convert into one validly issued, fully paid and nonassessable share of Common Stock, par value \$0.00001 per share, of the Converted Company (“**Converted Company Common Stock**”). At and after the Effective Time, all of the outstanding certificates that immediately prior to the Effective Time represented shares of Converting Company Common Stock shall be deemed for all purposes to continue to evidence ownership of and to represent the same number

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of shares of Converted Company Common Stock into which the shares represented by such certificates have been converted as provided herein. Following the Effective Time, all Converting Company Common Stock shall no longer be outstanding and shall automatically be canceled and retired and shall cease to exist, and each holder of Converting Company Common Stock immediately prior to the Effective Time shall cease to have any rights with respect thereto.

8. Effect on Outstanding Stock Options, Warrants, Restricted Stock Units, Performance Share Units and Other Rights. Upon the terms and subject to the conditions of this Plan, at the Effective Time, by virtue of the Conversion and without any further action on the part of the Converting Company or its shareholders, each option, warrant, restricted stock unit, performance share unit or other right to acquire shares of Converting Company Common Stock outstanding immediately prior to the Effective Time shall convert into an equivalent option, warrant, restricted stock unit, performance share unit or other right to acquire, upon the same terms and conditions as were in effect immediately prior to the Effective Time, the same number of shares of Converted Company Common Stock.

9. Effect on Employee Benefit, Incentive Compensation or Other Similar Plans. Upon the terms and subject to the conditions of this Plan, at the Effective Time, by virtue of the Conversion and without any further action on the part of the Converting Company or its shareholders, each employee benefit plan, incentive compensation plan or other similar plan to which the Converting Company is a party shall continue to be a plan of the Converted Company. To the extent that any such plan provides for the issuance of Converting Company Common Stock, at the Effective Time, such plan shall be deemed to provide for the issuance of Converted Company Common Stock. A number of shares of Converted Company Common Stock shall be reserved for issuance under such plan or plans equal to the number of shares of Converting Company Common Stock so reserved immediately prior to the Effective Time.

10. Directors and Officers of Converted Company. The members of the board of directors and the officers of the Converting Company immediately prior to the Effective Time shall continue in office following the Effective Time as the directors and officers of the Converted Company, respectively, until the expiration of their respective terms of office and until their successors have been duly elected and have qualified, or until their earlier death, resignation or removal. Each committee of the board of directors of the Converting Company immediately prior to the Effective Time shall be constituted as a committee of the board of directors of the Converted Company on the same terms and with the same powers and authority as the applicable committee of the board of directors of the Converting Company as of immediately prior to the Effective Time, and the members of each committee of the board of directors of the Converting Company immediately prior to the Effective Time shall be the members of each such committee of the board of directors of the Converted Company, each to serve at the pleasure of the board of directors of the Converted Company.

11. Effect of Conversion. From and after the Effective Time, the Conversion shall, for all purposes of the laws of the State of Minnesota, have the effects set forth in Section 302A.691 Subdivision 2 and shall, for all purposes of the laws of the State of Delaware, have the effects set forth in Section 265(f) of the DGCL. The Converting Company shall not be required to wind up its affairs or pay its liabilities and distribute its assets, and the Conversion shall not be deemed a dissolution of the Converting Company and shall constitute a continuation of the existence of the Converting Company in the form of a Delaware corporation. The Converted Company shall be the same entity as the Converting Company. The Conversion shall not be deemed to affect any obligations or liabilities of the Converting Company incurred prior to the Conversion or the personal liability of any person incurred prior to the Conversion.

12. Implementation and Interpretation. This Plan shall be implemented and interpreted, prior to the Effective Time, by the board of directors of the Converting Company and, upon the Effective Time, by the board of directors of the Converted Company, (a) each of which shall have full power and authority to delegate and assign any matters covered hereunder to any other party(ies), including, without limitation, any officers of the Converting Company or the Converted Company, as the case may be, and (b) the interpretations and decisions of which shall be final, binding, and conclusive on all parties.

13. Amendment. This Plan may be amended or modified by the board of directors of the Converting Company at any time prior to the Effective Time, provided that such an amendment shall not alter or change (a) the amount or kind of shares or other securities to be received hereunder by the shareholders of the Converting Company; (b) any term of the Delaware Certificate of Incorporation or the Delaware Bylaws, other than changes permitted to be made without stockholder approval by the MBCA; or (c) any of the terms and conditions of this Plan if such alteration or change would adversely affect the shareholders of the Converting Company.

14. Termination or Deferral. At any time prior to the Effective Time, this Plan may be terminated and the Conversion may be abandoned by action of the board of directors of the Converting Company, notwithstanding the approval of this Plan by the shareholders of the Converting Company, and the consummation of the Conversion may be

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deferred for a reasonable period of time if, in the opinion of the board of directors of the Converting Company, such action would be in the best interests of the Converting Company and its shareholders. In the event of termination of this Plan, this Plan shall become void and of no effect and there shall be no liability on the part of the Converting Company, its board of directors or shareholders with respect thereto.

15. Third-Party Beneficiaries. This Plan shall not confer any rights or remedies upon any person other than as expressly provided herein.

16. Severability. Whenever possible, each provision of this Plan will be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Plan is held to be prohibited by or invalid under applicable law, such provision will be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of this Plan.

[Signature Page Follows]

* * *

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IN WITNESS WHEREOF, the undersigned has executed this Plan of Conversion as of [•], 2026.

HELIX ENERGY SOLUTIONS GROUP, INC.,
a Minnesota corporation

By: _____
Name:
Title:

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EXHIBIT A

DELAWARE CERTIFICATE OF INCORPORATION

(See attached)

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EXHIBIT B

DELAWARE BYLAWS

(See attached)

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**CERTIFICATE OF INCORPORATION OF
HELIX ENERGY SOLUTIONS GROUP, INC.¹**

**ARTICLE I
NAME**

The name of the Corporation is Helix Energy Solutions Group, Inc. (the “**Corporation**”).

**ARTICLE II
TERM**

The Corporation shall have perpetual existence.

**ARTICLE III
PURPOSE**

The purpose for which the Corporation is organized is to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of the State of Delaware (as the same exists or may hereafter be amended, “**Delaware Law**”).

**ARTICLE IV
REGISTERED AGENT**

The street address of the registered office of the Corporation in the State of Delaware is Corporation Trust Center, 1209 Orange Street, Wilmington, New Castle County, Delaware 19801. The name of its registered agent at that address is The Corporation Trust Company.

**ARTICLE V
CAPITALIZATION**

5.1 Capitalization. The Corporation has authority to issue up to [410,000,000] shares of capital stock, consisting of up to [400,000,000] shares of common stock, par value \$0.00001 per share (the “**Common Stock**”), and up to [10,000,000] shares of preferred stock, par value \$0.00001 per share (the “**Preferred Stock**”). The authorized number of shares of any class or series of stock may be increased or decreased (but not below the number of shares thereof then outstanding) by the affirmative vote of the holders of a majority of the voting power of the stock of the Corporation entitled to vote, and no separate vote of such class or series of stock the authorized number of which is to be increased or decreased shall be necessary to effect such change.

5.2 Preferred Stock.

(a) The board of directors (the “**Board**”) of the Corporation is hereby expressly authorized, by resolution or resolutions, at any time and from time to time, to provide, out of the unissued shares of Preferred Stock, for one or more series of Preferred Stock and, with respect to each such series, to fix the number of shares constituting such series and the designation of such series, the voting powers (if any) of the shares of such series, and the powers, preferences and relative, participating, optional or other special rights, if any, and any qualifications, limitations or restrictions thereof, of the shares of such series and to cause to be filed with the Secretary of State of the State of Delaware a certificate of designation with respect thereto. The powers, preferences and relative, participating, optional and other special rights of each series of Preferred Stock, and the qualifications, limitations or restrictions thereof, if any, may differ from those of any and all other series at any time outstanding.

(b) Except as otherwise required by law, holders of a series of Preferred Stock, as such, shall be entitled only to such voting rights, if any, as shall expressly be granted thereto by this Certificate of Incorporation (the “**Certificate**”) (including any certificate of designation relating to such series of Preferred Stock).

¹ Note to Draft: Each of Article VII, as it applies to officers, Article IX, Section 12.3 and Article XIV are to be included (or in the case of Section 12.3, excluded) only upon receipt of the Optional Parent Vote in respect of such provision.

5.3 Common Stock.

(a) *Voting.*

(i) Subject to Article XV, and subject to Delaware Law, each holder of Common Stock shall be entitled to one vote for each outstanding share of Common Stock held by such holder at all meetings of stockholders (and written actions in lieu of meetings if and when applicable); provided that any share of capital stock of the Corporation held by the Corporation shall have no voting rights.

(ii) Notwithstanding the foregoing, to the fullest extent permitted by law, holders of Common Stock, as such, shall have no voting power with respect to, and shall not be entitled to vote on, any amendment to this Certificate (including any certificate of designation relating to any series of Preferred Stock) that relates solely to the terms of one or more outstanding series of Preferred Stock if the holders of such affected series are entitled, either separately or together with the holders of one or more other such series, to vote thereon pursuant to this Certificate (including any certificate of designation relating to any series of Preferred Stock) or pursuant to Delaware Law. Except as otherwise provided in this Certificate or required by Applicable Law, the holders of Common Stock shall vote together as a single class (or, if the holders of one or more series of Preferred Stock are entitled to vote together with the holders of Common Stock, as a single class with the holders of such series of Preferred Stock) on all matters submitted to a vote of the stockholders generally.

(iii) The holders of shares of Common Stock shall not have cumulative voting rights.

(b) *Dividends.* Subject to Applicable Law and rights, if any, of the holders of any outstanding series of Preferred Stock or any class or series of stock having a preference over or the right to participate with the Common Stock with respect to the payment of dividends and other distributions in cash, property of the Corporation or shares of the Corporation's capital stock, the holders of Common Stock will be entitled to receive dividends when, as and if declared by the Board.

(c) *Liquidation, Dissolution or Winding Up.* In the event of any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation, after payment or provision for payment of the debts and other liabilities of the Corporation and subject to the rights, if any, of the holders of Preferred Stock or any class or series of stock having a preference over or the right to participate with the Common Stock as to distributions upon dissolution or liquidation or winding up, the holders of all outstanding shares of Common Stock shall be entitled to receive the remaining assets of the Corporation available for distribution ratably in proportion to the number of shares held by each such stockholder.

(d) *Exchange for Jones Act Warrants.* Any holder of Common Stock may, at its election, exercisable by written notice to the Corporation (including in connection with a transfer of such shares), exchange any shares of Common Stock for Jones Act Warrants exercisable for the same number of shares of Common Stock except to the extent such exchange would result in Non-U.S. Citizens beneficially owning, in the aggregate, more than the Permitted Percentage of each class or series of the capital stock of the Corporation. Any holder of Common Stock may exercise such right at any time and from time to time, with respect to all or any portion of its shares of Common Stock and may similarly elect to receive Jones Act Warrants in lieu of shares of Common Stock upon any exercise of any warrants or other securities exercisable or exchangeable for or convertible into shares of Common Stock. Upon receipt of notice of any such election from a holder of Common Stock, the Corporation shall issue or cause to be issued the applicable Jones Act Warrants promptly and in any event within two business days after receipt of such notice (or on such later date as such holder would have been entitled to receive shares of Common Stock upon the exercise of the applicable warrants or other securities exercisable or exchangeable for or convertible into shares of Common Stock).

5.4 Withholding. All actual or constructive payments, dividends and distributions on, or in redemption of, the Common Stock, Preferred Stock, Jones Act Warrants, Anti-Dilution Warrants or Demand Notes, shall be subject to withholding and backup withholding of tax to the extent required by law, and amounts withheld, if any, shall be treated as received by the holders of such Common Stock, Preferred Stock, Jones Act Warrants, Anti-Dilution Warrants or Demand Notes, as the case may be, in respect of which such amounts were withheld. The Corporation shall have the right to take measures necessary to obtain cash to satisfy the Corporation's withholding requirements with respect to any non-cash, deemed or constructive payment, dividend or distribution to the holders, including by retaining, selling or liquidating property of the applicable holders held by the Corporation in its custody or over which it has control. Each

holder shall indemnify the Corporation and its Affiliates for, and hold harmless the Corporation and its Affiliates from and against, any and all withholding tax, including penalties and interest, payable by or assessed against the Corporation or any of its Affiliates in respect of the Common Stock, Preferred Stock, Jones Act Warrants, Anti-Dilution Warrants or Demand Notes held by such holder.

ARTICLE VI MANAGEMENT

6.1 Board of Directors. Except as otherwise provided in this Certificate or Delaware Law, the business and affairs of the Corporation shall be managed by or under the direction of the Board.

6.2 Number of Directors. Subject to the rights granted to any holders of any one or more series of Preferred Stock then-outstanding or the rights granted pursuant to the Securityholders Agreement, the number of directors which shall constitute the Board (each a “**Director**” and together, the “**Directors**”) shall be fixed from time to time pursuant to resolutions of the Board.

6.3 Classes of Directors. The Directors of the Corporation, other than those who may be elected by the holders of any series of Preferred Stock, shall be divided into three classes, as nearly equal in number as possible, designated Class I, Class II, and Class III.

6.4 Election and Term of Office. The term of office of the initial Class II Directors shall expire at the first annual meeting of stockholders following the Effective Date, the term of office of the initial Class I Directors shall expire at the second annual meeting of stockholders after the Effective Date, and the term of office of the initial Class III Directors shall expire at the third annual meeting of the stockholders after the Effective Date. At each annual meeting of stockholders after the Effective Date, Directors elected to replace those of a class whose terms expire at such annual meeting shall be elected to hold office until the third succeeding annual meeting after their election and until their respective successors shall have been duly elected and qualified. Subject to the rights granted to any holders of any one or more series of Preferred Stock then-outstanding, each such Director shall hold office until the annual meeting of stockholders for the year in which such Director’s term expires and his or her successor shall have been duly elected and qualified, or until his or her earlier death, resignation, removal or retirement. Election of Directors need not be by written ballot unless the Bylaws of the Corporation (as amended and/or restated from time to time, the “**Bylaws**”) shall so provide.

6.5 Newly-Created Directorships and Vacancies. Subject to the rights of any holders of any one or more series of Preferred Stock then-outstanding or the rights granted pursuant to the Securityholders Agreement, any newly created directorship on the Board that results from an increase in the number of Directors and any vacancy occurring in the Board (whether by death, resignation, retirement, disqualification, removal or other cause) shall be filled only by a majority of the Directors then in office, even if less than a quorum, or by a sole remaining Director (and not by stockholders), in each case subject to Jones Act Compliance. No decrease in the authorized number of directors shall shorten the term of any incumbent director.

6.6 Removal and Resignation of Directors. Subject to the rights granted pursuant to the Securityholders Agreement, any or all of the Directors may be removed at any time with or without cause, but only by the affirmative vote of stockholders representing at least 68% of the voting power of all then-outstanding shares of stock of the Corporation entitled to vote thereon, voting as a single class. A Director may resign at any time from the Board by delivering his or her resignation in writing or by electronic transmission to the Board or to the Corporate Secretary of the Corporation. Any such resignation shall be effective upon receipt thereof unless it is specified to be effective at some other time or upon the occurrence of some other event, and unless otherwise specified therein, the acceptance of a resignation shall not be necessary to make it effective.

6.7 Director and Officer Citizenship. Notwithstanding anything to the contrary in this Certificate, the Bylaws or the Securityholders Agreement, (i) all of the executive Officers of the Corporation, including the Chief Executive Officer, shall be U.S. Citizens, and (ii) the Corporation shall take all necessary action to cause in all events the Board to be in Jones Act Compliance, including (A) each of the Chairperson and the Lead Independent Director, if any, shall in all events be a U.S. Citizen and (B) no more than a minority of the number of Directors necessary to constitute a quorum of the Board (in order for the Corporation to continue as a U.S. Citizen) (or any committee thereof) shall be Non-U.S. Citizens.

6.8 Rights of Holders of Preferred Stock. Notwithstanding the provisions of this [Article VI](#), whenever the holders of one or more series of Preferred Stock shall have the right, voting separately or together by series, to elect

Directors at an annual or special meeting of stockholders, the election, term of office, removal, filling of vacancies, and other features of such directorship shall be subject to the rights of such series of Preferred Stock. During any period when the holders of any series of Preferred Stock, voting separately as a series or together with one or more series, have the right to elect additional Directors, then upon commencement and for the duration of the period during which such right continues (i) the then otherwise total authorized number of Directors of the Corporation shall automatically be increased by such specified number of Directors, and the holders of such Preferred Stock shall be entitled to elect the additional Directors so provided for or fixed pursuant to said provisions, and (ii) each such additional Director shall serve until such Director's successor shall have been duly elected and qualified, or until such Director's right to hold such office terminates pursuant to said provisions, whichever occurs earlier, subject to his or her earlier death, resignation, disqualification, or removal. Except as otherwise provided by the Board in the resolution or resolutions establishing such series, whenever the holders of any series of Preferred Stock having such right to elect additional Directors are divested of such right pursuant to the provisions of such stock, the terms of office of all such additional Directors elected by the holders of such stock, or elected to fill any vacancies resulting from the death, resignation, disqualification, or removal of such additional Directors, shall forthwith terminate (in which case each such Director thereupon shall cease to be qualified as, and shall cease to be, a Director), and the total authorized number of directors of the Corporation shall automatically be reduced accordingly.

ARTICLE VII LIABILITY OF DIRECTORS AND OFFICERS

7.1 No Personal Liability. To the fullest extent permitted by Delaware Law, no Director or Officer of the Corporation shall be personally liable to the Corporation or its stockholders for monetary damages for breach of fiduciary duty as a Director [or Officer], as applicable. All references in this Article VII to a Director shall also be deemed to refer to such other Person or Persons, if any, who, pursuant to a provision set forth in this Certificate in accordance with Section 141(a) of Delaware Law, exercise or perform any of the powers or duties otherwise conferred or imposed upon the Board by Delaware Law.

7.2 Amendment or Repeal. Any amendment, repeal or elimination of this Article VII, or the adoption of any provision of this Certificate inconsistent with this Article VII, shall not affect its application with respect to an act or omission by a Director [or Officer] occurring before such amendment, adoption, repeal or elimination. With respect to any act or omission occurring prior to the Effective Date, this Certificate shall not negatively impact the rights of any Director [or Officer] under the then-effective certificate of incorporation, which shall continue to govern. [Solely for purposes of this Article VII, "Officer" has the meaning provided in Section 102(b)(7) of Delaware Law.]

ARTICLE VIII INDEMNIFICATION

8.1 Right to Indemnification and Advancement. Each Person who was or is made a party or is threatened to be made a party to or is otherwise involved (including involvement, without limitation, as a witness) in any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (a "**proceeding**"), by reason of the fact that he or she is or was a Director, advisory director, board observer or officer of the Corporation or, while a Director, advisory director, board observer or officer of the Corporation, is or was serving at the request of the Corporation as a director, advisory director, board observer, officer, employee or agent of another corporation or of a partnership, joint venture, trust or other enterprise, including service with respect to an employee benefit plan (an "**indemnitee**"), whether the basis of such proceeding is alleged action in an official capacity as a director, advisory director, board observer or officer or in any other capacity while serving as a director, advisory director, board observer or officer, shall be indemnified and held harmless by the Corporation to the fullest extent authorized by Applicable Law, as the same exists or may hereafter be amended, against all expense, liability and loss (including attorneys' fees and related disbursements, judgments, fines, excise taxes or penalties under the Employee Retirement Income Security Act of 1974, as amended from time to time ("**ERISA**"), and any other penalties and amounts paid or to be paid in settlement) actually and reasonably incurred by such indemnitee in connection therewith and such indemnification shall continue as to an indemnitee who has ceased to be a director, advisory director, board observer, officer, employee or agent and shall inure to the benefit of the indemnitee's heirs, executors and administrators; *provided, however*, that the person acted in good faith and in a manner the person reasonably believed to be in or not opposed to the best interests of the Corporation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe the person's conduct was unlawful, and, except as provided in Section 7.01 of the Bylaws with respect to proceedings to enforce rights to indemnification and advance of expenses (as defined below), the

Corporation shall indemnify any such indemnitee in connection with a proceeding (or part thereof) initiated by such indemnitee only if such proceeding (or part thereof) was authorized in the specific case by the Board. In addition to the right to indemnification conferred herein, an indemnitee shall also have the right, to the fullest extent not prohibited by law, to be paid by the Corporation the expenses incurred in defending any such proceeding in advance of its final disposition (an “**advance of expenses**”); *provided, however*, that if and to the extent that Delaware Law requires, an advance of expenses shall be made only upon delivery to the Corporation of an undertaking (an “**undertaking**”), by or on behalf of such indemnitee, to repay all amounts so advanced if it shall ultimately be determined by final judicial decision from which there is no further right to appeal that such indemnitee is not entitled to be indemnified for such expenses under this Section 8.1 or otherwise. The Corporation may also, by action of the Board, provide indemnification and advancement to employees and agents of the Corporation. Any reference to an officer of the Corporation in this Article VIII shall be deemed to refer exclusively to the Chief Executive Officer, President, Chief Financial Officer, General Counsel, Controller, Treasurer and Corporate Secretary of the Corporation appointed pursuant to Article 5 of the Bylaws, and to any Executive or Senior Vice President, Vice President, Assistant Secretary, Assistant Controller or other officer of the Corporation appointed by the Board pursuant to Article 5 of the Bylaws, and any reference to an officer of any other enterprise shall be deemed to refer exclusively to an officer appointed by the board of directors or equivalent governing body of such other entity pursuant to the certificate of incorporation and bylaws or equivalent organizational documents of such other enterprise. The fact that any Person who is or was an employee of the Corporation or an employee of any other enterprise has been given or has used the title of “Vice President” or any other title that could be construed to suggest or imply that such Person is or may be an officer of the Corporation or of such other enterprise shall not result in such Person being constituted as, or being deemed to be, an officer of the Corporation or of such other enterprise for purposes of this Article VIII unless such Person’s appointment to such office was approved by the Board pursuant to Article 5 of the Bylaws.

8.2 Service for Subsidiaries. Any Person serving as a director, advisory director, board observer, officer, partner, member, trustee, administrator, employee or agent of another corporation, partnership, limited liability company, joint venture, trust or other enterprise, at least 50% of whose equity interests are owned by the Corporation (a “subsidiary” for purposes of this Article VIII) shall be conclusively presumed to be serving in such capacity at the request of the Corporation. Any indemnification or advance of expenses under this Article VIII owed by the Corporation as a result of such Person’s service shall only be in excess of, and shall be secondary to, the indemnification or advance of expenses available from the applicable subsidiary, if any, and any applicable insurance policies.

8.3 Reliance. Persons who on or after the Effective Date become or remain Directors, advisory directors, board observers or officers of the Corporation or who, while a Director, advisory director, board observer or officer of the Corporation, become or remain a director, advisory director, board observer, officer, employee or agent of a subsidiary, shall be conclusively presumed to have relied on the rights to indemnity, advance of expenses and other rights contained in this Article VIII in entering into or continuing such service. To the fullest extent permitted by law, the rights to indemnification and to the advance of expenses conferred in this Article VIII shall apply to claims made against an indemnitee arising out of acts or omissions which occurred or occur both prior and subsequent to (and on) the Effective Date. Any amendment, alteration or repeal of this Article VIII that adversely affects any right of an indemnitee or its successors shall be prospective only and shall not limit, eliminate, or impair any such right with respect to any proceeding involving any occurrence or alleged occurrence of any action or omission to act that took place prior to such amendment or repeal.

8.4 Non-Exclusivity of Rights; Continuation of Rights of Indemnification. The rights to indemnification and to the advance of expenses conferred in this Article VIII shall not be exclusive of any other right which any Person may have or hereafter acquire under this Certificate or under any statute, by-law, agreement, vote of stockholders or disinterested directors or otherwise. All rights to indemnification under this Article VIII shall be deemed to be a contract between the Corporation and each Director, advisory director, board observer or officer of the Corporation who serves or served in such capacity at any time while this Article VIII is in effect. Any repeal or modification of this Article VIII or repeal or modification of relevant provisions of Delaware Law or any other applicable laws shall not in any way diminish any rights to indemnification and advance of expenses of such Director, advisory director, board observer or officer or the obligations of the Corporation arising hereunder with respect to any proceeding arising out of, or relating to, any actions, transactions or facts occurring prior to the final adoption of such repeal or modification.

8.5 Merger or Consolidation. For purposes of this Article VIII, references to the “Corporation” shall include, in addition to the resulting corporation, any constituent corporation (including any constituent of a constituent) absorbed in a consolidation or merger which, if its separate existence had continued, would have had power and authority to

indemnify its directors, advisory directors, board observers, officers and employees or agents, so that any Person who is or was a director, advisory director, board observer, officer, employee or agent of such constituent corporation, or is or was serving at the request of such constituent corporation as a director, advisory director, board observer, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, shall stand in the same position under this [Article VIII](#) with respect to the resulting or surviving corporation as he or she would have with respect to such constituent corporation if its separate existence had continued.

8.6 [Savings Clause](#). To the fullest extent permitted by law, if this [Article VIII](#) or any portion hereof shall be invalidated on any ground by any court of competent jurisdiction, then the Corporation shall nevertheless indemnify and advance expenses to each Person entitled to indemnification under [Section 8.1](#) of this Certificate as to all expense, liability and loss (including attorneys' fees and related disbursements, judgments, fines, ERISA excise taxes and penalties and any other penalties and amounts paid or to be paid in settlement) actually and reasonably incurred or suffered by such Person and for which indemnification and advance of expenses is available to such person pursuant to this [Article VIII](#) to the fullest extent permitted by any applicable portion of this [Article VIII](#) that shall not have been invalidated.

ARTICLE IX CORPORATE OPPORTUNITIES

9.1 [Corporate Opportunities](#). Notwithstanding any duty otherwise existing at law or in equity, to the fullest extent permitted by Applicable Law, the Corporation agrees that:

(a) Each of the Investors, each of the Investor Directors, and any member of the Investor Group, and any one or more of the respective managers, directors, principals, officers, employees and other representatives of each such Person or their respective Affiliates (the foregoing Persons being referred to, collectively, as "**Identified Persons**") may now engage, may continue to engage, or may, in the future, engage in the same or similar activities or lines of business as those in which the Corporation or any of its Affiliates, directly or indirectly, now engage or may engage or other business activities that overlap with, are complementary to, or compete with those in which the Corporation or any of its Affiliates, directly or indirectly, now engage or may engage (any such activity or line of business, an "**Opportunity**"). No Identified Person shall, as a result of its capacity as such, have any duty to refrain, directly or indirectly, from (i) engaging in any Opportunity or (ii) otherwise competing with the Corporation or any of its Affiliates. No Identified Person shall, as a result of its capacity as such, have any duty or obligation to refer or offer to the Corporation or any of its Affiliates any Opportunity except for any Identified Person who is a Director, who shall have the duty to refer or offer to the Corporation any Opportunity that is expressly first presented in writing to such Director in his or her capacity as a Director or if knowledge of such Opportunity is first acquired by such Director solely as a result of such Director's position as a Director, and the Corporation hereby renounces any interest or expectancy of the Corporation in, or in being offered, an opportunity to participate in any other Opportunity which may be a corporate (or analogous) or business opportunity for the Corporation or any of its Affiliates.

(b) In the event that any Identified Person acquires knowledge of a potential transaction or other corporate (or analogous) or business opportunity which may be an Opportunity for the Corporation or any of its Affiliates, such Identified Person shall have no duty to communicate or offer such Opportunity to the Corporation or any of its Affiliates and shall not be liable to the Corporation or any of its stockholders for breach of any purported fiduciary duty by reason of the fact that such Identified Person pursues or acquires such Opportunity for itself (or any of its Affiliates), or offers or directs such Opportunity to another Person (including any Affiliate of such Identified Person). Notwithstanding the foregoing, each Identified Person who is a Director shall have the duty to communicate or offer to the Corporation any Opportunity that is expressly first presented in writing to such Director in his or her capacity as a Director or if knowledge of such Opportunity is first acquired by such Director solely as a result of such Director's position as a Director, and the Corporation does not waive any claims in respect of breaches of fiduciary duty arising therefrom. For the avoidance of doubt, none of the waivers of the corporate opportunities doctrine or related duties set forth in this [Section 9.1](#) shall apply to any Officer, employee or consultant of the Corporation or any of its Subsidiaries or any Director other than an Investor Director.

(c) The Identified Persons may now own, may continue to own, and from time to time may acquire and own, investments in one or more Persons (such Persons, collectively, "**Related Companies**") that are direct competitors of, or that otherwise may have interests that do or could conflict with those of, the Corporation or any of its Affiliates, and (i) the enjoyment, exercise and enforcement of the rights, interests, privileges, powers and benefits granted or available to the Identified Persons under this Certificate or the Bylaws shall not be in any

manner reduced, diminished, affected or impaired, and the obligations of the Identified Persons under this Certificate or the Bylaws shall not be in any manner augmented or increased, by reason of any act, circumstance, occurrence or event arising from or in any respect relating to (A) the ownership by an Identified Person of any interest in any Related Company, (B) the affiliation of any Related Company with an Identified Person or (C) any action taken or omitted by an Identified Person in respect of any Related Company, (ii) no Identified Person shall, by reason of such ownership, affiliation or action, become subject to any fiduciary duty to the Corporation or any of its Affiliates, (iii) none of the duties imposed on an Identified Person, whether by contract or law, do or shall limit or impair the right of any Identified Person lawfully to compete with the Corporation or any of its Affiliates and (iv) except as set forth in Sections 9.1(a) and 9.1(b), the Identified Persons are not and shall not be obligated to disclose to the Corporation or any of its Subsidiaries or Affiliates any information related to their respective businesses or opportunities, including acquisition opportunities, and shall not be obligated to refrain from or in any respect to be restricted in competing against the Corporation or any of its Affiliates in any such business or as to any such opportunities.

(d) In addition to and notwithstanding the foregoing provisions of this Article IX, a corporate (or analogous) or business opportunity shall not be deemed to be an Opportunity for the Corporation or any of its Affiliates if it is an opportunity (i) that the Corporation is not legally able or contractually permitted to undertake or (ii) which the Board has affirmatively elected to refrain from continued evaluation or pursuing.

Any Person purchasing or otherwise acquiring any interest in any shares of capital stock of the Corporation shall be deemed to have notice of and to have consented to the provisions of this Article IX.]

ARTICLE X MEETINGS OF STOCKHOLDERS

10.1 Consent of Stockholders in Lieu of Meeting. Any action required or permitted to be taken by the stockholders of the Corporation must be effected at a duly called annual or special meeting of such holders and may not be effected by any consent in writing by such holders; provided, however, that any action required or permitted to be taken by the holders of Preferred Stock, voting separately as a series or separately as a class with one or more other such series, may be taken without a meeting, without prior notice and without a vote, to the extent expressly so provided by the applicable certificate of designation relating to such series of Preferred Stock.

10.2 Special Meetings of the Stockholders. Except as otherwise required by law and subject to the rights of the holders of any series of Preferred Stock, special meetings of the stockholders of the Corporation for any purpose or purposes may be called at any time only by or at the direction of the Board or the Chairperson.

10.3 Annual Meetings of the Stockholders. An annual meeting of stockholders for the election of Directors to succeed those whose terms expire and for the transaction of such other business as may properly come before the meeting, shall be held at such place, if any, on such date, and at such time as shall be fixed exclusively by resolution of the Board or a duly authorized committee thereof; *provided, that* the Board may in its sole discretion determine that any such meeting shall, in addition to or instead of a physical location, be held by means of remote communication (including virtually).

ARTICLE XI BUSINESS COMBINATIONS

The Corporation shall not be governed by or subject to the provisions of Section 203 of Delaware Law as now in effect or hereafter amended, or any successor statute thereto.

ARTICLE XII AMENDMENT

12.1 Amendment of Certificate of Incorporation. Notwithstanding anything contained in this Certificate to the contrary, in addition to any vote required by Applicable Law, the following provisions in this Certificate, including any relevant definitions, as applied to such provisions, may be amended, altered, repealed or rescinded, in whole or in part, or any provision inconsistent therewith or herewith may be adopted, only by the affirmative vote of the holders of at least sixty six and two thirds percent (66 2/3%) in voting power of all the then-outstanding shares of stock of the Corporation entitled to vote thereon, voting together as a single class: Articles VI, VII, IX, X, XI, XII, XIV and XV.

12.2 Amendment of Bylaws. Subject, in all respects, to the consent rights and any other limitations set forth in this Certificate, the Board is expressly authorized to make, repeal, alter, amend and rescind, in whole or in part, the

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Bylaws without the assent or vote of the stockholders in any manner not inconsistent with the laws of the State of Delaware or this Certificate. Notwithstanding anything to the contrary contained in this Certificate or any provision of law that might otherwise permit a lesser vote of the stockholders, in addition to any vote of the holders of any class or series of capital stock of the Corporation required herein (including any certificate of designation relating to any series of Preferred Stock), the Bylaws or Applicable Law, stockholders of the Corporation may only alter, amend, repeal or rescind, in whole or in part, any provision of the Bylaws or adopt any provision inconsistent therewith with the affirmative vote of the holders of at least sixty six and two-thirds percent (66 2/3%) in voting power of all the then-outstanding shares of stock of the Corporation entitled to vote thereon, voting together as a single class.

12.3 [Certain Amendments]. Notwithstanding anything to the contrary herein, the affirmative vote of the holders of at least eighty percent (80%) in voting power of all the then-outstanding shares of stock of the Corporation entitled to vote thereon, voting together as a single class, is required to amend, alter, repeal or rescind, in whole or in part, or to adopt any provision inconsistent therewith or herewith, provisions of this Certificate or the Bylaws relating to: (i) the taking of less than unanimous stockholder action without a meeting; (ii) the right of stockholders to call a special meeting; (iii) the number, election and term of the Corporation's Directors; (iv) the procedures for the removal of Directors or filling vacancies on the Board; and (v) fixing a quorum for meetings of stockholders.]

ARTICLE XIII INCORPORATOR

The name and mailing address of the sole incorporator are as follows:

NAME	MAILING ADDRESS
[•]	[•]

ARTICLE XIV SUBMISSION TO JURISDICTION

[Unless the Corporation consents in writing to the selection of an alternative forum, the Court of Chancery in the State of Delaware shall be the sole and exclusive forum for any stockholder (including a beneficial owner) to bring (i) any derivative action or proceeding brought on behalf of the Corporation (including any action or proceeding brought under the Securities Act of 1933, as amended, or the Exchange Act), (ii) any action asserting a claim of breach of fiduciary duty owed by any Director, advisory director, board observer, Officer or other employee of the Corporation to the Corporation or the Corporation's stockholders, (iii) any action asserting a claim against the Corporation, its Directors, advisory directors, board observers, Officers or employees arising pursuant to any provision of Delaware Law, this Certificate or the Bylaws, (iv) any action asserting a claim against the Corporation, its Directors, advisory directors, board observers, Officers or employees governed by the internal affairs doctrine, or (v) any action asserting an "internal corporate claim" as that term is defined in Section 115 of Delaware Law, except for, as to each of (i) through (iv) above, any claim as to which the Court of Chancery determines that there is an indispensable party not subject to the jurisdiction of the Court of Chancery (and the indispensable party does not consent to the personal jurisdiction of the Court of Chancery within ten days following such determination), which is vested in the exclusive jurisdiction of a court or forum other than the Court of Chancery, or for which the Court of Chancery does not have subject matter jurisdiction, in which case a federal district court of the United States of America located in the State of Delaware shall be the exclusive forum.

If any provision or provisions of this Article XIV shall be held to be invalid, illegal or unenforceable as applied to any Person or circumstance for any reason whatsoever, then, to the fullest extent permitted by law, the validity, legality and enforceability of such provisions in any other circumstance and of the remaining provisions of this Article XIV (including, without limitation, each portion of any sentence of this Article XIV containing any such provision held to be invalid, illegal or unenforceable that is not itself held to be invalid, illegal or unenforceable) and the application of such provision to other Persons and circumstances shall not in any way be affected or impaired thereby.

Any Person purchasing or otherwise acquiring or holding any interest in shares of capital stock of the Corporation shall be deemed to have notice of and to have consented to the provisions of this Article XIV.]

**ARTICLE XV
JONES ACT COMPLIANCE**

15.1 Certain Definitions. For the purposes of this Article XV, in addition to the applicable definitions set forth in Article XVI, the following terms shall have the meanings specified below:

(a) “**transfer**” shall mean any transfer of beneficial ownership of shares of the capital stock of the Corporation, including (i) original issuance of shares, (ii) issuance of shares upon the exercise, conversion or exchange of any securities of the Corporation, including Jones Act Warrants, and (iii) transfer by merger, transfer by testamentary disposition, transfer pursuant to a court order or arbitration award, or other transfer by operation of law.

(b) “**transferee**” shall mean any Person receiving beneficial ownership of shares of the capital stock of the Corporation, including any recipient of shares resulting from (i) the original issuance of shares, (ii) the issuance of shares upon the exercise, conversion or exchange of any securities of the Corporation, including Jones Act Warrants, or (iii) transfer by merger, transfer by testamentary disposition, transfer pursuant to a court order or arbitration award, or other transfer by operation of law; all references to “transferees” shall also include, and the provisions of this Article XV (including, without limitation, requirements to provide citizenship certifications, affidavits and other information) shall apply to, any beneficial owner on whose behalf a transferee is acting as custodian, nominee, fiduciary, purchaser representative or in any other capacity.

15.2 Restrictions on Ownership of Shares by Non-U.S. Citizens. Non-U.S. Citizens shall not be permitted to beneficially own, individually or in the aggregate, more than the applicable Permitted Percentage of each class or series of the capital stock of the Corporation. To help ensure that at no time Non-U.S. Citizens, individually or in the aggregate, become the beneficial owners of more than the applicable Permitted Percentage of the issued and outstanding shares of any class or series of capital stock of the Corporation, and to enable the Corporation to comply with any requirement that it be, and submit any documents and other information as reasonable to demonstrate that it is, a U.S. Citizen under any Applicable Law or under any contract with the United States government (or any agency thereof), the Corporation shall have the power to take the actions prescribed in Section 15.3 through 15.8. The provisions of this Article XV are intended to ensure that the Corporation continues to qualify as a U.S. Citizen under the Jones Act so that the Corporation does not cease to be qualified: (a) under the Jones Act to own and operate vessels in the U.S. Coastwise Trade; (b) to operate vessels under an agreement with the United States government (or any agency thereof); (c) to be a party to a maritime security program agreement with the United States government (or any agency thereof), under 46 U.S.C. Chapter 531 or any successor statute thereto, with respect to vessels owned, chartered or operated by the Corporation; (d) to maintain a construction reserve fund under 46 U.S.C. Chapter 533 or any successor statute thereto; (e) to maintain a capital construction fund under 46 U.S.C. Chapter 535 or any successor statute thereto; or (f) to own, charter, or operate any vessel where the costs of construction, modification, or reconstruction have been financed, in whole or in part, by obligations guaranteed by the United States government (or any agency thereof) under 46 U.S.C. Chapter 537 or any successor statute thereto. The Board (or any duly authorized committee thereof, or any Officer of the Corporation who shall have been duly authorized by the Board or any such committee thereof) is specifically authorized to make all determinations and to adopt and effect all policies and measures necessary or desirable, in accordance with Applicable Law and this Certificate, to fulfill the purposes or implement the provisions of this Article XV; *provided, however*, that determinations with respect to redemptions of any Excess Shares (as defined below) shall be made only by the Board (or any duly authorized committee thereof).

15.3 Dual Share System.

(a) To implement the requirements set forth in Section 15.2, the Corporation may, but is not required to, institute a dual share system such that: (i) each certificate and/or book entry (in the case of uncertificated shares) representing shares of each class or series of capital stock of the Corporation that are beneficially owned by a U.S. Citizen shall be marked “U.S. Citizen” and each certificate and/or book entry (in the case of uncertificated shares) representing shares of each class or series of capital stock of the Corporation that are beneficially owned by a Non-U.S. Citizen shall be marked “Non-U.S. Citizen”, but with all such certificates and/or book entries (in the case of uncertificated shares) to be identical in all other respects and to comply with all provisions of the laws of the State of Delaware; (ii) an application to transfer shares shall be set forth on the back of each certificate or made available by the Corporation (in the case of book entry shares) in which a proposed transferee of title to shares shall apply to the Corporation to transfer the number of shares indicated therein and shall certify as to the citizenship of such proposed transferee; (iii) a certification shall be submitted by such proposed transferee (which may include as part thereof a form of affidavit), upon which the Corporation and its transfer agent (if any) shall be

entitled (but not obligated) to rely conclusively, stating whether such proposed transferee is a U.S. Citizen; and (iv) the stock transfer records of the Corporation may be maintained in such manner as to enable the percentages of the shares of each class or series of the Corporation's capital stock that are beneficially owned by U.S. Citizens and by Non-U.S. Citizens to be confirmed. The Board (or any duly authorized committee thereof, or any Officer of the Corporation who shall have been duly authorized by the Board or any such committee thereof) is authorized to take such other ministerial actions or make such interpretations of this Certificate as it may deem necessary or advisable in order to implement a dual share system consistent with the requirements set forth in Section 15.2 and to ensure compliance with such system and such requirements.

(b) A conspicuous statement shall be set forth on the face or back of each certificate and/or on each book entry (in the case of uncertificated shares) representing shares of each class or series of capital stock of the Corporation to the effect that: (i) such shares and the beneficial ownership thereof are subject to restrictions on transfer set forth in this Certificate; and (ii) the Corporation will furnish, without charge, to each stockholder of the Corporation who so requests a copy of this Certificate.

15.4 Restrictions on Transfers.

(a) No shares of any class or series of the capital stock of the Corporation may be transferred to a Non-U.S. Citizen or a holder of record that will hold such shares for or on behalf of a Non-U.S. Citizen if, upon completion of such transfer, the number of shares of such class or series beneficially owned by Non-U.S. Citizens individually or in the aggregate would exceed the applicable Permitted Percentage for such class or series. Any transfer or purported transfer of beneficial ownership of any shares of any class or series of capital stock of the Corporation, the effect of which would be to cause Non-U.S. Citizens individually or in the aggregate to beneficially own shares of any class or series of capital stock of the Corporation in excess of the applicable Permitted Percentage for such class or series, shall, to the fullest extent permitted by law, be void *ab initio* and ineffective, and, to the extent that the Corporation or its transfer agent (if any) knows that such transfer or purported transfer would, if completed, be in violation of the restrictions on transfers to Non-U.S. Citizens set forth in this Article XV, neither the Corporation nor its transfer agent (if any) shall register such transfer or purported transfer on the stock transfer records of the Corporation and neither the Corporation nor its transfer agent (if any) shall recognize the transferee or purported transferee thereof as a stockholder of the Corporation with respect to such shares for any purpose whatsoever (including for purposes of voting, dividends and other distributions) except to the extent necessary to effect any remedy available to the Corporation under this Article XV. In no event shall any such registration or recognition make such transfer or purported transfer effective unless the Board (or any duly authorized committee thereof, or any Officer of the Corporation who shall have been duly authorized by the Board or any such committee thereof) shall have expressly and specifically authorized the same.

(b) In connection with any proposed or purported transfer of shares of any class or series of the capital stock of the Corporation, any transferee or proposed or purported transferee of shares may be required by the Corporation or its transfer agent (if any) to deliver (i) a certification by such transferee or proposed or purported transferee (which may include as part thereof a form of affidavit) upon which the Corporation and its transfer agent (if any) shall be entitled (but not obligated) to rely conclusively, stating whether such transferee or proposed or purported transferee is a U.S. Citizen, and (ii) such other documentation and information concerning the citizenship of such transferee or proposed or purported transferee (as applicable) under Section 15.8 as the Corporation may request in its sole discretion. Registration and recognition of any transfer of shares may be denied by the Corporation upon refusal to furnish, or failure to adequately so evidence as requested, any of the foregoing citizenship certifications, documentation or information requested by the Corporation. Each proposed or purported transferor of such shares shall reasonably cooperate with any requests from the Corporation to facilitate the transmission of requests for such citizenship certifications and such other documentation and information to the proposed or purported transferee and such proposed or purported transferee's responses thereto.

(c) In the event that any transferee is a Non-U.S. Citizen and fails to disclose that it is a Non-U.S. Citizen at the time that it acquires title to shares of capital stock, (i) the Corporation may in its sole discretion direct its transfer agent to mark such shares "Non-U.S. Citizen" and (ii) irrespective of whether the number of shares of such class or series beneficially owned by Non-U.S. Citizens individually or in the aggregate exceed the applicable Permitted Percentage for such class or series, the Corporation may in its sole discretion treat such shares as Excess Shares until the earlier to occur of (x) the shares are transferred to a U.S. Citizen, (y) the shares are redeemed by the Corporation or (z) twelve months following the next annual meeting of stockholders (unless at such time the Permitted Percentage is exceeded).

(d) Notwithstanding any of the provisions of this Article XV, the Corporation shall be entitled (but not obligated) to rely, without limitation, on the stock transfer and other stockholder records of the Corporation (and its transfer agent, if any) for the purposes of preparing lists of stockholders entitled to vote at meetings, determining the validity and authority of proxies, and otherwise conducting votes of stockholders.

15.5 Excess Shares. If on any date, including, without limitation, any record date (each, an “**Excess Share Date**”), the number of shares of any class or series of capital stock of the Corporation beneficially owned by Non-U.S. Citizens individually or in the aggregate should exceed the applicable Permitted Percentage with respect to such class or series of capital stock, irrespective of the date on which such event becomes known to the Corporation (such shares in excess of the applicable Permitted Percentage of such applicable class or series of capital stock, the applicable “**Excess Shares**”), then the shares of such class or series of capital stock of the Corporation that constitute Excess Shares for purposes of this Article XV shall be (x) those shares that have been purported to be acquired by or purported to become beneficially owned by Non-U.S. Citizens, starting with the most recent purported acquisition of beneficial ownership of such shares by a Non-U.S. Citizen and including, in reverse chronological order of purported acquisition, all other purported acquisitions of beneficial ownership of such shares by Non-U.S. Citizens from and after the purported acquisition of beneficial ownership of such shares by a Non-U.S. Citizen that first caused such applicable Permitted Percentage to be exceeded, or (y) those shares purported to be beneficially owned by Non-U.S. Citizens that exceed the applicable Permitted Percentage as the result of any repurchase or redemption by the Corporation of shares of its capital stock, starting with the most recent purported acquisition of beneficial ownership of such shares by a Non-U.S. Citizen and going in reverse chronological order of purported acquisition; *provided, however*, that: (a) the Corporation shall have the sole power to determine, in the exercise of its reasonable judgment, those shares of such class or series that constitute Excess Shares in accordance with the provisions of this Article XV; (b) the Corporation may, in its reasonable discretion, rely on any documentation provided by Non-U.S. Citizens with respect to the date and time of their purported acquisition of beneficial ownership of Excess Shares; (c) if the purported acquisition of beneficial ownership of more than one Excess Share occurs on the same date and the time of purported acquisition is not definitively established, then the order in which such purported acquisitions shall be deemed to have occurred on such date shall be determined by lot or by such other method as the Corporation may, in its reasonable discretion, deem appropriate; (d) Excess Shares that result from a determination that a beneficial owner has ceased to be a U.S. Citizen shall be deemed to have been acquired, for purposes of this Article XV, as of the date that such beneficial owner ceased to be a U.S. Citizen; and (e) the Corporation may adjust upward to the nearest whole share the number of shares of such class or series deemed to be Excess Shares. Any determination made by the Corporation pursuant to this Section 15.5 as to which shares of any class or series of the Corporation’s capital stock constitute Excess Shares of such class or series shall be conclusive and shall be deemed effective as of the applicable Excess Share Date for such class or series.

15.6 Redemption.

(a) In the event that (i) Section 15.4(a) would not be effective for any reason to prevent the transfer of beneficial ownership of any Excess Share of any class or series of the capital stock of the Corporation to a Non-U.S. Citizen (including by reason of the applicability of Section 15.9), (ii) a change in the status of a Person from a U.S. Citizen to a Non-U.S. Citizen causes a share of any class or series of capital stock of the Corporation of which such Person is the beneficial owner to constitute an Excess Share, (iii) any repurchase or redemption by the Corporation of shares of its capital stock causes any share of any class or series of capital stock of the Corporation beneficially owned by Non-U.S. Citizens individually or in the aggregate to exceed the applicable Permitted Percentage and thereby constitute an Excess Share, or (iv) a beneficial owner of a share of any class or series of capital stock of the Corporation has been determined to be or is to be treated as a Non-U.S. Citizen pursuant to Section 15.7 or 15.8, respectively, and the beneficial ownership of such share by such Non-U.S. Citizen results in such share constituting an Excess Share, then, the Corporation, by action of the Board (or any duly authorized committee thereof), in its sole discretion, shall have the power to redeem such Excess Share in accordance with this Section 15.6, unless the Corporation does not have sufficient lawfully available funds to permit such redemption or such redemption is not otherwise permitted under Delaware Law or other provisions of Applicable Law; *provided, however*, that the Corporation shall not have any obligation under this Section 15.6 to redeem any one or more Excess Shares.

(b) Until such time as any Excess Shares subject to redemption by the Corporation pursuant to this Section 15.6 are so redeemed by the Corporation at its option and beginning on the first Excess Share Date for the classes or series of the Corporation's capital stock of which such Excess Shares are a part, to the fullest extent permitted by Applicable Law:

(i) the holders of such Excess Shares subject to redemption shall (so long as such Excess Shares exist) not be entitled to any voting rights with respect to such Excess Shares; and

(ii) the Corporation shall (so long as such Excess Shares exist) pay into a segregated account dividends and any other distributions (upon liquidation or otherwise) in respect of such Excess Shares.

Full voting rights shall be restored to any shares of a class or series of capital stock of the Corporation that were previously deemed to be Excess Shares, and any dividends or distributions with respect thereto that have been previously paid into a segregated account shall be due and paid solely to the holders of record of such shares, promptly after such time as, and to the extent that, such shares have ceased to be Excess Shares (including as a result of the sale of such shares to a U.S. Citizen prior to the issuance of a Redemption Notice pursuant to Section 15.6(c)(iii)), *provided, however*, that such shares have not been already redeemed by the Corporation at its option pursuant to this Section 15.6.

(c) The terms and conditions of redemptions by the Corporation of Excess Shares of any class or series of the Corporation's capital stock under this Section 15.6 shall be as follows:

(i) the per share redemption price (the "**Redemption Price**") for each Excess Share shall be paid by the issuance of one Jones Act Warrant (or such higher number of Jones Act Warrants or a fraction of a Jones Act Warrant, as the case may be, then exercisable for one share of such applicable class or series of Excess Shares) for each Excess Share; provided, however, that if the Corporation determines that such Jones Act Warrant would be treated as capital stock under the Jones Act or that the Corporation may not issue such Jones Act Warrant for any reason, then the Redemption Price shall be paid, as determined by the Board (or any duly authorized committee thereof) in its sole discretion, (A) in cash (by wire transfer or bank or cashier's check), (B) by the issuance of Redemption Notes or (C) by any combination of cash and Redemption Notes (it being understood that all Excess Shares of the same class or series of capital stock of the Corporation being redeemed in the same transaction or any series of related transactions shall be redeemed for the same amount per Excess Share and in the same form of consideration);

(ii) with respect to the portion of the Redemption Price being paid in whole or in part by cash and/or by the issuance of Redemption Notes, such portion of the Redemption Price shall be an amount equal to, in the case of cash, or a principal amount equal to, in the case of Redemption Notes, the sum of (A) the Fair Market Value of such Excess Share as of the date of redemption of such Excess Share plus (B) an amount equal to the amount of any dividend or any other distribution (upon liquidation or otherwise) declared in respect of record of such Excess Share prior to the date on which such Excess Share is called for redemption and which amount has been paid into a segregated account by the Corporation pursuant to Section 15.6(b) (which shall be in full satisfaction of any right of the holder to any amount(s) in such segregated account to the extent relating to such Excess Share);

(iii) written notice of the redemption of the Excess Shares containing the information set forth in Section 15.6(c)(v), together with a letter of transmittal to accompany certificates, if any, representing the Excess Shares that have been called for redemption, shall be given either by hand delivery or by overnight courier service or by first-class mail, postage prepaid, to each holder of record of the Excess Shares to be redeemed, at such holder's last known address as the same appears on the stock register of the Corporation (the "**Redemption Notice**"), unless such notice is waived in writing by any such holder(s);

(iv) the date on which the Excess Shares shall be redeemed (the "**Redemption Date**") shall be the later of (A) the date specified in the Redemption Notice sent to the record holder of the Excess Shares (which shall not be earlier than the date of such notice), and (B) the date on which the Corporation has irrevocably deposited in trust with a paying agent or set aside for the benefit of such record holder consideration sufficient to pay the Redemption Price to such record holders of such Excess Shares in Jones Act Warrants, cash and/or Redemption Notes;

(v) each Redemption Notice to each holder of record of the Excess Shares to be redeemed shall specify (A) the Redemption Date (as determined pursuant to Section 15.6(c)(iv)), (B) the number and the class or series of shares of capital stock to be redeemed from such holder as Excess Shares (and, to the extent such

Excess Shares are certificated, the certificate number(s) representing such Excess Shares), (C) the Redemption Price and the manner of payment thereof, (D) the place where certificates for such Excess Shares (if such Excess Shares are certificated) are to be surrendered for cancellation, (E) any instructions as to the endorsement or assignment for transfer of such certificates (if any) and the completion of the accompanying letter of transmittal, and (F) the fact that all right, title and interest in respect of the Excess Shares to be redeemed (including, without limitation, voting, dividend and distribution rights) shall cease and terminate on the Redemption Date, except for the right to receive the Redemption Price, without interest;

(vi) on and after the Redemption Date, all right, title and interest in respect of the Excess Shares selected for redemption (including, without limitation, voting and dividend and distribution rights) shall forthwith cease and terminate, such Excess Shares shall no longer be deemed to be outstanding shares for any purpose, including, without limitation, for purposes of voting or determining the total number of shares entitled to vote on any matter properly brought before the stockholders for a vote thereon or receiving any dividends or distributions (and may be either cancelled or held by the Corporation as treasury stock), and the holders of record of such Excess Shares shall thereafter be entitled only to receive the Redemption Price, without interest; and

(vii) upon surrender of the certificates (if any) for any Excess Shares so redeemed in accordance with the requirements of the Redemption Notice and the accompanying letter of transmittal (and otherwise in proper form for transfer as specified in the Redemption Notice), the holder of record of such Excess Shares shall be entitled to payment of the Redemption Price. In case fewer than all the shares represented by any such certificate are redeemed, a new certificate (or certificates), to the extent such shares were certificated, shall be issued representing the shares not redeemed, without cost to the holder of record. On the Redemption Date, to the extent that dividends or other distributions (upon liquidation or otherwise) with respect to the Excess Shares selected for redemption were paid into a segregated account in accordance with Section 15.6(b)(ii), then, to the fullest extent permitted by Applicable Law, such amounts shall be released to the Corporation upon the completion of such redemption.

(d) Nothing in this Section 15.6 shall prevent the recipient of a Redemption Notice from transferring its Common Stock before the Redemption Date if such transfer is otherwise permitted under this Certificate and Applicable Law and the recipient provides notice of such proposed or purported transfer to the Corporation along with the documentation and information required under Sections 15.4(b) and 15.8 establishing that the proposed or purported transferee is a U.S. Citizen to the satisfaction of the Corporation in its reasonable discretion before the Redemption Date. If such conditions are met, the Board (or any duly authorized committee thereof) shall withdraw the Redemption Notice related to such shares, but otherwise the redemption thereof shall proceed on the Redemption Date in accordance with this Section 15.6 and the Redemption Notice.

15.7 Citizenship Determinations. The Corporation shall have the power to determine, in the exercise of its reasonable judgment including, at its option, with the advice of counsel, the citizenship of the beneficial owners and the transferees or proposed or purported transferees of any class or series of the Corporation's capital stock for the purposes of this Article XV. In determining the citizenship of any beneficial owners or their transferees or proposed or purported transferees of any class or series of the Corporation's capital stock, the Corporation may, absent other available information to the contrary, rely on the stock transfer records of the Corporation and the citizenship certifications required under Section 15.4(b) and the written statements and affidavits required under Section 15.8 given by the beneficial owners or their transferees or proposed or purported transferees, in each case whether such certifications, written statements or affidavits have been given on their own behalf or on behalf of others, to prove the citizenship of such beneficial owners, transferees or proposed or purported transferees (or any beneficial owners for whom such transferees or proposed or purported transferees are acting as fiduciaries or nominees). The determination of the citizenship of such beneficial owners, transferees or proposed or purported transferees (and any beneficial owners for whom such transferees or proposed or purported transferees are acting as fiduciaries or nominees) may also be subject to documents and other information as the Corporation may deem reasonable pursuant to Section 15.8(b). The determination of the Corporation at any time as to the citizenship of such beneficial owners, transferees or proposed or purported transferees in accordance with the provisions of Article XV shall be conclusive.

15.8 Requirement to Provide Citizenship Information.

(a) In furtherance of the requirements of Section 15.2, and without limiting any other provision of this Article XV, the Corporation may require the beneficial owners of shares of any class or series of the Corporation's

capital stock to confirm their citizenship status from time to time in accordance with the provisions of this Section 15.8, and, as a condition to acquiring and having beneficial ownership of shares of any class or series of capital stock of the Corporation, every beneficial owner of any such shares must comply with the following provisions:

- (i) promptly upon a beneficial owner's acquisition of beneficial ownership of five (5%) percent or more of the outstanding shares of any class or series of capital stock of the Corporation, and at such other times as the Corporation may determine by written notice to such beneficial owner, such beneficial owner must provide to the Corporation a written statement or an affidavit, as specified by the Corporation, duly signed, stating the name and address of such beneficial owner, the number of shares of each class or series of capital stock of the Corporation beneficially owned by such beneficial owner as of a recent date, the legal structure of such beneficial owner, a statement as to whether such beneficial owner is a U.S. Citizen, and such other information and documents required by the U.S. Coast Guard or the U.S. Maritime Administration under the Jones Act, including 46 C.F.R. part 355;
 - (ii) promptly upon request by the Corporation, any beneficial owner must provide to the Corporation a written statement or an affidavit, as specified by the Corporation, duly signed, stating the name and address of such beneficial owner, the number of shares of each class or series of capital stock of the Corporation beneficially owned by such beneficial owner as of a recent date, the legal structure of such beneficial owner, a statement as to whether such beneficial owner is a U.S. Citizen, and such other information and documents required by the U.S. Coast Guard or the U.S. Maritime Administration under the Jones Act, including 46 C.F.R. part 355;
 - (iii) promptly upon request by the Corporation, any beneficial owner must provide to the Corporation a written statement or an affidavit, as specified by the Corporation, duly signed, stating the name and address of such beneficial owner, together with reasonable documentation of the date and time of such beneficial owner's acquisition of beneficial ownership of the shares of any class or series of capital stock of the Corporation specified by the Corporation in its request;
 - (iv) promptly after becoming a beneficial owner, every beneficial owner must provide, or authorize such beneficial owner's broker, dealer, custodian, depository, nominee or similar agent with respect to the shares of each class or series of the Corporation's capital stock beneficially owned by such beneficial owner to provide, to the Corporation such beneficial owner's address and other contact information as may be requested by the Corporation; and
 - (v) every beneficial owner must provide to the Corporation, at any time such beneficial owner ceases to be a U.S. Citizen, as promptly as practicable but in no event less than five business days after the date such beneficial owner becomes aware that it has ceased to be a U.S. Citizen, a written statement, duly signed, stating the name and address of the beneficial owner, the number of shares of each class or series of capital stock of the Corporation beneficially owned by such beneficial owner as of a recent date, the legal structure of such beneficial owner, and a statement as to such change in status of such beneficial owner to a Non-U.S. Citizen.
- (b) The Corporation may at any time require documents and other information as it may request as reasonable, in addition to the citizenship certifications required under Section 15.4(b) and the written statements and affidavits required under Section 15.8(a), of the citizenship of the beneficial owner or the transferee or proposed or purported transferee of shares of any class or series of the Corporation's capital stock.
- (c) In the event that (i) the Corporation requests in writing (in which express reference is made to this Section 15.8) from a beneficial owner of shares of any class or series of the Corporation's capital stock a citizenship certification required under Section 15.4(b), a written statement, an affidavit and/or reasonable documentation required under Section 15.8(a) as reasonable to confirm citizenship required under Section 15.8(b), and (ii) such beneficial owner fails to provide the Corporation with the requested documentation by the date set forth in such written request, then, to the fullest extent permitted by Applicable Law: (A)(x) the voting rights of such beneficial owner's shares of the Corporation's capital stock shall be suspended, and (y) any dividends or other distributions (upon liquidation or otherwise) with respect to such shares shall be paid into a segregated account, until such requested documentation is submitted in form and substance reasonably satisfactory to the Corporation, subject to the other provisions of this Article XV; provided, however, that the Corporation shall have the power, in its sole discretion, to extend the date by which such requested documentation must be provided and/or to waive the

application of sub-clauses (x) and/or (y) of this clause (ii)(A) to any of the shares of such beneficial owner in any particular instance; and (B) the Corporation, upon approval by the Board (or any duly authorized committee thereof) in its sole discretion, shall have the power to treat such beneficial owner as a Non-U.S. Citizen unless and until the Corporation receives the requested documentation confirming that such beneficial owner is a U.S. Citizen.

(d) In the event that (i) the Corporation requests in writing (in which express reference is made to this [Section 15.8](#)) from the transferee or proposed or purported transferee of, shares of any class or series of the Corporation's capital stock a citizenship certification required under [Section 15.4\(b\)](#), a written statement, an affidavit and/or reasonable documentation required under [Section 15.8\(a\)](#) or under [Section 15.8\(b\)](#), and (ii) such Person fails to submit the requested documentation in form and substance reasonably satisfactory to the Corporation, subject to the other provisions of this [Article XV](#), by the date set forth in such written request, the Corporation, acting through its Board (or any duly authorized committee thereof, or any Officer of the Corporation who shall have been duly authorized by the Board or any such committee thereof), shall have the power, in its sole discretion, to refuse to accept any application to transfer ownership of such shares (if any) or to register such shares on the stock transfer records of the Corporation and may prohibit and/or void such transfer, including by placing a stop order with the Corporation's transfer agent (if any), until such requested documentation is so submitted and the Corporation is satisfied that the proposed or purported transfer of shares will not result in Excess Shares.

15.9 **Severability.** Each provision of this [Article XV](#) is intended to be severable from every other provision. If any one or more of the provisions contained in this [Article XV](#) is held to be invalid, illegal or unenforceable, the validity, legality or enforceability of any other provision of this [Article XV](#) shall not be affected, and this [Article XV](#) shall be construed as if the provisions held to be invalid, illegal or unenforceable had never been contained herein.

ARTICLE XVI

ADDITIONAL DEFINED TERMS

16.1 Except as otherwise set forth in this Certificate, the following terms used in this Certificate shall have the meanings specified below:

(a) **"Affiliate"** of any specified Person means (i) each other Person who, directly or indirectly, controls, is controlled by or is under common control with such specified Person and (ii) each Affiliated Fund of such specified Person, and the term "control" (including the terms "controlled", "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through ownership of voting securities, by contract (including proxy) or otherwise; provided, however, that (x) none of the Investors and their respective Affiliates shall be considered an Affiliate of the Corporation or its controlled Affiliates; (y) none of the Corporation and its controlled Affiliates shall be considered Affiliates of any Investor or its respective Affiliates; and (z) the Investors and their respective Affiliates shall not be considered Affiliates of each other solely by virtue of being party to the Securityholders Agreement or their investments in the Corporation.

(b) **"Affiliated Fund"** means, with respect to any Person, a fund, investment vehicle, managed account (including separately managed accounts) or other entity now or hereafter existing that is directly or indirectly controlled, managed, advised or sub-advised by (i) such Person, (ii) such Person's or any of such Person's Affiliates' investment manager, advisor or subadvisor or (iii) an Affiliate of (x) such Person or (y) such Person's or any of such Person's Affiliates' investment manager, advisor or subadvisor (in each case, excluding any portfolio company of such Person).

(c) **"Anti-Dilution Warrant"** means a warrant to purchase a Demand Note issued pursuant to and in accordance with the Jones Act Warrant Agreement to the holders of Jones Act Warrants, which warrant shall have the terms set forth in and as governed by the Anti-Dilution Warrant Agreement.

(d) **"Anti-Dilution Warrant Agreement"** means that certain Amended and Restated Jones Act Anti-Dilution Warrant Agreement, dated as of the Effective Date, by and between the Corporation and Computershare, Inc. and Computershare Trust Company, N.A., collectively as warrant agent, as it may be amended, restated, amended and restated, supplemented or otherwise modified from time to time.

(e) “**Applicable Law**” means all applicable provisions of (i) constitutions, treaties, statutes, laws (including the common law), rules, regulations, decrees, ordinances, codes, proclamations, declarations or orders of any Governmental Authority; (ii) any consents or approvals of any Governmental Authority; and (iii) any orders, decisions, advisory or interpretative opinions, injunctions, judgments, awards, decrees of, or agreements with, any Governmental Authority.

(f) “**Chairperson**” means the chair of the Board.

(g) “**Commission**” means the United States Securities and Exchange Commission.

(h) “**Demand Note**” means a non-interest-bearing demand note issuable in connection with the exercise of an Anti-Dilution Warrant pursuant to the terms of the Anti-Dilution Warrant Agreement.

(i) “**Effective Date**” means the date on which this Certificate was filed with the Secretary of State of the State of Delaware.

(j) “**Exchange Act**” means the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated by the Commission thereunder.

(k) “**Fair Market Value**” shall mean, with respect to a share of Common Stock, (i) at any time the Common Stock is listed or quoted for trading on the New York Stock Exchange, the NYSE American, the NASDAQ Global Select Market, the NASDAQ Global Market, the NASDAQ Capital Market, OTC Bulletin Board or any other national securities exchange, the arithmetic average of the daily VWAP of a share of Common Stock for the ten (10) consecutive trading days on which shares of Common Stock traded immediately preceding the date of measurement; or (ii) otherwise, the value of a share of Common Stock as reasonably determined in good faith by the Board assuming such asset was sold in an arm’s-length transaction between a willing buyer and a willing seller occurring on the date of valuation, taking into account all relevant factors determinative of value (and giving effect to any transfer taxes payable in connection with such sale). For all purposes hereunder, the determination of the Fair Market Value by the Board (or compensation committee or similar committee of the Board) shall be deemed conclusive, final and binding (and shall not be subject to collateral attack for any reason).

(l) “**Governmental Authority**” means any federal, state, local or foreign government or political subdivision thereof, or any agency or instrumentality of such government or political subdivision, including the U.S. Coast Guard, and the U.S. Maritime Administration, or any self-regulated organization or other non-governmental regulatory authority or quasi-governmental authority (to the extent that the rules, regulations or orders of such organization or authority have the force of law), or any arbitrator, court or tribunal of competent jurisdiction.

(m) “**Investor**” has the meaning specified in the Securityholders Agreement as in effect on the Effective Date.

(n) “**Investor Director**” has the meaning specified in the Securityholders Agreement as in effect on the Effective Date.

(o) “**Investor Group**” has the meaning specified in the Securityholders Agreement as in effect on the Effective Date.

(p) “**Jones Act**” shall mean, collectively, the U.S. citizenship and cabotage laws principally contained in 46 U.S.C. § 50501(a), (b) and (d) and 46 U.S.C. Chapters 121 and 551 and any successor statutes thereto, together with the rules and regulations promulgated thereunder by the U.S. Coast Guard and the U.S. Maritime Administration and their practices enforcing, administering and interpreting such laws, statutes, rules and regulations, in each case as amended or supplemented from time to time, relating to the ownership and operation of U.S.-flag vessels (each, a “**U.S. Vessel**”) for the carriage or transport of merchandise or passengers in the coastwise trade of the United States of America within the meaning of 46 U.S.C. Chapter 551 and any successor thereto as amended or supplemented from time to time (“**U.S. Coastwise Trade**”).

(q) “**Jones Act Compliance**” means compliance by the Corporation with the U.S. citizenship requirements of the Jones Act to be eligible to own and operate U.S. Vessels in U.S. Coastwise Trade or to obtain a coastwise endorsement.

(r) “**Jones Act Warrant Agreement**” means the [Amended and Restated] Jones Act Warrant Agreement, dated as of the Effective Date, by and between the Corporation and Computershare, Inc. and Computershare Trust Company, N.A., collectively as warrant agent, as it may be amended, restated, amended and restated, supplemented or otherwise modified from time to time.

(s) “**Jones Act Warrants**” means warrants to purchase a number of shares of Common Stock on the terms set forth in and as governed by the Jones Act Warrant Agreement. In accordance with the terms of the Jones Act Warrant Agreement, a holder of Jones Act Warrants (or its proposed or purported transferee) who cannot establish to the satisfaction of the Corporation that it is a U.S. Citizen shall not be permitted to exercise its Jones Act Warrants to the extent the receipt of the Common Stock upon exercise thereof would cause such shares of Common Stock to constitute Excess Shares if they were issued. Holders of Jones Act Warrants, as such, shall not have any rights or privileges of stockholders of the Corporation, including, without limitation, any rights to vote, to receive dividends or distributions, to exercise any preemptive rights, or to receive notices, in each case, as stockholders of the Corporation, until they exercise their Jones Act Warrants and receive shares of Common Stock.

(t) “**Non-U.S. Citizen**” means any Person who is not a U.S. Citizen.

(u) “**Officer**” means an officer of the Corporation.

(v) “**Permitted Percentage**” shall mean, with respect to any class or series of capital stock of the Corporation: (i) with respect to all Non-U.S. Citizens in the aggregate, 21% of the shares of such class or series of capital stock of the Corporation from time to time issued and outstanding; and (ii) with respect to any individual Non-U.S. Citizen, 4.9% of the shares of such class or series of capital stock of the Corporation from time to time issued and outstanding; provided, however, that if the percentage of any class or series of capital stock outstanding on the Effective Date that is owned by Non-U.S. Citizens in the aggregate shall exceed 21% of the outstanding shares of such class or series on the Effective Date, the Permitted Percentage (insofar as it relates to clause (i) of the definition of Permitted Percentage) shall be the lesser of (x) the minimum percentage owned by Non-U.S. Citizens in the aggregate on or subsequent to the Effective Date and (y) 24% and shall continue to be the Permitted Percentage until the first subsequent date that the percentage of such class or series owned by Non-U.S. Citizens decreases to 21% or less, and from such subsequent date forward, the Permitted Percentage as contemplated in clause (i) of the definition of Permitted Percentage shall be 21%.

(w) “**Person**” means any individual, firm, partnership, limited liability or other company, corporation, joint venture or other entity, and shall include any successor (by merger, business combination or otherwise) of such entity.

(x) “**Redemption Notes**” shall mean interest-bearing promissory notes of the Corporation with a maturity of not more than 10 years from the date of issue and bearing interest at a fixed rate equal to the yield on the U.S. Treasury Note having a maturity comparable to the term of such Redemption Notes as published in The Wall Street Journal or comparable publication at the time of the issuance of the Redemption Notes. Such Redemption Notes shall be governed by the terms of an indenture to be entered into by and between the Corporation and a trustee, as may be amended from time to time. Redemption Notes shall be redeemable at par plus accrued but unpaid interest.

(y) “**Securityholders Agreement**” means the Securityholders Agreement, dated as of the Effective Date, by and among the Corporation and the holders listed therein, as it may be amended, restated, amended and restated, supplemented or otherwise modified from time to time.

(z) “**Subsidiary**” of any Person means (i) a corporation a majority of whose outstanding shares of capital stock or other equity securities with voting power, under ordinary circumstances, to elect directors (or similar function) is at the time, directly or indirectly, owned by such Person, by one or more Subsidiaries of such Person or by such Person and one or more Subsidiaries of such Person, (ii) each other Person (other than a corporation) in which such Person, a Subsidiary of such Person or such Person and one or more Subsidiaries of such Person, directly or indirectly, at the date of determination thereof, (A) is the general partner of such Person or (B) has (x) at least a majority ownership interest or (y) the power to elect or direct the election of the directors or other governing body of such Person.

(aa) “**U.S. Citizen**” means a citizen of the United States which is eligible and qualified to own and operate U.S. Vessels in the U.S. Coastwise Trade.

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(bb) “**U.S. Coastwise Trade**” has the meaning ascribed to such term in the definition of “Jones Act” in this Certificate.

(cc) “**U.S. Vessel**” has the meaning ascribed to such term in the definition of “Jones Act” in this Certificate.

(dd) “**VWAP**” means, for any trading day, the price for shares of Common Stock determined by the daily volume weighted average price per share of Common Stock for such trading day on the New York Stock Exchange, the NYSE American, the NASDAQ Global Select Market, the NASDAQ Global Market, or the NASDAQ Capital Market, as the case may be, in each case, for the regular trading session (including any extensions thereof, without regard to pre-open or after hours trading outside of such regular trading session), or if shares of Common Stock are not listed or quoted on the New York Stock Exchange, the NYSE American, the NASDAQ Global Select Market, the NASDAQ Global Market, or the NASDAQ Capital Market, as reported by the principal U.S. national or regional securities exchange on which shares of Common Stock are then listed or quoted, whichever is applicable, as published by Bloomberg at 4:15 P.M., New York City time (or 15 minutes following the end of any extension of the regular trading session), on such trading day.

16.2 Construction. Whenever the context requires, the gender of all words used in this Certificate includes the masculine, feminine and neuter forms and the singular form of words shall include the plural and vice versa. All references to Articles, Sections and subsections refer to articles, sections and subsections of this Certificate. Whenever the words “include,” “includes” or “including” are used in this Certificate, they shall be deemed to be followed by the words “without limitation.”

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IN WITNESS WHEREOF, the undersigned, being the incorporator hereinabove named, makes and files this Certificate of Incorporation, and does hereby declare and certify that said instrument is [its/her/his] act and deed and that all facts stated herein are true, and accordingly, has executed this Certificate of Incorporation this day of, 2026.

[•]

By:

Name: [•]

Incorporator

D-19

BYLAWS OF
HELIX ENERGY SOLUTIONS GROUP, INC.

Adopted [•], 2026

ARTICLE 1
DEFINITIONS

As used in these Bylaws of Helix Energy Solutions Group, Inc. (these “**Bylaws**”), unless the context otherwise requires, the terms “advance of expenses,” “Common Stock,” “indemnatee,” “Jones Act,” “Jones Act Warrants,” “Non-U.S. Citizen,” “Person,” “Preferred Stock,” “undertaking,” “U.S. Citizen,” and “U.S. Coastwise Trade” shall have the same meanings as ascribed to those terms in the Corporation’s Certificate of Incorporation as in effect on the date hereof (as it may be amended and/or restated from time to time, the “**Certificate of Incorporation**”). Capitalized terms used but not otherwise defined herein shall have the meanings as ascribed to those terms in the Certificate of Incorporation.

ARTICLE 2
OFFICES

Section 2.01 *Registered Office*. The registered office of Helix Energy Solutions Group, Inc. (the “**Corporation**”) is Corporation Trust Center, 1209 Orange Street, Wilmington, New Castle County, Delaware 19801.

Section 2.02 *Other Offices*. The Corporation may also have offices at such other places both within and without the State of Delaware as the Board of Directors of the Corporation (the “**Board**”) may from time to time determine or the business of the Corporation may require.

Section 2.03 *Books*. The books of the Corporation may be kept (subject to any provisions contained in the statutes) outside the State of Delaware at such place or places as may be designated from time to time by the Board, or as the business of the Corporation may require.

ARTICLE 3
MEETINGS OF STOCKHOLDERS

Section 3.01 *Time and Place of Meetings*. All meetings of stockholders shall be held at such place, either within or without the State of Delaware, on such date and at such time as may be determined from time to time by the Board (or the Chairperson of the Board in the absence of a designation by the Board). The Board may, in its sole discretion, determine that a meeting of stockholders of the Corporation shall not be held at any place, but may instead be held solely or partially by means of remote communication in the manner authorized by the General Corporation Law of the State of Delaware (as the same exists or may hereafter be amended, “**Delaware Law**”).

Section 3.02 *Annual Meetings*. The annual meeting of the stockholders shall be held for the election of directors and for the transaction of such other business as may properly come before the meeting in accordance with these Bylaws held at such date, time, and place, if any, as shall be determined by the Board and stated in the notice of the meeting. The Board may postpone, reschedule or cancel any previously scheduled annual meeting of stockholders.

Section 3.03 *Special Meetings*. Special meetings of stockholders may only be called in the manner provided in the Certificate of Incorporation and may be held at such place, if any, either inside or outside the State of Delaware, on such date and at such time, and for such purpose or purposes, as the Board or the Chairperson of the Board shall determine and state in the notice of meeting, if any. The Board or the Chairperson of the Board, whichever calls the special meeting, may postpone, reschedule or cancel any previously scheduled special meeting of stockholders.

Section 3.04 *Adjournments*. Any meeting of the stockholders, annual or special, may be adjourned from time to time to reconvene at the same or some other place, if any, and, except as provided in this Section 3.04, notice need not be given of any such adjourned meeting if the time, place, if any, thereof and the means of remote communication, if any, are (i) announced at the meeting at which the adjournment is taken, (ii) displayed, during the time scheduled for the meeting, on the same electronic network used to enable stockholders and proxy holders to participate in the meeting by means of remote communication or (iii) set forth in the notice of meeting. At the adjourned meeting, the Corporation

may transact any business which might have been transacted at the original meeting. If the adjournment is for more than 30 days, a notice of the adjourned meeting shall be given to each stockholder of record entitled to vote at the meeting. If after the adjournment a new record date is fixed for stockholders entitled to vote at the adjourned meeting, the Board or the Chairperson of the Board, as applicable, shall fix a new record date for notice of the adjourned meeting and shall give notice of the adjourned meeting to each stockholder of record entitled to vote at the adjourned meeting as of the record date fixed for notice of the adjourned meeting.

Section 3.05 *Notice*. Notice of the place (if any), date, hour, the record date for determining the stockholders entitled to vote at the meeting (if such date is different from the record date for stockholders entitled to notice of the meeting), and means of remote communication, if any, of every meeting of stockholders shall be given by the Corporation not less than ten days nor more than 60 days before the meeting (unless a different time is specified by law) to every stockholder entitled to vote at the meeting as of the record date for determining the stockholders entitled to notice of the meeting. Notices of special meetings shall also specify the purpose or purposes for which the meeting has been called. Except as otherwise provided herein or permitted by applicable law, notice to stockholders shall be in writing and delivered personally or mailed to the stockholders at their address appearing on the books of the Corporation. Without limiting the manner by which notice otherwise may be given effectively to stockholders, notice of meetings may be given to stockholders by means of electronic transmission in accordance with applicable law. Notice of any meeting need not be given to any stockholder who shall, either before or after the meeting, submit a waiver of notice or who shall attend such meeting, except when the stockholder attends for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened. Any stockholder so waiving notice of the meeting shall be bound by the proceedings of the meeting in all respects as if due notice thereof had been given.

Section 3.06 *Stockholders List*. The Corporation shall, no later than the tenth day before each meeting of stockholders, prepare a complete list of the stockholders entitled to vote at said meeting (*provided, however*, if the record date for determining the stockholders entitled to vote is less than ten days before the date of the meeting, the list shall reflect the stockholders entitled to vote as of the tenth day before the meeting date), arranged in alphabetical order, and showing the address and the number of shares of capital stock of the Corporation registered in the name of each stockholder not later than the tenth day before each meeting of the stockholders. Such list shall be open to the examination of any stockholder, for any purpose germane to the meeting for a period of ten days ending on the day before the meeting date in the manner provided by law. Except as provided by applicable law, the stock ledger of the Corporation shall be the only evidence as to who are the stockholders entitled to examine the stock ledger and the list of stockholders or to vote in person or by proxy at any meeting of stockholders.

Section 3.07 *Quorum*. Unless otherwise required by law, the Certificate of Incorporation or these Bylaws, at each meeting of the stockholders, a majority in voting power of the then-outstanding shares of stock of the Corporation entitled to vote at the meeting, present in person or represented by proxy, shall constitute a quorum. The chair of the meeting shall have the power to adjourn meetings of stockholders for any reason from time to time and, if a quorum shall not be present or represented at any meeting of the stockholders, the stockholders entitled to vote thereat, present in person or represented by proxy, shall also have the power, by the affirmative vote of a majority in voting power thereof, to adjourn the meeting from time to time, in the manner provided in Section 3.04, until a quorum shall be present or represented. A quorum, once established, shall not be broken by the subsequent withdrawal of enough votes to leave less than a quorum. At any such adjourned meeting at which there is a quorum, any business may be transacted that might have been transacted at the meeting originally called.

Section 3.08 *Organization*. The Board may adopt by resolution such rules and regulations for the conduct of the meeting of the stockholders as it shall deem appropriate. At every meeting of the stockholders, the Chairperson of the Board, or such other director or officer of the Corporation designated by the Board, shall act as chair of, and preside at, the meeting; provided that the chair of the meeting shall be a U.S. Citizen. The Secretary or, in the Secretary's absence or inability to act, the person whom the chair of the meeting shall appoint secretary of the meeting, shall act as secretary of the meeting and keep the minutes thereof. Except to the extent inconsistent with such rules and regulations as adopted by the Board, the chair of any meeting of the stockholders shall have the right and authority to prescribe such rules, regulations, and procedures and to do all such acts as, in the judgment of such chair, are appropriate for the proper conduct of the meeting. Such rules, regulations, or procedures, whether adopted by the Board or prescribed by the chair of the meeting, may include, without limitation, the following:

- (a) the establishment of an agenda or order of business for the meeting;

- (b) the determination of when the polls shall open and close for any given matter to be voted on at the meeting;
- (c) rules and procedures for maintaining order at the meeting and the safety of those present;
- (d) limitations on attendance at or participation in the meeting to stockholders of record of the Corporation, their duly authorized and constituted proxies, or such other persons as the chair of the meeting shall determine;
- (e) restrictions on entry to the meeting after the time fixed for the commencement thereof;
- (f) limitations on the time allotted to questions or comments by participants; and
- (g) restrictions on the use of cell phones, audio or video recording devices and other devices at the meeting.

Section 3.09 *Voting; Proxies.*

(a) General. Unless otherwise required by law or provided in the Certificate of Incorporation, each stockholder shall be entitled to one vote, in person or by proxy, for each share of capital stock entitled to vote on the subject matter under consideration held by such stockholder. Voting at meetings of stockholders need not be by written ballot.

(b) Election of Directors. Subject, if applicable, to the rights of the holders of any class or series of Preferred Stock, including to elect additional directors under specific circumstances, unless otherwise required by law, the Certificate of Incorporation or these Bylaws, each director nominee shall be elected by a majority of the votes cast by the shares present in person or represented by proxy at the meeting and entitled to vote on the election of directors; *provided* that director nominees shall be elected by a plurality of the votes cast by the shares present in person or represented by proxy at the meeting and entitled to vote on the election of directors in the case of a Contested Election (as defined below). For purposes of this Section 3.09(b), “a majority of the votes cast” means that the number of shares voted “for” a director must exceed the number of shares voted “against” such director’s election, and neither abstentions nor broker non-votes shall count as votes cast for or against a director’s election, and a “Contested Election” means an election of directors at a meeting of stockholders at which a quorum is present where (x) the Secretary receives notice that one or more stockholders have proposed to nominate one or more persons for election or re-election to the Board, which notice purports to be in compliance with the advance notice requirements for stockholder nominations set forth in these Bylaws, irrespective of whether the Board at any time determines that any such notice is not in compliance with such requirements, and (y) such proposed nomination or nominations have not been formally and irrevocably withdrawn by such stockholder or stockholders on or prior to the date that is 14 days in advance of the date the Corporation files its definitive proxy statement (regardless of whether or not thereafter revised or supplemented) with the Securities and Exchange Commission.

(c) Other Matters. Unless otherwise required by law, the Certificate of Incorporation, or these Bylaws, any matter, other than the election of directors, brought before any meeting of stockholders at which a quorum is present shall be decided by the affirmative vote of the majority of shares present in person or represented by proxy at the meeting and entitled to vote on the matter.

(d) Proxies. Each stockholder entitled to vote at a meeting of stockholders or to express consent or dissent to a corporate action in writing without a meeting may authorize another person or persons to act for such stockholder by proxy, but no such proxy shall be voted or acted upon after three years from its date, unless the proxy provides for a longer period. Such authorization must be in writing and executed by the stockholder or his or her authorized officer, director, employee, or agent. To the extent permitted by law, a stockholder may authorize another person or persons to act for him or her as proxy by transmitting or authorizing the transmission of an electronic transmission to the person who will be the holder of the proxy or to a proxy solicitation firm, proxy support service organization, or like agent duly authorized by the person who will be the holder of the proxy to receive such transmission, provided that the electronic transmission either sets forth or is submitted with information from which it can be determined that the electronic transmission was authorized by the stockholder. A copy, facsimile transmission, or other reliable reproduction of a writing or transmission authorized by this Section 3.09(d) may be substituted for or used in lieu of the original writing or electronic transmission for any and all purposes for which the original writing or transmission could be used, provided that such copy, facsimile transmission, or other reproduction shall be a complete reproduction of the entire original writing or transmission. A proxy shall be irrevocable if it states that it is irrevocable and if, and only as long as, it is coupled with an interest sufficient in law to support an irrevocable power. A stockholder may revoke any proxy that is not irrevocable by

attending the meeting and voting in person or by delivering to the Secretary a revocation of the proxy or a new proxy bearing a later date. Should a proxy designate two or more persons to act as proxies, unless such instrument shall provide the contrary, a majority of such persons present at any meeting at which their powers thereunder are to be exercised shall have and may exercise all the powers of voting or giving consents thereby conferred, or if only one be present, then such powers may be exercised by that one; or, if an even number attend and a majority do not agree on any particular issue, each proxy so attending shall be entitled to exercise such powers in respect of the same portion of the shares as he or she is of the proxies representing such shares.

Section 3.10 *Inspectors at Meetings of Stockholders.* In advance of any meeting of the stockholders, the Corporation shall appoint one or more inspectors, who may be employees of the Corporation, to act at the meeting or any adjournment thereof and make a written report thereof. The Corporation may designate one or more persons as alternate inspectors to replace any inspector who fails to act. If no inspector or alternate is able to act at a meeting, the person presiding at the meeting shall appoint one or more inspectors to act at the meeting. Each inspector, before entering upon the discharge of his or her duties, shall take and sign an oath faithfully to execute the duties of inspector with strict impartiality and according to the best of his or her ability. The inspector or inspectors may appoint or retain other persons or entities to assist the inspector or inspectors in the performance of their duties. In determining the validity and counting of proxies and ballots cast at any meeting of stockholders, the inspector or inspectors may consider such information as is permitted by applicable law. No person who is a candidate for office at an election may serve as an inspector at such election. When executing the duties of inspector, the inspector or inspectors shall:

- (a) ascertain the number of shares outstanding and the voting power of each;
- (b) determine the shares represented at the meeting and the validity of proxies and
- (c) count all votes and ballots;
- (d) determine and retain for a reasonable period a record of the disposition of any challenges made to any determination by the inspectors; and
- (e) certify their determination of the number of shares represented at the meeting and their count of all votes and ballots.

Section 3.11 *Fixing the Record Date.*

(a) In order that the Corporation may determine the stockholders entitled to notice of or to vote at any meeting of stockholders or any adjournment thereof, the Board or the Chairperson of the Board, as applicable, may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted by the Board or the Chairperson of the Board, and which record date shall not be more than 60 nor less than ten days before the date of such meeting. If no record date is fixed by the Board or the Chairperson of the Board, the record date for determining stockholders entitled to notice of or to vote at a meeting of stockholders shall be at the close of business on the day next preceding the day on which notice is given or, if notice is waived, at the close of business on the day next preceding the day on which the meeting is held. A determination of stockholders of record entitled to notice of or to vote at a meeting of stockholders shall apply to any adjournment of the meeting, unless such record date is more than 60 days before the date of such adjourned meeting; provided, however, that the Board or the Chairperson of the Board, whichever called the meeting, may fix a new record date for the determination of stockholders entitled to notice of or to vote at the adjourned meeting.

(b) In order that the Corporation may determine the stockholders entitled to receive payment of any dividend or other distribution or allotment of any rights or the stockholders entitled to exercise any rights in respect of any change, conversion, or exchange of stock, or for the purpose of any other lawful action, the Board may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted, and which record date shall be not more than 60 days prior to such action. If no record date is fixed, the record date for determining stockholders for any such purpose shall be at the close of business on the day on which the Board adopts the resolution relating thereto.

(c) If no record date has been fixed by the Board and prior action is required by Delaware Law, the record date for determining stockholders entitled to consent to corporate action in accordance with Section 228 of Delaware Law shall be the close of business on the day on which the Board adopts the resolution taking such action.

Section 3.12 *Advance Notice of Stockholder Nominations and Proposals.*

(a) Annual Meetings. At a meeting of the stockholders, only such nominations of persons for the election of directors and such other business shall be conducted as shall have been properly brought before the meeting. Subject to the Certificate of Incorporation, to be properly brought before an annual meeting, nominations or such other business must be:

- (i) specified in the notice of meeting (or any supplement thereto) given by or at the direction of the Board or any committee thereof;
- (ii) otherwise properly brought before the meeting by or at the direction of the Board or any committee thereof; or
- (iii) otherwise properly brought before an annual meeting by a Proposing Stockholder.

In addition, any proposal of business (other than the nomination of persons for election to the Board) must be a proper matter for stockholder action. For business (including, but not limited to, director nominations) to be properly brought before an annual meeting by a Proposing Stockholder pursuant to Section 3.12(a)(iii), the Proposing Stockholder must have delivered timely notice thereof pursuant to this Section 3.12(a), in writing (electronic transmission not sufficient) to the Secretary even if such matter is already the subject of any notice to the stockholders or Public Disclosure from the Board. To be timely, a Proposing Stockholder's notice for an annual meeting must comply with the requirements of this Section 3.12 and must be delivered to the principal executive offices of the Corporation in proper written form: (A) if such meeting is to be held on a day which is not more than 30 days in advance of the anniversary of the previous year's annual meeting or not later than 70 days after the anniversary of the previous year's annual meeting, not later than the close of business on the 90th day nor earlier than the close of business on the 120th day prior to the first anniversary of the previous year's annual meeting (which prior year's annual meeting shall, for purposes of the Corporation's annual meeting of stockholders to be held in 2027, be deemed to have occurred on May 13, 2026); and (B) with respect to any other annual meeting of stockholders, including in the event that no annual meeting was held in the previous year, not earlier than the close of business on the 120th day prior to the annual meeting and not later than the close of business on the later of: (1) the 90th day prior to the annual meeting and (2) the close of business on the tenth day following the first date of Public Disclosure of the date of such meeting. In no event shall an adjournment, recess, rescheduling or postponement of an annual meeting, or the Public Disclosure thereof, commence a new notice time period (or extend any notice time period). Notwithstanding anything in this paragraph to the contrary, in the event that the number of directors to be elected to the Board is increased and there is no Public Disclosure by the Corporation naming all of the nominees for director proposed by the Board or specifying the size of the increased Board at least ten days prior to the last day a Proposing Stockholder may deliver a notice of nominations in accordance with the second sentence of this paragraph, a Proposing Stockholder's notice required by this Section 3.12 shall also be considered timely, but only with respect to proposed nominees for any new positions created by such increase, if it shall be delivered to the Secretary at the principal executive offices of the Corporation not later than the close of business on the tenth day following the day on which Public Disclosure of such increase is first made by the Corporation.

(b) Stockholder Nominations. Subject to the Certificate of Incorporation, for the nomination of any person or persons for election to the Board pursuant to Section 3.12(a)(iii) or Section 3.12(d), a Proposing Stockholder's notice to the Secretary must be timely (pursuant to Section 3.12(a)) and must set forth or include:

- (i) As to each individual, if any, whom the Proposing Stockholder proposes to nominate for election or reelection to the Board:
 - (A) the name, citizenship, age, business address, and residence address of such proposed nominee;
 - (B) the principal occupation or employment of such proposed nominee (at present and for the past five years);
 - (C) the Specified Information of such proposed nominee as if such person were a Holder (except that no disclosure will be required hereunder with respect to any Related Person of any proposed nominee unless such Related Person is also a Related Person of a Holder);

(D) all information relating to such proposed nominee that would be required to be disclosed in a proxy statement or other filings required to be made in connection with solicitations of proxies for election of directors in a contested election pursuant to Section 14 of the Exchange Act and the rules and regulations promulgated thereunder;

(E) a complete and accurate description of all agreements, arrangements and understandings between such proposed nominee, on the one hand, and each Holder and any Related Person, on the other hand, during the prior three years, including, without limitation, a complete and accurate description of all direct and indirect compensation and other material monetary agreements, arrangements and understandings during the past three years between the proposed nominee and such parties, (including, without limitation, all biographical and related party transaction and other information that would be required to be disclosed pursuant to Rule 404 promulgated under Regulation S-K under the Securities Act of 1933, as amended, if any Holder or any Related Person were the “registrant” for purposes of such rule and such proposed nominee were a director or executive officer of such registrant); and

(F) a complete and accurate, signed written questionnaire with respect to the background and qualification of such proposed nominee (which questionnaire shall be provided by the Secretary upon written request of any stockholder of record identified by name within five Business Days of such written request) and a written statement and agreement executed by such proposed nominee acknowledging that such person:

(1) consents to being named in any proxy statement as a nominee and to serving as a director if elected,

(2) if elected, intends to serve as a director for the full term for which such person is standing for election, and

(3) makes the following representations: (I) that the proposed nominee has read and agrees to adhere to the Bylaws, all publicly disclosed corporate governance, conflict of interest, confidentiality, stock ownership and trading policies and guidelines of the Corporation applicable to directors, including with regard to securities trading, and (II) that the proposed nominee is not and will not become a party to any Voting Commitment that has not been disclosed to the Corporation or any Voting Commitment that could limit or interfere with such person’s ability to comply, if elected as a director of the Corporation, with such person’s fiduciary duties under applicable law, and (III) that the proposed nominee is not and will not become a party to any agreement, arrangement or understanding with any person or entity other than the Corporation with respect to any direct or indirect compensation, reimbursement or indemnification that has not been disclosed to the Corporation in connection with such person’s nomination for director or service as a director; and

(ii) as to each Holder:

(A) the citizenship of such Holder and each Related Person of such Holder, as well as a representation whether such person is a U.S. Citizen;

(B) the name and address of the Proposing Stockholder as they appear on the Corporation’s books and of any other Holder and any Related Person of any Holder;

(C) a description of any agreement, arrangement, or understanding with respect to such nomination between or among the Proposing Stockholder or the beneficial owner, if any, on whose behalf the nomination is being made and any other person;

(D) the class and number of shares of the Corporation which are directly or indirectly owned by such Holder or any Related Person of such Holder (beneficially and of record); provided, that for purposes of this Section 3.12, any such person shall in all events be deemed to beneficially own any shares of the Corporation as to which such person has a right to acquire beneficial ownership at any time in the future other than pursuant to any Jones Act Warrants (whether such right is exercisable immediately or only after the passage of time or the fulfillment of a condition or both);

(E) a description of any Derivative Instrument directly or indirectly owned or held, including beneficially, by such Holder or any Related Person of such Holder, and any Short Interest held by such Holder or any Related Person of such Holder within the last twelve (12) months in any class or series of the shares or other securities of the Corporation;

(F) a description of any proxy, contract, arrangement, understanding or relationship pursuant to which such Holder or any Related Person of such Holder has any right to vote or has granted a right to vote any shares of stock or any other security of the Corporation;

(G) a description of any agreement, arrangement or understanding with respect to any rights to dividends or payments in lieu of dividends on the shares of the Corporation owned beneficially by such Holder or any Related Person of such Holder that are separated or separable from the underlying shares of stock or other security of the Corporation;

(H) any direct or indirect legal, economic or financial interest (including Short Interest) of such Holder and any Related Person of such Holder, if any, in the outcome of any (x) vote to be taken at any meeting of stockholders of the Corporation or (y) any meeting of stockholders of any other entity with respect to any matter that is related, directly or indirectly, to any nomination or business proposed by any Holder under these Bylaws;

(I) any direct or indirect interest of such Holder or any Related Person of such Holder in any contract with or litigation involving the Corporation, any Affiliate of the Corporation (including, in any such case, any employment agreement, collective bargaining agreement or consulting agreement);

(J) any material pending or threatened action, suit or proceeding (whether civil, criminal, investigative, administrative or otherwise) in which such Holder or any Related Person of such Holder is, or is reasonably expected to be made, a party or material participant involving the Corporation or any of its officers, directors or employees, or any Affiliate of the Corporation, or any officer, director or employee of such Affiliate;

(K) any other information relating to such Holder or any Related Person of such Holder that would be required to be disclosed in a proxy statement and form or proxy or other filings required to be made in connection with solicitations of proxies for, as applicable, the business proposal and/or for the election of directors in a contested election pursuant to Section 14 of the Exchange Act and the rules and regulations promulgated thereunder;

(L) a certification that such Holder and each Related Person of such Holder has complied with all applicable federal, state and other legal requirements in connection with its acquisition of shares or other securities of the Corporation and such person's acts or omissions as a stockholder of the Corporation;

(M) a representation that the Proposing Stockholder is a holder of record of shares of the Corporation entitled to vote at the meeting and intends to appear in person or by proxy at the meeting to nominate the person or persons specified in the notice;

(N) a representation as to whether the Proposing Stockholder intends to (x) deliver a proxy statement and/or form of proxy to holders of at least the percentage of the Corporation's outstanding capital stock required to elect such proposed nominees and/or approve or adopt any other business proposed to be brought, (y) otherwise to solicit proxies from stockholders in support of such nominations or other business proposed to be brought, if applicable, and/or (z) solicit proxies in support of any proposed nominee in accordance with Rule 14a-19 promulgated under the Exchange Act;

(O) in the case of a nomination or nominations, the information and statement required by Rule 14a-19(b) of the Exchange Act (or any successor provision);

(P) the names and addresses of other stockholders (including beneficial owners) known by such Holder or Related Person of such Holder to provide financial or otherwise material support with respect to such proposals and/or nominations (it being understood that delivery of a revocable proxy to such proponent does not in itself require disclosure hereunder), and to the extent known the class and number of all shares of the Corporation owned beneficially or of record by each such other stockholder or other beneficial owner;

(Q) in the event that the Proposing Stockholder is a Non-U.S. Citizen, a representation by the Proposing Stockholder that it disclosed its status as a Non-U.S. Citizen to its broker, the Corporation's transfer agent or the Corporation at the time of its acquisition of shares of capital stock of the Corporation; and

(R) a representation by the Proposing Stockholder as to the accuracy of the information set forth in the notice.

The Corporation and the Board may, as a condition to any such business (including, but not limited to, director nominations) being deemed properly brought before a meeting of stockholders, require any Holder or any proposed nominee to deliver to the Secretary within five Business Days of any such request, such other information as may be reasonably required by the Board, in its sole discretion, including (x) such other information as may be reasonably requested by the Board, in its sole discretion, to determine (I) the eligibility of such proposed nominee to serve as an independent director of the Corporation, (II) whether such proposed nominee qualifies as an "independent director" or "audit committee financial expert," or otherwise meets heightened standards of independence, under applicable law, securities exchange rule or regulation or any publicly disclosed corporate governance guideline or committee charter of the Corporation, and (III) whether the citizenship of the proposed nominee would result in the Corporation losing its status as a U.S. Citizen under the Jones Act or (y) such other information that the Board determines, in its sole discretion, could be material to a reasonable stockholder's understanding of the independence, or lack thereof, of such proposed nominee.

(c) Other Stockholder Proposals. For all business other than director nominations, a Proposing Stockholder's notice to the Secretary must be timely (pursuant to Section 3.12(a)) and must set forth as to each matter the Proposing Stockholder proposes to bring before the meeting:

(i) a brief description of the business desired to be brought before the meeting;

(ii) the reasons for conducting such business at the meeting;

(iii) the text of any proposal or business (including the text of any resolutions proposed for consideration and in the event that such business includes a proposal to amend these Bylaws or the Certificate of Incorporation, the language of the proposed amendment);

(iv) any other information relating to such stockholder and beneficial owner, if any, on whose behalf the proposal is being made, required to be disclosed in a proxy statement or other filings required to be made in connection with solicitations of proxies for the proposal and pursuant to and in accordance with Section 14(a) of the Exchange Act and the rules and regulations promulgated thereunder;

(v) a description of all agreements, arrangements, or understandings between each Holder and each Related Person of such Holder and any other person or persons (including their names) in connection with the proposal of such business; and

(vi) any material interest of each Holder and each Related Person of any Holder in such business, including any anticipated benefit therefrom to such Holder or such Related Person.

(d) Special Meetings of Stockholders. Only such business shall be conducted at a special meeting of stockholders as shall have been brought before the meeting pursuant to the Corporation's notice of meeting. Nominations of persons for election to the Board may be made at a special meeting of stockholders called by the Board or the Chairperson of the Board at which directors are to be elected pursuant to the Corporation's notice of meeting:

(i) by or at the direction of the Board or any committee thereof;

(ii) as provided in the Certificate of Incorporation; or

(iii) provided that the Board or the Chairperson of the Board has determined that directors shall be elected at such meeting, if otherwise properly brought before the special meeting by a Proposing Stockholder.

In the event the Corporation calls a special meeting of stockholders for the purpose of electing one or more directors to the Board, a Proposing Stockholder may nominate a person or persons (as the case may be) for election to such position(s) as specified in the Corporation's notice of meeting, if the Proposing Stockholder delivers a timely notice in writing that complies with the requirements of Section 3.12(b) to the Secretary at its principal executive offices

not earlier than the close of business on the 120th day prior to such special meeting and not later than the close of business on the later of: (x) the 90th day prior to such special meeting; or (y) the tenth day following the date of the first Public Disclosure of the date of the special meeting and of the nominees proposed by the Board to be elected at such meeting. In no event shall the Public Disclosure of an adjournment, recess, rescheduling or postponement of a special meeting commence a new time period (or extend any notice time period).

(e) Updates and Supplements. In addition, to be considered timely, a Proposing Stockholder's notice shall be further updated and supplemented, if necessary, so that the information provided or required to be provided in such notice shall be true and correct as of the record date for the meeting and as of the date that is ten Business Days prior to the meeting or any adjournment, recess, rescheduling or postponement thereof, and such update and supplement shall be delivered to the Secretary at the principal executive offices of the Corporation not later than five Business Days after the record date for the meeting in the case of the update and supplement required to be made as of the record date, and not later than eight Business Days prior to the date for the meeting or any adjournment, recess, rescheduling or postponement thereof in the case of the update and supplement required to be made as of ten Business Days prior to the meeting or any adjournment, recess, rescheduling or postponement thereof. In addition, if the Proposing Stockholder has delivered to the Corporation a notice relating to director nominations, the Proposing Stockholder shall deliver to the Corporation not later than eight Business Days prior to the date of the meeting or any adjournment, recess, rescheduling or postponement thereof reasonable evidence that it has complied with the requirements of Rule 14a-19 of the Exchange Act (or any successor provision). For the avoidance of doubt, the obligation to update and supplement set forth in this paragraph or any other Section of these Bylaws shall not limit the Corporation's rights with respect to any deficiencies in any notice provided by a stockholder, extend any applicable deadlines hereunder or enable or be deemed to permit a stockholder who has previously submitted notice hereunder to amend or update any proposal or to submit any new proposal, including by changing or adding nominees, matters, business and/or resolutions proposed to be brought before a meeting of stockholders.

(f) Effect of Noncompliance. Subject to the designation rights set forth in the Certificate of Incorporation, only such persons who are nominated in accordance with the procedures set forth in this Section 3.12 shall be eligible to be elected at any meeting of stockholders of the Corporation to serve as directors and only such other business shall be conducted at a meeting as shall be brought before the meeting in accordance with the procedures set forth in this Section 3.12, as applicable. Except as otherwise provided by law, the Certificate of Incorporation, or these Bylaws, the Board shall have the power and duty to determine whether a nomination or any other business proposed to be brought before the meeting was made or proposed, as the case may be, in accordance with the procedures set forth in these Bylaws. If any proposed nomination was not made or proposed in compliance with this Section 3.12, or other business was not made or proposed in compliance with this Section 3.12, then except as otherwise required by law, the chair of the meeting shall have the power and duty to declare that such nomination or other business was not properly brought before the meeting and in accordance with the provisions of these Bylaws, and that such nomination shall be disregarded or that such proposed other business shall not be transacted. Notwithstanding anything in these Bylaws to the contrary, unless otherwise required by law, if a Proposing Stockholder intending to propose business or make nominations at an annual or special meeting or propose a nomination at a special meeting pursuant to this Section 3.12 does not provide the information required under this Section 3.12 to the Corporation or the Proposing Stockholder (or a qualified representative of the Proposing Stockholder) does not appear at the meeting to present the proposed business or nominations, such business or nominations shall not be considered, notwithstanding that proxies in respect of nominations or other business may have been received by the Corporation. For the avoidance of doubt, if the Proposing Stockholder provides notice pursuant to Rule 14a-19(b) under the Exchange Act and such Proposing Stockholder subsequently either (x) notifies the Corporation that such Proposing Stockholder no longer intends to solicit proxies in support of director nominees other than the Corporation's nominees in accordance with Rule 14a-19 under the Exchange Act or (y) fails to comply with the requirements of Rule 14a-19 under the Exchange Act (or fails to timely provide reasonable evidence sufficient to satisfy the Corporation that the stockholder has satisfied the requirements of Rule 14a-19 under the Exchange Act), then the nomination of such proposed nominee for election or reelection to the Board will be disregarded and no vote on the election of such proposed nominee will occur (notwithstanding that proxies in respect of such vote may have been received by the Corporation). If a stockholder of record identified by name has a bona fide question as to the meaning or interpretation of any provision of these Bylaws, such stockholder of record may request clarification from the Secretary in writing, and the Secretary shall respond within ten Business Days of such request.

(g) Rule 14a-8. This Section 3.12 shall not apply to a proposal proposed to be made by a stockholder if the stockholder has notified the Corporation of the stockholder's intention to present the proposal at an annual or special meeting only pursuant to and in compliance with Rule 14a-8 under the Exchange Act and such proposal has been included in a proxy statement that has been prepared by the Corporation to solicit proxies for such meeting.

(h) For the purposes of this Section 3.12:

(i) “**Affiliate**” has the meaning ascribed to such term under Rule 12b-2 of the Exchange Act (or any successor provision).

(ii) “**Associate**” has the meaning ascribed to such term under Rule 12b-2 of the Exchange Act (or any successor provision).

(iii) “**Business Day**” means any day other than Saturday or Sunday or a day on which commercial banks are authorized or required by law to be closed in Delaware;

(iv) the “**close of business**” means 5:00 p.m. local time at the Corporation's principal executive offices, and if an applicable deadline falls on the “close of business” on a day that is not a Business Day, then the applicable deadline shall be deemed to be the close of business on the immediately preceding Business Day;

(v) “**delivered**” shall mean and require both (i) hand delivery, overnight courier service, or by United States certified or registered mail, return receipt requested, in each case to the Secretary at the principal executive offices of the Corporation, and (ii) electronic mail to the Secretary;

(vi) “**Derivative Instrument**” means any Short Interest, profits interest, option, warrant, convertible security, stock appreciation right or similar right with an exercise or conversion privilege or a settlement payment or mechanism at a price related to any class of shares of the Corporation or with a value derived in whole or in part from the value of any class of shares of the Corporation, or any derivative or synthetic arrangement having the characteristics of a long position in any class of shares of the Corporation, or any contract, derivative, swap or other transaction or series of transactions designed to produce economic benefits and risks that correspond substantially to the ownership of any class of shares of the Corporation, including due to the fact that the value of such contract, derivative, swap or other transaction or series of transactions is determined by reference to the price, value or volatility of any class of shares of the Corporation, whether or not such instrument, contract or right shall be subject to settlement in the underlying class of shares of the Corporation, through the delivery of cash or other property, or otherwise, and without regard to whether the Holder and any Related Person may have entered into transactions that hedge or mitigate the economic effect of such instrument, contract or right, or any other direct or indirect opportunity to profit or share in any profit derived from any increase or decrease in the value of shares of the Corporation;

(vii) “**Exchange Act**” shall mean the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder;

(viii) “**Holder**” means any of the Proposing Stockholder and the beneficial owner or beneficial owners, if any, on whose behalf the Proposing Stockholder proposes to bring any business or submit any nominations for consideration at a meeting of stockholders of the Corporation;

(ix) “**Proposing Stockholder**” means a stockholder of the Corporation (a) proposing to put forth any proposed business or nominations at a meeting of stockholders in accordance with these Bylaws, (b) who is a stockholder of record at the time the notice provided for in this Section 3.12 is delivered to the Secretary, on the record date for the determination of stockholders entitled to notice of and to vote at such meeting and at the time of such meeting, (c) who is entitled to vote at the meeting, and (d) who complies with the notice procedures set forth in this Section 3.12;

(x) “**Public Disclosure**” shall mean a disclosure made in a press release reported by the Dow Jones News Services, The Associated Press, or a comparable national news service or in a document filed by the Corporation with the Securities and Exchange Commission pursuant to Section 13, 14, or 15(d) of the Exchange Act;

(xi) A “**Related Person**” of any Holder means (x) any participant (as defined in paragraphs (a)(ii)-(vi) of Instruction 3 to Item 4 of Schedule 14A, or any successor instructions) with any such Holder in a

solicitation of proxies in respect of any business or director nomination proposed by such Holder, (y) any Affiliate or Associate of such Holder, and (z) any person who is a member of a “group” (as such term is used in Rule 13d-5 under the Exchange Act (or any successor provision)) with such Holder;

(xii) “**Short Interest**” means any agreement, arrangement, understanding, relationship or otherwise, including any repurchase or similar so-called “stock borrowing” agreement or arrangement, involving any Holder or any Related Person, the purpose or effect of which is to mitigate loss to, reduce the economic risk (of ownership or otherwise) of any class of the shares of the Corporation by, manage the risk of share price changes for, or increase or decrease the voting power of, such Holder or any Related Person with respect to any class of the shares or other securities of the Corporation, or which provides, directly or indirectly, the opportunity to profit or share in any profit derived from any decrease in the price or value of any class of the shares or other securities of the Corporation;

(xiii) “**Specified Information**” means the information required to be disclosed pursuant to subclauses (D)–(J) of [Section 3.12\(b\)\(ii\)](#), provided, however, that the Specified Information shall not include any such disclosures with respect to the ordinary course business activities of any broker, dealer, commercial bank, trust company or other nominee who otherwise would be required to disclose Specified Information under these Bylaws solely as a result of being the stockholder directed to prepare and submit, on behalf of a beneficial owner, the notice required by this [Section 3.12](#); and

(xiv) “**Voting Commitment**” means any agreement, arrangement, or understanding with, or any commitment or assurance to, any person or entity as to how such proposed nominee, if elected as a director of the Corporation, will act or vote on any issue or question.

Section 3.13 *Stockholder Action by Written Consent.* Any action required or permitted to be taken at any annual or special meeting of stockholders of the Corporation may be taken without a meeting, without prior notice and without a vote only to the extent permitted by the Certificate of Incorporation and in accordance with applicable law.

ARTICLE 4 DIRECTORS

Section 4.01 *General Powers.* Except as otherwise provided in Delaware Law or the Certificate of Incorporation and subject to the terms of the Securityholders Agreement, dated as of April 22, 2026 (as it may be amended, supplemented, restated or modified from time to time, the “**Securityholders Agreement**”), the business and affairs of the Corporation shall be managed by or under the direction of the Board.

Section 4.02 *Number, Election and Term of Office.* The number of directors shall be determined as set forth in Section 6.2 of the Certificate of Incorporation, and the term of each director shall be as set forth in the Certificate of Incorporation. Notwithstanding the foregoing, each director shall hold office until such director’s successor shall have been duly elected and qualified or until such director’s earlier death, resignation or removal. Directors need not be stockholders. Following the Effective Date (as defined in the Certificate of Incorporation) and subject to the rights granted pursuant to the Securityholders Agreement, all directors shall be nominated by the Corporate Governance and Nominating Committee of the Board.

Section 4.03 *Citizenship Requirement for Directors.* No more than a minority of the number of directors necessary to constitute a quorum of the Board (in order for the Corporation to continue as a U.S. Citizen) (or any committee thereof) shall be Non-U.S. Citizens.

Section 4.04 *Chair.* The Board shall vote to elect the Chairperson annually by a majority vote of the Board. Any director elected as Chairperson of the Board in accordance with this [Section 4.04](#) shall hold such office until such time as a replacement Chairperson of the Board has been elected by a majority vote of the Board. The Chairperson of the Board shall preside at all meetings of the stockholders of the Corporation and shall have such other powers and perform such other duties (including, without limitation, as applicable, as an officer of the Corporation) as may be prescribed by the Board or provided in these Bylaws. The Chairperson of the Board, any Vice Chairperson of the Board and any other person who chairs a meeting of the Board or the stockholders shall be a U.S. Citizen.

Section 4.05 *Lead Independent Director.* For so long as the Certificate of Incorporation requires a lead independent director (the “**Lead Independent Director**”), the Board shall maintain a Lead Independent Director Charter setting forth the qualifications and eligibility requirements for, and duties and responsibilities of, the Lead Independent Director.

Section 4.06 *Quorum and Manner of Acting.* Except as otherwise provided by these Bylaws, the Certificate of Incorporation, or required by applicable law, the presence of a majority of the total number of directors on the Board shall be necessary and sufficient to constitute a quorum for the transaction of business at any meeting of the Board, and, except as otherwise expressly required by Delaware Law or by the Certificate of Incorporation, the act of a majority of the directors present at a meeting at which a quorum is present shall be the act of the Board. When a meeting is adjourned to another time or place (whether or not a quorum is present), notice need not be given of the adjourned meeting if the time and place thereof are announced at the meeting at which the adjournment is taken. At the adjourned meeting, the Board may transact any business which might have been transacted at the original meeting. If a quorum shall not be present at any meeting of the Board, the directors present thereat shall adjourn the meeting, from time to time, without notice other than announcement at the meeting, until a quorum shall be present.

Section 4.07 *Time and Place of Meetings.* The Board shall hold its meetings at such place, either within or without the State of Delaware, and at such time as may be determined from time to time by the Board (or the Chairperson of the Board in the absence of a determination by the Board, or the Chief Executive Officer in the absence of a determination by the Board and in the Chairperson's absence).

Section 4.08 *Annual Meeting.* The Board shall meet for the purpose of organization, the election of officers and the transaction of other business, as soon as practicable after each annual meeting of stockholders, on the same day and at the same place where such annual meeting shall be held; *provided*, that, subject to the remaining provisions of this Section 4.08, the failure to hold such meeting of the Board at such time and place shall not be a breach of these Bylaws. Notice of such meeting need not be given. In the event such annual meeting is not so held, the annual meeting of the Board may be held at such place either within or without the State of Delaware, on such date and at such time as shall be specified in a notice thereof given as hereinafter provided in Section 4.11 herein or in a waiver of notice thereof signed by any director who chooses to waive the requirement of notice.

Section 4.09 *Regular Meetings.* After the place and time of regular meetings of the Board shall have been determined and notice thereof shall have been once given to each member of the Board, regular meetings may be held without further notice being given.

Section 4.10 *Special Meetings.* Special meetings of the Board may be called by (i) the Chairperson of the Board, (ii) the Chief Executive Officer, (iii) the Lead Independent Director, (iv) the President, or (v) at least two members of the Board. Notice of special meetings of the Board shall be given to each director at least two (2) days before the date of the meeting in such manner as is determined by the Board.

Section 4.11 *Notice of Meetings and Business to be Discussed.* Written notice of each meeting of the Board shall be given to each director which shall state the date, time, place of the meeting and the purpose or purposes for which the meeting is called. Only business within the purposes described in the notice may be conducted at any special meeting. Subject to Section 4.10, written notice of any meeting shall be given at least three (3) days prior to such meeting, which notice may be waived in writing or by a director attending such meeting. Attendance by a director at a meeting shall constitute a waiver of notice of such meeting except when the director attends a meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business on the ground that the meeting was not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special Board or Board committee meeting need be specified in any waiver of notice.

Section 4.12 *Committees.* The Board may designate one or more committees, each committee to consist of one or more of the directors of the Corporation, and may designate one or more directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of the committee. In the absence or disqualification of a member of a committee, the member or members present at any meeting and not disqualified from voting, whether or not such member or members constitute a quorum, may unanimously appoint another member of the Board to act at the meeting in the place of any such absent or disqualified member. Any such committee, to the extent provided in the resolution of the Board establishing such committee, shall have and may exercise all the powers and authority of the Board in the management of the business and affairs of the Corporation, and may authorize the seal of the Corporation to be affixed to all papers which may require it; but no such committee shall have the power or authority in reference to the following matters: (a) approving or adopting, or recommending to the stockholders, any action or matter expressly required by Delaware Law to be submitted to the stockholders for approval (other than nominations for persons for election as directors) or (b) adopting, amending or repealing any bylaw of the Corporation. Each committee shall keep regular minutes of its meetings and report the same to the Board when required. No more than a minority of

the number of directors necessary to constitute a quorum of any committee of the Board shall be Non-U.S. Citizens. The chair of any committee of the Board, any vice chair of any committee of the Board and any other person who chairs a meeting of any committee of the Board shall be a U.S. Citizen.

Section 4.13 *Action by Consent.* Unless otherwise restricted by the Certificate of Incorporation or these Bylaws, any action required or permitted to be taken at any meeting of the Board or of any committee thereof may be taken without a meeting, if all members of the Board or committee, as the case may be, consent thereto in writing or by electronic transmission, and the writing or writings or electronic transmission or transmissions, are filed with the minutes of proceedings of the Board or committee. Such filing shall be in paper or electronic form.

Section 4.14 *Telephonic Meetings.* Unless otherwise restricted by the Certificate of Incorporation or these Bylaws, members of the Board, or any committee designated by the Board, may participate in a meeting of the Board, or such committee, as the case may be, by means of conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other, and such participation in a meeting shall constitute presence in person at the meeting.

Section 4.15 *Resignation.* Any director may resign from the Board at any time by giving notice to the Board or to the Secretary of the Corporation. Any such notice must be in writing or by electronic transmission to the Board or to the Secretary of the Corporation. The resignation of any director shall take effect upon receipt of notice thereof or at such later time as shall be specified in such notice; and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 4.16 *Vacancies.* Except as otherwise provided by law and subject to the Certificate of Incorporation and the Securityholders Agreement, vacancies occurring in any directorship (whether by death, resignation, retirement, disqualification, removal or other cause) and newly created directorships resulting from any increase in the number of directors shall be filled in accordance with the Certificate of Incorporation. Any director elected to fill a vacancy shall serve for the unexpired term of his or her predecessor in office and until his or her successor shall be elected and qualified, or until his or her earlier death, resignation, retirement, disqualification or removal. Any director elected to fill a position resulting from an increase in the number of directors shall hold office until the next election of the class for which such director shall have been elected and until his or her successor shall be elected and qualified, or until his or her earlier death, resignation, retirement, disqualification or removal.

Section 4.17 *Removal.* Directors of the Corporation may be removed in the manner provided in the Certificate of Incorporation and applicable law.

Section 4.18 *Compensation.* Unless otherwise restricted by the Certificate of Incorporation or these Bylaws, the Board shall have authority to fix the compensation of directors, including fees and reimbursement of expenses.

ARTICLE 5 OFFICERS

Section 5.01 *Officers; Limitations.*

(a) The executive officers of the Corporation shall be a Chief Executive Officer, President, Chief Financial Officer, General Counsel, one or more Executive or Senior Vice Presidents and a Corporate Secretary who shall have the duty, among other things, to record the proceedings of the meetings of stockholders and directors in a book kept for that purpose. The Corporation may also have such other executive officers, including one or more Controllers, as the Board may in its discretion appoint. One person may hold the offices and perform the duties of any two (2) or more of said offices, except that no one person shall hold the offices and perform the duties of President and Corporate Secretary.

(b) Each of the executive officers of the Corporation shall be U.S. Citizens.

Section 5.02 *Appointment, Term of Office and Remuneration.* The officers of the Corporation shall be appointed by the Board in the manner determined by the Board. Each such officer shall hold office until his or her successor is appointed, or until his or her earlier death, resignation or removal. Subject to any delegation made pursuant to [Section 5.03](#), the remuneration of all officers of the Corporation shall be fixed by the Board. Any vacancy in any office shall be filled in such manner as the Board shall determine.

Section 5.03 *Subordinate Officers.* In addition to the executive officers enumerated in [Section 5.01](#) herein, the Corporation may have a Treasurer, one or more Vice Presidents, Assistant Secretaries and Assistant Controllers and such other subordinate officers, agents and employees as the Board may deem necessary, each of whom shall hold office

for such period as the Board may from time to time determine; *provided, however*, that a Non-U.S. Citizen may not exercise or be delegated any authority or duties that in any way relate to the exercise of authority or performance of duties associated with the functions of the Chairperson or the President nor may such person be granted or delegated any authority to bind the Corporation. The Board may delegate to any executive officer the power to appoint, remove and remunerate any such subordinate officers, agents or employees.

Section 5.04 *Removal*. Any officer may be removed, with or without cause, at any time, by resolution adopted by a majority of the Board, except that subordinate officers may be removed in such manner and by such persons as the Board shall otherwise permit.

Section 5.05 *Resignations*. Any officer may resign at any time by giving notice to the Board (or to the Chief Executive Officer). Any such notice must be in writing. The resignation of any officer shall take effect upon receipt of notice thereof or at such later time as shall be specified in such notice, unless the Corporation provides such officer with written notice that such resignation shall be effective as of a date after such notice is delivered, but prior to the date set forth in such notice; and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 5.06 *Powers and Duties*. The officers of the Corporation shall have such powers and perform such duties incident to each of their respective offices and such other duties as may from time to time be conferred upon or assigned to them by the Board.

ARTICLE 6

CAPITAL STOCK

Section 6.01 *Certificates for Stock; Uncertificated Shares*. The shares of the Corporation need not be represented by certificates, and the Board may provide by resolution or resolutions that some or all of any or all classes or series of its stock shall be uncertificated shares or a combination of certificated and uncertificated shares. Any such resolution that shares of a class or series will only be uncertificated shall not apply to shares represented by a certificate until such certificate is surrendered to the Corporation; provided that all shares shall be uncertificated as of the date of adoption of these Bylaws. Except as otherwise required by Delaware Law, the rights and obligations of the holders of uncertificated shares and the rights and obligations of the holders of shares represented by certificates of the same class and series shall be identical. Every holder of stock represented by certificates shall be entitled to have a certificate signed by, or in the name of the Corporation by two authorized officers representing the number of shares registered in certificate form. Any or all of the signatures on the certificate may be a .pdf. In case any officer, transfer agent or registrar who has signed or whose .pdf signature has been placed upon a certificate shall have ceased to be such officer, transfer agent or registrar before such certificate is issued, it may be issued by the Corporation with the same effect as if such person were such officer, transfer agent or registrar at the date of issue. The Corporation shall not have power to issue a certificate in bearer form.

Section 6.02 *U.S. Citizenship Requirement*. At no time shall Non-U.S. Citizens be permitted to beneficially own, individually or in the aggregate, more than the Permitted Percentage of each class or series of the capital stock of the Corporation.

Section 6.03 *Dual Share System*.

(a) If the Board has determined pursuant to the Certificate of Incorporation to use a dual share system, the Corporation shall instruct its transfer agent to maintain two separate stock records for each class or series of its capital stock: (i) a record of shares owned by U.S. Citizens and (ii) a record of shares owned by Non-U.S. Citizens.

(b) Certificates and/or book entries (in the case of uncertificated shares) representing shares of each class or series of the capital stock of the Corporation shall be marked either "U.S. Citizen" or "Non-U.S. Citizen," but shall be identical in all other respects. Shares owned by U.S. Citizens shall be represented by U.S. Citizen certificates and/or book entries, and shares owned by Non-U.S. Citizens shall be represented by Non-U.S. Citizen certificates and/or book entries. Whether shares are owned by U.S. Citizens or by Non-U.S. Citizens shall be determined in accordance with the Certificate of Incorporation.

Section 6.04 *Transfer of Shares*.

(a) Shares of the stock of the Corporation may be transferred on the record of stockholders of the Corporation by the holder thereof or by such holder's duly authorized attorney upon surrender of a certificate therefor properly endorsed or upon receipt of proper transfer instructions from the registered holder of

uncertificated shares or by such holder's duly authorized attorney and upon compliance with appropriate procedures for transferring shares in uncertificated form, unless waived by the Corporation; *provided* however that such transfer must comply with the Certificate of Incorporation and applicable law, including the Jones Act.

(b) Without limiting the applicable provisions of the Certificate of Incorporation, shares of any class or series of capital stock represented by a U.S. Citizen certificate and/or book entry, or represented by a Non-U.S. Citizen certificate and/or book entry determined by the Corporation to be held by or on behalf of a U.S. Citizen, may not be transferred, and shares of any class or series of the capital stock of the Corporation may not be issued (upon original issuance), to a Non-U.S. Citizen or a holder of record that will hold such shares for or on behalf of a Non-U.S. Citizen if, upon completion of such transfer or issuance, Non-U.S. Citizens, individually or in the aggregate, will own shares of such class or series of the capital stock represented by Non-U.S. Citizen certificates and/or book entries and represented by U.S. Citizen certificates and/or book entries determined by the Corporation to be held by or on behalf of Non-U.S. Citizens in excess of the Permitted Percentage of such class or series.

Section 6.05 *Authority for Additional Rules Regarding Transfer.* The Board shall have the power and authority to make all such rules and regulations as it may deem expedient concerning the issue, transfer and registration of certificated or uncertificated shares of the stock of the Corporation (in each case, solely to the extent consistent with the Certificate of Incorporation and the Securityholders Agreement), as well as for the issuance of new certificates in lieu of those which may be lost or destroyed, and may require of any stockholder requesting replacement of lost or destroyed certificates, bond in such amount and in such form as they may deem expedient to indemnify the Corporation, and/or the transfer agents, and/or the registrars of its stock against any claims arising in connection therewith.

ARTICLE 7 INDEMNIFICATION

Section 7.01 *Procedure for Indemnification.* Any claim for indemnification or advance of expenses by an indemnitee under Article VIII of the Certificate of Incorporation shall be addressed by the Corporation promptly, and in any event within 30 days (or, in the case of an advance of expenses, 10 Business Days, provided that the director, advisory director, board observer or officer has delivered the undertaking contemplated by Section 8.1 of the Certificate of Incorporation if required), upon the written request of the indemnitee. If the Corporation denies a written request for indemnification or advance of expenses, in whole or in part, or if payment in full pursuant to such request is not made within 30 days (or, in the case of an advance of expenses, 10 Business Days, provided that the indemnitee has delivered the undertaking contemplated by Section 8.1 of the Certificate of Incorporation if required), the right to indemnification or advances as granted by Article VIII of the Certificate of Incorporation shall be enforceable by the indemnitee in any court of competent jurisdiction. Such person's costs and expenses incurred in connection with successfully establishing his or her right to indemnification, in whole or in part, in any such action shall also be indemnified by the Corporation to the fullest extent permitted by applicable law. It shall be a defense to any such action (other than an action brought to enforce a claim for the advance of expenses where the undertaking required pursuant to Section 8.1 of the Certificate of Incorporation, if any, has been tendered to the Corporation) that the claimant has not met the applicable standard of conduct which make it permissible under Delaware Law for the Corporation to indemnify the claimant for the amount claimed, but the burden of proof shall be on the Corporation to the fullest extent permitted by law. Neither the failure of the Corporation (including the Board, a committee thereof, independent legal counsel or its stockholders) to have made a determination prior to the commencement of such action that indemnification of the claimant is proper in the circumstances because he or she has met the applicable standard of conduct set forth in Delaware Law, nor an actual determination by the Corporation (including the Board, independent legal counsel or its stockholders) that the claimant has not met such applicable standard of conduct, shall be a defense to the action or create a presumption that the claimant has not met the applicable standard of conduct.

Section 7.02 *Insurance.* The Corporation may purchase and maintain insurance on its own behalf and on behalf of any person who is or was or has agreed to become a director, advisory director, board observer, officer, employee or agent of the Corporation or is or was serving at the request of the Corporation as a director, advisory director, board observer, officer, partner, member, trustee, administrator, employee or agent of another corporation, partnership, joint venture, limited liability company, trust or other enterprise against any expense, liability or loss asserted against him or her and incurred by him or her in any such capacity, or arising out of his or her status as such, whether or not the Corporation would have the power to indemnify such person against such expenses, liability or loss under Delaware Law.

ARTICLE 8
GENERAL PROVISIONS

Section 8.01 *Dividends*. Subject to limitations contained in Delaware Law and the Certificate of Incorporation, the Board may declare and pay dividends upon the shares of capital stock of the Corporation, which dividends may be paid either in cash, in property or in shares of the capital stock of the Corporation.

Section 8.02 *Year*. The fiscal year of the Corporation shall commence on January 1 and end on December 31 of each year.

Section 8.03 *Corporate Seal*. The corporate seal shall have inscribed thereon the name of the Corporation, the year of its organization and the words “Corporate Seal, Delaware.” The seal may be used by causing it or a .pdf thereof to be impressed, affixed or otherwise reproduced.

Section 8.04 *Actions with Respect to Securities Owned by the Corporation*. The Board may authorize any Person, on behalf of the Corporation, to attend, vote at and grant proxies to be used at any meeting, and to take comparable actions in respect of actions by written consent in lieu of a meeting, of holders of any stock and other securities of other entities (except the Corporation) owned or held by the Corporation for itself. The Person so designated shall be a U.S. Citizen. If the Board has not so authorized anyone, the Chief Executive Officer or the Chief Executive Officer’s delegate shall have authority to perform such function.

Section 8.05 *Amendments*. These Bylaws may be amended, altered or repealed, and new bylaws adopted, only in the manner set forth in the Certificate of Incorporation.

SECURITYHOLDERS AGREEMENT

This **SECURITYHOLDERS AGREEMENT** (this “Agreement”), dated as of April 22, 2026 (the “Signing Date”), is entered into by and among Helix Energy Solutions Group, Inc., a Minnesota corporation (the “Company”), and each of the Securityholders Party hereto (each, a “Party” and collectively, the “Parties”).

WHEREAS, the Company, Odyssey Sub, Inc., a Delaware corporation (“Merger Sub”), Hercules Sub, LLC, a Delaware limited liability company (“LLC Sub”), Hornbeck Offshore Services, Inc., a Delaware corporation (“HOS”), entered into the Agreement and Plan of Merger (as it may be amended from time to time, the “Merger Agreement”), dated as of the Signing Date;

WHEREAS, pursuant to the Merger Agreement: (i) Merger Sub shall merge with and into HOS, with HOS continuing as the surviving entity and a wholly owned subsidiary of the Company (the “First Merger”); and (ii) immediately following the First Merger, HOS will merge with and into LLC Sub (the “Second Merger” and, together with the First Merger, the “Mergers”), with LLC Sub surviving the Second Merger as a wholly owned subsidiary of the Company;

WHEREAS, in connection with the First Merger, each share of common stock, par value \$0.00001 per share, of HOS issued and outstanding as of immediately prior to the effective time of the First Merger will be exchanged into the right to receive shares of Common Stock as set forth in the Merger Agreement; and

WHEREAS, the Parties desire to enter into this Agreement to govern certain of the Securityholders’ rights, duties and obligations with respect to their ownership of Common Stock after consummation of the Mergers (the “Closing”, and the date of the Closing, the “Closing Date”).

NOW, THEREFORE, the Parties agree as follows:

ARTICLE I DEFINITIONS

Section 1.1 Certain Definitions. As used in this Agreement, the following terms shall have the following meanings:

“Affiliate” means, with respect to any Person, any other Person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such first Person. For purposes of this Agreement: (i) none of the Securityholders or their Affiliates shall be considered an Affiliate of the Company or its Controlled Affiliates; (ii) none of the Company and its Controlled Affiliates shall be considered Affiliates of any Securityholder or any of their respective Affiliates; and (iii) the members of the Ares Investor Group shall not be considered Affiliates of the members of the Whitebox Investor Group and the members of the Whitebox Investor Group shall not be considered Affiliates of the members of the Ares Investor Group, in each case, solely by virtue of the execution and delivery of this Agreement or their investments in the Company; provided, that “Affiliate” shall not include any portfolio company of any investment fund affiliated with or managed by any Securityholder or its Affiliates.

“Agreement” has the meaning set forth in the recitals to this Agreement.

“Applicable Stock Exchange” has the meaning set forth in Section 4.1(b).

“Ares Investor Director” means any person listed on Exhibit A and identified as an Ares Investor Director, or any other person designated to replace such person in accordance with the terms of this Agreement.

“Ares Investor Group” means, collectively, each of: (i) ASSF IV HOS AIV 1, L.P.; (ii) ASOF HOS AIV 1, L.P.; (iii) ASSF IV HOS AIV 2, L.P.; (iv) ASOF HOS AIV 2, L.P.; (v) ASSF IV AIV B, L.P.; (vi) ASSF IV AIV B Holdings III, L.P.; (vii) ASOF Holdings I, L.P.; (viii) ASOF II Holdings I, L.P.; (ix) ASOF II A (DE) Holdings I, L.P.; (x) the two entities listed on Schedule I hereto; (xi) any fund, investment vehicle or account managed or advised by Ares Management LLC or its Affiliates; and (xii) each of their respective Affiliates. For purposes of this definition of Ares Investor Group, no such Person shall be considered to be an Affiliate of the Company or any of its Controlled Affiliates.

“Ares Investor” means ASOF Investment Management LLC, ASSF IV Operating Manager IV, L.P., or another Person or member of the Ares Investor Group as designated to the Company in writing by such Person.

“Beneficial Owner” of a security is a Person who directly or indirectly, through any contract, arrangement, understanding, relationship or otherwise, has or shares: (a) voting power, which includes the power to vote, or to direct

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the voting of, such security; and/or (b) investment power, which includes the power to dispose of, or to direct the disposition of, such security. The term “Beneficially Own” and “Beneficial Ownership” shall have a correlative meaning. For the avoidance of doubt, for purposes of this Agreement, each Securityholder is deemed to Beneficially Own the shares of Common Stock, Common Stock Equivalents and other Equity Securities of the Company owned by it notwithstanding the fact that such shares are subject to this Agreement.

“Board” means the Board of Directors of the Company.

“Board Designation Expiration Date” has the meaning set forth in Section 3.1(d).

“Business Day” means a day that is not a Saturday or Sunday or a day on which banks in New York City are authorized or requested by Law to close.

“Chosen Courts” has the meaning set forth in Section 6.10.

“Closing” has the meaning set forth in the recitals to this Agreement.

“Closing Date” has the meaning set forth in the recitals to this Agreement.

“Common Stock” shall mean the common stock, par value \$0.00001 per share, of the Company (following the Conversion (as defined in the Merger Agreement)) and any securities issued in respect thereof, or in substitution therefor, in connection with any stock split, dividend or combination, or any reclassification, recapitalization, merger, consolidation, exchange or other similar reorganization.

“Common Stock Equivalents” means, without duplication, Common Stock and any warrants (including the Jones Act Warrants and Creditor Warrants), options, securities or other rights exercisable for or convertible or exchangeable into, directly or indirectly, Common Stock, whether exercisable for or convertible or exchangeable into, directly or indirectly, Common Stock, at the time of issuance or upon the passage of time or the occurrence of some future event, including, for greater clarity, restricted stock units, performance stock units or any substantially similar award, whether or not settled in Common Stock or a Common Stock Equivalent, if the value of such award is derived from or measured in part or in full from the value of the Common Stock or a Common Stock Equivalent.

“Company” has the meaning set forth in the recitals to this Agreement.

“Confidential Information” has the meaning set forth in Section 6.19.

“Control” (including the terms “Controls,” “Controlled by” and “under common Control with”) means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise.

“Creditor Warrant” means a warrant to purchase a number of shares of common stock of HOS, or, following Closing, Common Stock of the Company, issued pursuant to the Creditor Warrant Agreement, dated September 4, 2020, between the Company and Computershare, Inc. and Computershare Trust Company, N.A., collectively as warrant agent, as amended by the Amendment No. 1 to Creditor Warrant Agreement, dated December 10, 2024, as it may be further amended, restated, amended and restated, supplemented or otherwise modified from time to time (the “Creditor Warrant Agreement”).

“Creditor Warrant Agreement” has the meaning given to such term in the definition of “Creditor Warrant” in this Agreement.

“Director” has the meaning set forth in Section 3.5(a).

“Election Meeting” has the meaning set forth in Section 3.1(b)(i).

“Equity Interest” in any Person means all of the units, membership interests, partnership interests, trust interests or shares of capital stock of, or other ownership or profit interests in, such Person.

“Equity Security” means with respect to any Person: (i) any of the Equity Interests of such Person; (ii) any of the options, warrants or other rights for the purchase or acquisition from such Person of Equity Interests of such Person; and (iii) any security, bond, note, guarantee, indebtedness, option or other right or instrument exercisable or exchangeable for or convertible into any of the foregoing.

“Exchange Act” has the meaning set forth in Section 4.1(a)(iv) of this Agreement.

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“Expiration Date” with respect to any Standstill Restricted Group means the earliest to occur of the date following the Closing Date that: (i) the Company’s 2028 annual meeting of its stockholders occurs; (ii) the 10th business day following the date on which all members of the applicable Investor Group cease to collectively Beneficially Own at least ten percent (10%) of the aggregate amount of Common Stock (including any Common Stock issuable pursuant to the Jones Act Warrants and the Creditor Warrants) then outstanding; (iii) a Third Party enters into an agreement with the Company to effect an Extraordinary Transaction; (iv) the Company waives the Standstill Restrictions or any equivalent restrictions with respect to any other Person or (v) following the Company’s 2027 annual meeting of its stockholders, the applicable Investor irrevocably waives its right to designate for nomination an Investor Director pursuant to Section 3.1.

“Extraordinary Transaction” means any of the following involving the Company or any of its subsidiaries or its or their securities or all or substantially all of the assets or businesses of the Company and its subsidiaries: tender offer or exchange offer, merger, acquisition, amalgamation, reorganization, restructuring, recapitalization, disposition, distribution, split-off, spin-off, asset sale, joint venture, or other business combination, liquidation or dissolution.

“First Merger” has the meaning set forth in the recitals to this Agreement.

“Governance Committee” means the Nominating and Corporate Governance Committee of the Board or, if there is no such committee, the committee of the Board that performs the functions typically associated with a nominating and corporate governance committee.

“Governmental Entity” means any United States, non-United States, supranational or transnational governmental (including public international organizations), quasi-governmental, regulatory or self-regulatory authority, agency, commission, body, department or instrumentality or any court, tribunal or arbitrator or arbitral body (public or private) or other entity or subdivision thereof or other legislative, executive or judicial entity or subdivision thereof, in each case, of competent jurisdiction.

“HOS” has the meaning set forth in the recitals to this Agreement.

“Identified Person” has the meaning set forth in Section 3.5(a).

“Investor” means the Ares Investor or the Whitebox Investor and “Investors” means any of them.

“Investor Director” means any of an Ares Investor Director or a Whitebox Investor Director.

“Investor Group” means any of the Ares Investor Group or the Whitebox Investor Group.

“Joinder” means a joinder to this Agreement in the form attached as Exhibit B.

“Jones Act” means, collectively, the United States citizenship and cabotage laws principally contained in 46 U.S.C. § 50501(a), (b) and (d) and 46 U.S.C. Chapters 121 and 551 and any successor statutes thereto, together with the rules and regulations promulgated thereunder by the U.S. Coast Guard and the U.S. Maritime Administration and their practices enforcing, administering, and interpreting such laws, statutes, rules, and regulations, in each case as amended or supplemented from time to time, relating to the ownership and operation of U.S.-flag vessels (each, a “U.S. Vessel”) for the purposes of the carriage or transport of merchandise or passengers in the coastwise trade of the United States of America within the meaning of 46 U.S.C. Chapter 551 and any successor thereto as amended from time to time (“U.S. Coastwise Trade”).

“Jones Act Warrant” means a warrant to purchase a number of shares of common stock of HOS, or, following the Closing, Common Stock of the Company on the terms set forth in and as governed by the Jones Act Warrant Agreement.

“Jones Act Warrant Agreement” means the Jones Act Warrant Agreement dated September 4, 2020, by and between HOS and Computershare, Inc. and Computershare Trust Company, N.A., collectively as warrant agent, as amended by Amendment No. 1 to Jones Act Warrant Agreement, dated as of December 31, 2020; and, following the Closing, the Amended and Restated Jones Act Warrant Agreement dated as of the Closing Date, by and between the Company, as successor to HOS, and Computershare, Inc. and Computershare Trust Company, N.A., as it may be amended, restated, amended and restated, supplemented or otherwise modified from time to time.

“Law” means any law, rule, regulation, ordinance, code, judgment, order, treaty, convention, governmental directive or other legally enforceable requirement, U.S. or non-U.S., of any Governmental Entity, including common law.

“LLC Sub” has the meaning set forth in the recitals to this Agreement.

“Merger Agreement” has the meaning set forth in the recitals to this Agreement.

“Merger Sub” has the meaning set forth in the recitals to this Agreement.

“Mergers” has the meaning set forth in the recitals to this Agreement.

“Necessary Action” means, with respect to a specified result, any and all actions necessary to cause such result, including executing any and all agreements and instruments that are required to achieve such result and making, or causing to be made, with any and all Governmental Entities, all filings, registrations or similar actions that are required to achieve such result (but, in each case, solely to the extent such actions are permitted by Law and are within such Party’s reasonable control).

“Non-Affiliated Director” means a director who qualifies as “independent” under the rules of the New York Stock Exchange or the rules of such other national securities exchange on which the Common Stock is then listed or trading and who is not an Investor Director.

“Opportunity” has the meaning set forth in Section 3.5(a).

“Organizational Documents” means the Company’s certificate of incorporation, bylaws and certificates of designations (if any), each as amended from time to time in accordance with its terms.

“Other Coordinated Offering” has the meaning given to such term in the Registration Rights Agreement.

“Party” or “Parties” has the meaning set forth in the recitals to this Agreement.

“Permitted Transferee” means: (i) any direct or indirect equityholder of a Securityholder who receives shares of Common Stock or other Equity Securities of the Company as a result of a distribution of Common Stock by such Securityholder (or any subsequent distribution of such shares of Common Stock by any such direct or indirect member of a Securityholder); and (ii) any member of the same Investor Group as the Transferor, in the case of (i) and (ii), that is a party to this Agreement or agrees to become party to, and be bound to the same extent as the transferor by, the terms of this Agreement by signing a Joinder.

“Person” means any individual, corporation, firm, partnership, joint venture, limited liability company, estate, trust, business association, organization, any court, administrative agency, regulatory body, commission or other governmental authority, board, bureau or instrumentality, domestic or foreign and any subdivision thereof or other entity, and also includes any managed investment account.

“Proceeding” means any action, cause of action, claim, demand, litigation, suit, grievance, citation, summons, subpoena, inquiry, audit, hearing, originating application to a tribunal, arbitration or other similar proceeding of any nature, civil, criminal, regulatory, administrative or otherwise, whether in equity or at law, in contract, in tort or otherwise.

“Prohibited Transferee” has the meaning set forth in Section 4.2(a)(i).

“Registration Rights Agreement” means the Registration Rights Agreement, dated as of the Closing Date, by and among the Company and the initial holders signatory thereto, as it may be amended, supplemented, restated, amended and restated or otherwise modified from time to time.

“Related Companies” has the meaning set forth in Section 3.5(c).

“Representatives” has the meaning set forth in Section 6.19.

“Required Information” has the meaning set forth in Section 3.1(b)(ii).

“Sales Process” has the meaning set forth in Section 4.1(b).

“SEC” means the United States Securities and Exchange Commission.

“Second Merger” has the meaning set forth in the recitals to this Agreement.

“Securities Act” means the Securities Act of 1933, as amended.

“Securityholder” means: (a) any Person (other than the Company) named on the signature pages to this Agreement; (b) any member of an Investor Group that is a Transferee of Equity Securities Beneficially Owned by another Securityholder in a Transfer that complies with the terms and conditions of this Agreement and who is required by this Agreement to agree to be bound by the terms and conditions of this Agreement.

“Shelf Offering” has the meaning given to such term in the Registration Rights Agreement.

“Signing Date” has the meaning set forth in the recitals to this Agreement.

“Standstill Restricted Group” has the meaning set forth in Section 4.1.

“Standstill Restrictions” has the meaning set forth in Section 4.1.

“Subject Policy” means each policy of the Board in place as of the Closing Date that was in effect and applicable to the other directors (a copy of which was provided to each Investor on or prior to the Signing Date or was available on the Closing Date on EDGAR or the Company’s website at helixesg.com), as such policies may be amended from time to time by the Company to comply with applicable law, rules and regulations, including stock exchange rules and guidelines, and each subsequent policy of the Board required by Law that is in effect and applicable to all Non-Affiliated Directors.

“Subject Securities” means: (a) Common Stock (i) Beneficially Owned or owned of record on the Closing Date, (ii) issued as consideration pursuant to the First Merger, including for the avoidance of doubt, any shares of Common Stock issued in respect of Creditor Warrants in connection with the First Merger pursuant to the terms of the Creditor Warrant Agreement or Jones Act Warrants in connection with the First Merger) or (iii) issued or issuable upon exercise of stock options or warrants outstanding as of immediately following the Closing in respect of stock options or warrants of HOS outstanding immediately prior to the Closing); (b) Jones Act Warrants (solely to the extent issued or issuable in respect of warrants to purchase HOS common stock outstanding as of immediately prior to the Closing) or Creditor Warrants; and (c) any shares of Common Stock issued or issuable upon exercise of Jones Act Warrants or Creditor Warrants referred to in the foregoing clause (b).

“Third Party” means any Person that is not: (a) a member of any Investor Group that continues to have the rights to designate for nomination at least one (1) Investor Director pursuant to Section 3.1; (b) the Company; (c) a member of the Board; (d) an officer of the Company or (e) an Affiliate of any such Person.

“Transfer” shall mean the (a) sale or assignment of, offer to sell, contract or agreement to sell, encumber, hypothecate, pledge, grant of any option to purchase or otherwise dispose of or agreement to dispose of, directly or indirectly, or establishment or increase of a put equivalent position or liquidation with respect to or decrease of a call equivalent position within the meaning of Section 16 of the Exchange Act with respect to, any security or any interest in any security, including derivative or similar transactions or arrangements whereby the voting or economic interest therein are transferred to another Person or (b) entry into any swap or other arrangement that transfers to another, in whole or in part, any of the economic consequences of ownership of any security, whether any such transaction is to be settled by delivery of such securities, in cash or otherwise; provided, that in no event shall “Transfer” be deemed to include, or this Agreement be deemed to restrict or otherwise apply to, any sale, issuance, encumbrance, hypothecation, pledge or other disposition of Equity Securities of any Securityholder or any Person who directly or indirectly owns any Equity Securities of any Securityholder.

“U.S. Citizen” means any Person who is eligible and qualified to own and operate U.S. vessels in U.S. Coastwise Trade pursuant to the Jones Act.

“U.S. Coastwise Trade” has the meaning given such term in the definition of “Jones Act” in this Agreement.

“U.S. Vessel” has the meaning given to such term in the definition of “Jones Act” in this Agreement.

“Underwritten Block Trade” has the meaning given to such term in the Registration Rights Agreement.

“Underwritten Offering” means a sale of Common Stock to an underwriter for re-offering to the public (or a sale of Common Stock or Common Stock Equivalents to the Company as part of a sale of Common Stock by the Company to an underwriter for re-offering to the public) and includes a Shelf Offering and an Underwritten Block Trade.

“Voting Securities” means any equity securities of the Company that are entitled to vote generally in the election of directors.

“Whitebox Investor Director” means the person listed on Exhibit A and identified as the Whitebox Investor Director, or any other person designated to replace such person in accordance with the terms of this Agreement.

“Whitebox Investor Group” means, collectively, the Whitebox Investor and each of: (i) Whitebox Caja Blanca Fund, LP; (ii) Whitebox Relative Value Partners, L.P.; (iii) Whitebox GT Fund, LP; (iv) Whitebox Multi-Strategy

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Partners, L.P.; (v) Whitebox Credit Partners, LP; (vi) Pandora Select Partners, L.P.; and (vii) each of their respective Affiliates that is or becomes a shareholder. For purposes of this definition of Whitebox Investor Group, no such Person shall be considered to be an Affiliate of the Company or any of its Controlled Affiliates.

“Whitebox Investor” means the member of the Whitebox Investor Group owning the greatest number of Common Stock Equivalents of any member of the Whitebox Investor Group, or another member of the Whitebox Investor Group as designated to the Company in writing by such Person.

ARTICLE II

REPRESENTATIONS AND WARRANTIES

Section 2.1 Representations and Warranties. Each Party represents and warrants to the other Party as follows: (i) such Party has all requisite corporate, limited partnership or limited liability power and authority and has taken all corporate action necessary in order to execute, deliver and perform its obligations under this Agreement and to consummate the transactions contemplated by this Agreement, and the execution and delivery of this Agreement and the consummation of the transactions contemplated by this Agreement by such Party have been duly authorized by all necessary corporate, limited partnership or limited liability company action on the part of such Party; (ii) this Agreement has been duly executed and delivered by such Party and, assuming the due execution and delivery by the other Parties to this Agreement, this Agreement constitutes a valid and binding agreement of such Party enforceable against such Party in accordance with its terms, subject to bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and similar Laws of general applicability relating to or affecting creditors’ rights and to general equity principles; and (iii) the execution, delivery and performance of this Agreement by such Party do not, and the consummation of the transactions contemplated by this Agreement will not, constitute or result in a breach or violation of or default under any Laws or agreements binding upon such Party, nor require any authorization, consent or approval of, or filing with, any Governmental Entity, except for filings with the SEC by such Party or where the failure to obtain such consents, approvals, authorizations or permits, or to make such filings and notifications, would not, either individually or in the aggregate, prevent or delay the performance by such Party of any of its obligations hereunder.

ARTICLE III

COVENANTS

Section 3.1 Designees.

(a) On the Closing Date, the Company and the Board will take all Necessary Action to cause the Ares Investor Directors and the Whitebox Investor Director to be appointed to the Board. The Ares Investor Directors and the Whitebox Investor Director shall be “Company Designees” as such term is defined in the Merger Agreement.

(b) From and after the Closing Date until the applicable Board Designation Expiration Date, subject to Section 3.4:

(i) In connection with each annual or special meeting of stockholders of the Company at which directors are to be elected (each such annual or special meeting, an “Election Meeting”):

(A) (I) the Ares Investor shall have the right to designate for nomination two (2) Ares Investor Directors during any time that the Ares Investor Group Beneficially Own, and have collectively Beneficially Owned at all times from the Closing Date through such Election Meeting, at least twenty percent (20%) of the outstanding Common Stock (including any Common Stock issuable pursuant to the Jones Act Warrants and the Creditor Warrants); and (II) one (1) Ares Investor Director during any time that the Ares Investor Group Beneficially Own, and have collectively Beneficially Owned at all times from the Closing Date through such Election Meeting at least ten percent (10%) of the outstanding Common Stock (including any Common Stock issuable pursuant to the Jones Act Warrants and the Creditor Warrants) but do not Beneficially Own, or have not collectively Beneficially Owned at all times from the Closing Date through such Election Meeting at least twenty percent (20%) of the outstanding Common Stock (including any Common Stock issuable pursuant to the Jones Act Warrants and the Creditor Warrants); and

(B) the Whitebox Investor shall have the right to designate for nomination one (1) Whitebox Investor Director during any time that the Whitebox Investor Group Beneficially Own and have collectively Beneficially Owned at all times from the Closing Date through such Election Meeting at

least ten percent (10%) of the outstanding Common Stock (including any Common Stock issuable pursuant to the Jones Act Warrants and the Creditor Warrants).

(ii) Each Investor shall give written notice to the Governance Committee of its Investor Director designees no later than the date that is ninety (90) days before the first anniversary of the date that the Company's annual proxy for the prior year was first mailed to the Company's stockholders. Each Investor shall provide, or cause such individual to provide, to the Company, such information about such individual(s) and the nomination(s) to the Company at such times as the Company may reasonably request in order to ensure compliance with the applicable stock exchange rules and the applicable securities Laws, and to enable the Board or any committee thereof to make determinations required hereunder with respect to the qualifications of the individual to be an Investor Director (the "Required Information"); provided, however, that if an Investor fails to give such notice or the Required Information in a timely manner, then such Investor shall be deemed to have nominated the incumbent Investor Director in a timely manner. Each Investor shall also provide to the Company, in connection with providing the Required Information, evidence reasonably satisfactory to the Company that its Investor Group collectively Beneficially Owns the number of Common Stock Equivalents that is required to designate for nomination the Investor Director(s) pursuant to this Section 3.1(b), then being designated for nomination to the Board in connection with an Election Meeting.

(c) From and after the Closing Date until the Board Designation Expiration Date for an Investor, the Company shall take all Necessary Action to cause the Board to include each Investor Director entitled to be designated for nomination by such Investor pursuant to Section 3.1(b) and otherwise to reflect the Board composition contemplated by Section 3.1, including the following: (i) at each Election Meeting, including the Investor Director(s) entitled to be designated for nomination by the Investors pursuant to Section 3.1(b) in the slate of nominees recommended by the Board to the Company's stockholders for election as directors; (ii) soliciting proxies in order to obtain stockholder approval of the election of such Investor Director(s), including causing officers of the Company who hold proxies (unless otherwise directed by the Company stockholder submitting such proxy) to vote such proxies in favor of the election of such Investor Director(s); and (iii) causing such Investor Director(s) to be elected to the Board, including recommending that the Company's stockholders vote in favor of such Investor Director(s) in any proxy statement used by the Company to solicit the vote of its stockholders in connection with each Election Meeting.

(d) An Investor's rights and the Company's obligations under this Section 3.1 and Section 3.2 shall terminate on the earliest to occur of (with respect to each Investor and all members of its Investor Group, such Investor's and its Investor Group's "Board Designation Expiration Date"): (i) such Investor's Investor Group cease to collectively Beneficially Own a "net long position" of at least ten percent (10%) of the then outstanding Common Stock (including any Common Stock issuable pursuant to the Jones Act Warrants and the Creditor Warrants); and (ii) such date that such Investor delivers to the Company a written notice irrevocably terminating its rights under this Section 3.1 and Section 3.2. Notwithstanding the foregoing, the failure of any Investor to exercise its nomination rights under this Section 3.1 or Section 3.2 with respect to any particular election cycle shall constitute a waiver of such rights solely with respect to that election cycle and shall not operate as, or be construed as, a waiver of such Investor's nomination rights with respect to any subsequent election cycle or an irrevocable termination of its rights under this Section 3.1 and Section 3.2.

(e) For the avoidance of doubt, the right granted to each Investor to designate for nomination one or more directors to the Board pursuant to this Section 3 is additive to, and not intended to limit in any way, the rights that each Investor may have to nominate, elect or remove directors under the Organizational Documents or Delaware General Corporation Law.

Section 3.2 Vacancies. Subject to Section 3.1 and Section 3.4, if at any time an Investor Director serving on the Board ceases to serve on the Board, whether due to the death, resignation, retirement, disqualification or removal from office as a member of the Board or otherwise, and the applicable Investor remains entitled to designate for nomination an Investor Director at such time pursuant to Section 3.1, the Board shall take all Necessary Action required to fill such resulting vacancy with such replacement designated by the applicable Investor as promptly as practicable. In furtherance thereof, if requested by the applicable Investor on a timely basis, the Company and the Board shall use their respective reasonable best efforts to promptly fill such vacancy.

Section 3.3 Compensation; Indemnification. Each Investor Director shall be entitled to the same expense reimbursement and advancement, exculpation and indemnification in connection with his or her role as a director as the

other members of the Board (including by being offered the opportunity to enter into an indemnification agreement with the Company on the same form as has been entered into with other Non-Affiliated Directors), as well as reimbursement for reasonable and documented out-of-pocket expenses incurred in attending meetings of the Board or any committee of the Board of which such Investor Director is a member, if any, in each case to the same extent as the other members of the Board. Each Investor Director shall be also entitled to any retainer, compensation and equity compensation or other fees or compensation paid to the Non-Affiliated Directors for their services as a director, including any service on any committee of the Board. Each Investor Director shall, upon written notice to the Board and the Company, have the right to direct all or a portion of any payment due and payable to such Investor Director hereunder, to the Investor that nominated such Investor Director for appointment to the Board.

Section 3.4 Selection of Each Investor Director.

(a) Notwithstanding anything to the contrary in this Agreement, no Investor shall be entitled to designate for nomination any Investor Director pursuant to Section 3.1 if the Governance Committee reasonably determines in good faith, on advice of legal counsel, that: (i) the election of such Investor Director to the Board would cause the Company to violate applicable Law; (ii) the election of such Investor Director would cause the Company not to be a U.S. Citizen; (iii) such Investor Director has been involved in any of the events that would be required to be disclosed in a registration statement on Form S-1 pursuant to Item 401(f)(2)-(8) of Regulation S-K under the Securities Act or is subject to any order, decree or judgment of any Governmental Entity prohibiting service as a director of any public company; or (iv) the election of such Investor Director would, in and of itself, cause the Company to fail to be in compliance with the rules or listing standards of the Applicable Stock Exchange (other than any “independence” rules or listing standards applicable to members of an audit committee of the Board). In any such case described in clauses (i), (ii), (iii) or (iv) of the immediately preceding sentence, the applicable Investor shall withdraw the designation of the proposed Investor Director, and, subject to the requirements of this Section 3.4(b), be permitted to designate a replacement therefor (which replacement Investor Director will also be subject to the requirements of this Section 3.4(b)). The Company hereby agrees that the Investor Director listed on Exhibit A to this Agreement would not be prohibited from serving on the Board pursuant to clause (i) of this Section 3.4(b).

(b) Subject to Section 3.5, the Board may impose as a condition to an Investor Director serving on the Board that such Investor Director agree to, and be subject to, each Subject Policy. For the avoidance of doubt, no Subject Policy shall modify any of the rights and obligations of the parties to this Agreement, the Registration Rights Agreement, the Merger Agreement or any other agreement entered into between the parties in connection with the transactions contemplated by the Merger Agreement except to the extent necessary to comply with changes in applicable Law after the date hereof.

Section 3.5 Waiver of Corporate Opportunities. Notwithstanding any duty otherwise existing at law or in equity, to the fullest extent permitted by Law, the Company and the Investors agree that, from and after the Closing:

(a) Each of the Securityholders, each of the Investor Directors, and any member of an Investor Group or any of the foregoing Persons’ respective Affiliates, and any one or more of the respective managers, directors, principals, officers, employees and other representatives of each such Person or their respective Affiliates (the foregoing Persons being referred to, collectively, as “Identified Persons”) may now engage, may continue to engage, or may, in the future, engage in the same or similar activities or lines of business as those in which the Company or any of its Affiliates, directly or indirectly, now engage or may engage or other business activities that overlap with, are complementary to, or compete with those in which the Company or any of its Affiliates, directly or indirectly, now engage or may engage (any such activity or line of business, an “Opportunity”). No Identified Person shall, as a result of its capacity as such, have any duty to refrain, directly or indirectly, from: (i) engaging in any Opportunity; or (ii) otherwise competing with the Company or any of its Affiliates. No Identified Person shall, as a result of its capacity as such, have any duty or obligation to refer or offer to the Company or any of its Affiliates any Opportunity except for any Identified Person who is a director of the Company (a “Director”), who shall have the duty to refer or offer to the Company any Opportunity that is expressly first presented in writing to such Director in his or her capacity as a Director or if knowledge of such Opportunity is first acquired by such Director solely as a result of such Director’s position as a Director, and the Company hereby renounces any interest or expectancy of the Company in, or in being offered, an opportunity to participate in any other Opportunity which may be a corporate (or analogous) or business opportunity for the Company or any of its Affiliates.

(b) In the event that any Identified Person acquires knowledge of a potential transaction or other corporate (or analogous) or business opportunity which may be an Opportunity for the Company or any of its Affiliates, such Identified Person shall have no duty to communicate or offer such Opportunity to the Company or any of its Affiliates and shall not be liable to the Company or any stockholder of the Company for breach of any purported fiduciary duty by reason of the fact that such Identified Person pursues or acquires such Opportunity for itself (or any of its Affiliates), or offers or directs such Opportunity to another Person (including any Affiliate of such Identified Person). Notwithstanding the foregoing, each Identified Person who is a Director shall have the duty to communicate or offer to the Company any Opportunity that is expressly first presented in writing to such Director in his or her capacity as a Director or if knowledge of such Opportunity is first acquired by such Director solely as a result of such Director's position as a Director, and the Company does not waive any claims in respect of breaches of fiduciary duty arising therefrom. For the avoidance of doubt, none of the waivers of the corporate opportunities doctrine or related duties set forth in this Section 3.5 shall apply to any officer, employee or consultant of the Company or any of its subsidiaries or any Director other than an Investor Director.

(c) The Identified Persons may now own, may continue to own, and from time to time may acquire and own, investments in one or more Persons (such Persons, collectively, "Related Companies") that are direct competitors of, or that otherwise may have interests that do or could conflict with those of, the Company or its Affiliates and any stockholders of the Company or any of their respective Affiliates, and: (i) the enjoyment, exercise and enforcement of the rights, interests, privileges, powers and benefits granted or available to the Identified Persons under this Agreement or the Company's Organizational Documents shall not be in any manner reduced, diminished, affected or impaired, and the obligations of the Identified Persons under this Agreement or the Company's Organizational Documents shall not be in any manner augmented or increased, by reason of any act, circumstance, occurrence or event arising from or in any respect relating to: (A) the ownership by an Identified Person of any interest in any Related Company; (B) the affiliation of any Related Company with an Identified Person; or (C) any action taken or omitted by an Identified Person in respect of any Related Company; (ii) no Identified Person shall, by reason of such ownership, affiliation or action, become subject to any fiduciary duty to the Company, any of the stockholders of the Company or any of their respective Affiliates; (iii) none of the duties imposed on an Identified Person, whether by contract or Law, do or shall limit or impair the right of any Identified Person lawfully to compete with the Company, any of its stockholders or any of their respective Affiliates; and (iv) except as set forth in Section 3.5(a) and Section 3.5(b), the Identified Persons are not and shall not be obligated to disclose to the Company or any of its Affiliates any information related to their respective businesses or opportunities, including acquisition opportunities, and shall not be obligated to refrain from or in any respect to be restricted in competing against the Company or any of its Affiliates in any such business or as to any such opportunities.

(d) In addition to and notwithstanding the foregoing provisions of this Section 3.5, a corporate (or analogous) or business opportunity shall not be deemed to be an Opportunity for the Company or any of its Affiliates if it is an opportunity: (i) that the Company is not legally able or contractually permitted to undertake; or (ii) which the Board has affirmatively elected to refrain from continued evaluation or pursuing.

(e) Any Person purchasing or otherwise acquiring any interest in any shares of capital stock of the Company shall be deemed to have notice of and to have consented to the provisions of this Section 3.5.

(f) The Company represents and warrants that the Board has irrevocably adopted and approved this Section 3.5 prior to the Closing and included this waiver in the Certificate of Incorporation of the Company upon Closing. The Company and the Board shall maintain this waiver in effect from and after the Closing for so long as this Agreement remains in effect. For the avoidance of doubt, prior to Closing, none of the Identified Persons shall have any obligations to the Company with respect to any Opportunity pursuant to any doctrine of corporate opportunity or otherwise.

Section 3.6 Amendment to Organizational Documents. From and after the Closing Date until the Board Designation Expiration Date for each Investor, the Company shall not amend, or propose to amend, the Organizational Documents in any manner that is inconsistent with or would nullify or supersede any of the terms of this Agreement or would prevent any Party from complying with its obligations hereunder unless such proposed amendment is approved by such Investor. Notwithstanding the foregoing, to the extent any such proposed amendment would uniquely and adversely affect the rights, obligations, or interests of any particular Securityholder or its Investor Group in a manner that is disproportionate to the effect on the other Securityholders or Investor Group such proposed amendment shall also

require the prior written consent of such adversely affected Securityholder, which consent may be withheld in such Securityholder's sole discretion. For the avoidance of doubt, this Section 3.6 shall not apply to any amendments to the Organizational Documents expressly contemplated by the Merger Agreement.

Section 3.7 Information and Access Rights.

(a) The Company shall, and shall cause its subsidiaries to, keep proper books, records and accounts, in which full and correct entries shall be made of all financial transactions and the assets and business of the Company and each of its subsidiaries consistent with past practice. For so long as an Investor Group is entitled to designate for nomination an Investor Director pursuant to Section 3.1(b), the Company shall permit such Investor Group and the applicable Investor Director's respective designated representatives, at reasonable times and upon reasonable prior notice to the Company, to inspect, review and/or make copies and extracts from the books and records of the Company or any of its subsidiaries and to discuss the affairs, finances and condition of the Company and its subsidiaries with the personnel or senior management of the Company. For the avoidance of doubt, the rights to Company information granted under this Section 3.7(a) shall be permanently terminated if such Investor Group is no longer entitled to designate for nomination an Investor Director pursuant to Section 3.1.

(b) Individuals associated with the Securityholders may from time to time serve on the Board (including as Investor Directors) or be observers to the Board or the equivalent governing body of the Company's subsidiaries. The Company, on its behalf and on behalf of its subsidiaries, recognizes that such individuals: (i) will from time to time receive non-public information concerning the Company and its subsidiaries; and (ii) may (subject to applicable Law, any insider trading or other policies of the Company and the obligation to maintain the confidentiality of such information in accordance with Section 6.19) share such information with other individuals associated with the Securityholders. The Company, on behalf of itself and its subsidiaries, irrevocably consents to such sharing. Taking into account the common interest and joint defense doctrine as may be applicable that would permit the sharing of potentially privileged information without a resulting waiver, the Company shall not be required to disclose any privileged information where such disclosure would result in a waiver of the applicable privilege so long as the Company has used its best efforts to enter into an arrangement pursuant to which it may provide such information to the Investors without the loss of any such privilege and has notified the Investors that such information has not been provided.

(c) For so long as an Investor Group is entitled to designate for nomination an Investor Director, at the request of a member of such Investor Group, the Company shall deliver or cause to be delivered to such Person, to the extent otherwise prepared by the Company: (i) operating and capital expenditure budgets and periodic information packages relating to the operations and cash flows of the Company and its subsidiaries; and (ii) such other reports and information as may be reasonably requested by such Person.

ARTICLE IV
STANDSTILL; TRANSFER RESTRICTIONS

Section 4.1 Standstill Restrictions.

(a) Without the prior written consent of the Company, each Securityholder party to this Agreement that is a member of an Investor Group (such Persons, with respect to any Investor Group, but excluding any unaffiliated third party accounts managed by an Affiliate of such Investor, such Investor Group's "Standstill Restricted Group") will not, and will cause their controlled Affiliates not to and will not cause or direct their other Affiliates to, from and after the Closing Date until the Expiration Date for such Standstill Restricted Group, except as expressly set forth in this Section 4.1 (the "Standstill Restrictions"):

(i) acquire, or offer or agree to acquire, by purchase or otherwise, or direct any Person in the acquisition of record or Beneficial Ownership of or economic exposure to, any shares of Common Stock or any other Voting Securities, Common Stock Equivalents or Equity Securities of the Company, or engage in any swap or hedging transactions or other derivative agreements with respect to Voting Securities that would be reasonably likely to result in the applicable Standstill Restricted Group subsequently acquiring Beneficial Ownership of such Voting Securities, in each case, if such acquisition, offer, agreement or transaction, together with any shares of Common Stock, Voting Securities and swaps, hedging transactions and other derivatives with respect thereto then held by such Standstill Restricted Group, would result in such Standstill Restricted Group having Beneficial Ownership of more than thirty percent (30%) of the shares of Common Stock (including any Common Stock issuable pursuant to the Jones Act Warrants and the Creditor Warrants) outstanding at such time (provided, that this Section 4.1(a) (i) shall not restrict or prohibit (A) the exercise or

conversion of Common Stock Equivalents into Common Stock by any Securityholder, (B) any increase in such Standstill Restricted Group's percentage of Beneficial Ownership of Common Stock resulting solely from any action taken by the Company that reduces the total number of shares of Common Stock outstanding (including any share repurchase, redemption or cancellation), (C) any acquisition of Common Stock or Voting Securities pursuant to any pro rata stock dividend, stock split, rights offering, recapitalization or similar transaction offered or made available to all holders of Common Stock on a pro rata basis, or (D) any bona fide hedging or other derivative transaction entered into for the primary purpose of managing risk with respect to existing holdings of Voting Securities and not for the primary purpose of acquiring Beneficial Ownership of additional Voting Securities);

(ii) enter into any commitment, agreement or arrangement with any Third Party regarding an Extraordinary Transaction (other than (A) a customary confidentiality agreement or (B) preliminary, non-binding discussions that do not create any binding or enforceable obligation), including any club, partnership or joint-bid with any Third Party with respect to an Extraordinary Transaction;

(iii) initiate, participate in, seek, advise or encourage any Third Party with respect to or publicly support any "contested solicitation" for the election or removal of directors with respect to the Company or any proxy contest (other than by voting its shares of Voting Securities) or any tender offer or exchange offer with respect to the Company not approved and affirmatively recommended by the Board;

(iv) form, join or in any other way participate in or act in concert as a partnership, limited partnership, syndicate or other "group" within the meaning of Section 13(d)(3) of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), with respect to any Voting Securities or Jones Act Warrants, except discussions in the ordinary course of business with another Securityholder or members of another Investor Group that is not prohibited by the other provisions of this Section 4.1; or

(v) (A) initiate, call or seek to call (publicly or otherwise), a special meeting of stockholders or any action by the written consent of the stockholders, (B) submit or present at any annual or special meeting of stockholders any proposal (binding or non-binding) for consideration for action by stockholders; or (C) engage in a "withhold the vote" or similar campaign.

(b) This Section 4.1 shall not, in any way, prevent, restrict, encumber or limit: (i) the Securityholders from: (A) if the Board has previously authorized or approved the solicitation by the Company of bids or indications of interest in the potential acquisition of the Company or any of its assets or operations by auction or other sales process following the Closing Date (each, a "Sales Process"), participating in such Sales Process in accordance with any procedures established by the Company with respect to such Sales Process and, if selected as the successful bidder by the Company, completing the acquisition contemplated by such Sales Process; (B) engaging in confidential communications or discussions with, or submitting any non-public written proposals to, the Board or any of its members regarding any of the matters described in this Section 4.1; provided that such communications, discussions or proposal does not and would not reasonably be expected to require public disclosure of such communications, discussions or proposals by the Company, any Securityholder or any other Person; (C) taking any action necessary to comply with any applicable Law or any action required by any Governmental Entity or any requirement of the New York Stock Exchange, NASDAQ or any other national securities exchange on which the shares of Common Stock are then listed (the "Applicable Stock Exchange") or (D) if any Third Party commences a tender offer or exchange offer (within the meaning of Rule 14d-2 under the Exchange Act) with respect to the Company or any of its subsidiaries or enters into a definitive agreement with the Company or any of its subsidiaries for an Extraordinary Transaction, (1) communicating with the Company or any of its subsidiaries, its shareholders or any other Person regarding such transaction, (2) opposing such transaction, (3) making a competing proposal, either alone or in concert with others, with respect to an Extraordinary Transaction and consummating such Extraordinary Transaction in accordance with its terms (and if such transaction was available on substantially the same terms to all holders of Voting Securities (which may exclude the proposing Securityholder and its Standstill Restricted Group), then Section 4(a)(i) shall not apply to an acquisition of Voting Securities as part of the consummation of such transaction), (4) soliciting proxies or consents in opposition to such transaction, or in favor of such competing proposal, or (5) taking or refraining from taking such actions as are necessary or appropriate in order to proceed with, facilitate, engage in, finance, further or complete any of foregoing actions described in the foregoing subclauses (1) through (4); provided that the foregoing clause (D) (x) will not relieve the Standstill Restricted Group of its obligations under Section 6.19 or under any other obligations of confidentiality to the Company and its subsidiaries and (y) will not be deemed to

require the Company to make any public disclosures; (ii) any Investor Director then serving as a director on the Board from acting as a director or exercising and performing his or her duties (fiduciary and otherwise) as a director in accordance with applicable Law, the Company's Organizational Documents and its related guidelines and any corporate governance guidelines and the rules of the Applicable Stock Exchange as then in effect; or (iii) any Transfer otherwise permitted by this Article IV.

(c) Notwithstanding anything to the contrary in this Section 4.1, if any person or group other than any Securityholder or any of its Standstill Restricted Group initiates or publicly announces its intent to, or does initiate a proxy contest, solicitation, or other campaign to replace, remove or elect directors of the Company in opposition to the Company's recommended slate of directors (each of the foregoing a "Hostile Action"), nothing in Section 4(a) shall prohibit or restrict any Securityholder or any member of its Standstill Restricted Group (who are at such time otherwise in compliance with Section 4(a) in all material respects) from: (i) communicating with the Company and/or its shareholders regarding such Hostile Action; provided that such communications, discussions or proposal does not and would not reasonably be expected to require public disclosure of such communications, discussions or proposals by the Company, any Securityholder or any other Person; and (ii) soliciting proxies or consents to oppose the Hostile Action; provided that no Securityholder or any other Standstill Restricted Group member shall be permitted to publicly propose any alternative slate of directors in response to any Hostile Action.

(d) The Standstill Restrictions shall terminate automatically and cease to apply to any Securityholder in a Standstill Restricted Group, without further action of any Person, immediately upon the earlier of: (i) such Standstill Restricted Group's Expiration Date or (ii) the Company's material breach of this Agreement (and, if curable, the Company fails to cure such breach within ten (10) days of the date that such Securityholder provides written notice of such breach to the Company).

Section 4.2 Transfer Restrictions.

(a) Without the prior written approval of a majority of directors then on the Board other than the applicable Investor Group's Investor Director, no Securityholder member of such Standstill Restricted Group shall, until the Expiration Date for such Standstill Restricted Group:

(i) knowingly Transfer any Subject Securities to (i) any Person or Group who is listed on Exhibit C or any of their respective subsidiaries that are known by such Securityholder to be subsidiaries of such Person or (ii) any successor (by merger or otherwise) to any Person or Group listed on Exhibit C (each, a "Prohibited Transferee"); or

(ii) Transfer any Subject Securities to any Person or Group who, before and/or after giving effect to such Transfer, to the transferor's knowledge, would Beneficially Own five percent (5%) or more of the outstanding shares of Common Stock (other than any person or Group entitled to file a Schedule 13G pursuant to Rule 13d-1(b)(1) under the Exchange Act that is not identified in the most recently published Sharkwatch "50" List as of such time).

(b) Notwithstanding anything in this Agreement to the contrary, this Section 4.2 shall not apply to:

(i) any Transfer solely to a Permitted Transferee;

(ii) any Transfer effected through an Underwritten Offering or Other Coordinated Offering pursuant to a registration statement filed under the Securities Act (including pursuant to an exercise of the registration rights under the Registration Rights Agreement) so long as the Securityholders effecting any such Transfers instruct the managing underwriter(s) or distribution agent(s) of any such Underwritten Offering or the distribution agent(s) of any such Other Coordinated Offering to use reasonable best efforts to exclude (as potential purchasers) Prohibited Transferees from such Underwritten Offering or Other Coordinated Offering; or

(iii) any Transfer effected through an open market transaction, block trade (whether or not an Underwritten Block Trade) or sale conducted through a dealer (whether acting as a principal or agent), market maker or broker so long as the Securityholders effecting any such Transfers instruct the underwriter, dealer, market maker or broker for any such transaction to use reasonable best efforts to exclude (as potential purchasers) Prohibited Transferees from such transaction.

(c) “knowledge” for purposes of Section 4.2(a), means that the transferor shall be required to undertake reasonable inquiry into the identity of any potential purchaser(s), which shall be satisfied by:

(i) reviewing (or causing the applicable transferor’s legal counsel to review) filings made by the prospective purchaser on the SEC’s EDGAR system in order to determine whether or not such purchaser Beneficially Owns five percent (5%) or more of the outstanding shares of Common Stock; and

(ii) in the case of any Transfer (in one transaction or a series of transactions with any potential purchaser) of Subject Securities prohibited by this Section 4.2 and constituting one percent (1%) or more of the outstanding shares of Common Stock, causing such purchaser to execute a certification that such purchaser will not own five percent (5%) or more of the outstanding shares of Common Stock after giving effect to the proposed Transfer.

Section 4.3 Prohibited Transfers Void. Any attempt to Transfer any Subject Securities in violation of the terms of this Agreement shall be null and void *ab initio* and no right, title or interest therein or thereto shall be Transferred to the purported transferee. The Company will not give, and will not permit the Company’s transfer agent to give, any effect to such attempted Transfer on its records.

Section 4.4 Legends.

(a) The Subject Securities held by a Securityholder, whether represented by certificates or in book-entry form, will bear a legend in substantially the following form:

THE SECURITIES REPRESENTED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE “SECURITIES ACT”), AND MAY NOT BE TRANSFERRED OR OTHERWISE DISPOSED OF UNLESS THEY HAVE BEEN REGISTERED UNDER THE SECURITIES ACT OR AN EXEMPTION FROM REGISTRATION IS AVAILABLE.

THE SECURITIES REPRESENTED BY THIS CERTIFICATE ARE SUBJECT TO THE TERMS AND CONDITIONS OF THE SECURITYHOLDERS AGREEMENT, DATED AS OF APRIL 22, 2026, AS IT MAY BE AMENDED FROM TIME TO TIME BY AND AMONG HELIX ENERGY SOLUTIONS GROUP, INC. (THE “COMPANY”) AND CERTAIN OF ITS SECURITYHOLDERS AND OTHER PERSONS (THE “SECURITYHOLDERS AGREEMENT”). THE SECURITYHOLDERS AGREEMENT CONTAINS, AMONG OTHER THINGS, SIGNIFICANT RESTRICTIONS ON THE TRANSFER OF THE SECURITIES OF THE COMPANY AND OTHER RESTRICTIONS ON THE ACTIONS BY CERTAIN STOCKHOLDERS OF THE COMPANY RELATING TO THE COMPANY AND/OR ITS SECURITIES. A COPY OF THE SECURITYHOLDERS AGREEMENT IS AVAILABLE UPON REQUEST FROM THE COMPANY.

(b) The restrictive legends on any Subject Securities, including the legend in Section 4.4(a), shall be removed if: (i) such Subject Securities are sold pursuant to an effective registration statement; (ii) if such Subject Securities may be sold by the holder of such Subject Securities free of restrictions pursuant to Rule 144(b) under the Securities Act; or (iii) such Subject Securities are being sold, assigned or otherwise transferred pursuant to Rule 144 under the Securities Act; provided, that with respect to clause (ii) or (iii) above, the holder of such shares of Common Stock has provided all necessary documentation and evidence (which may include an opinion of counsel) as may reasonably be required by the Company to confirm that the legend may be removed under applicable securities Law. The Company shall cooperate with the applicable Securityholder of Subject Securities to effect removal of the legends on such shares pursuant to this Section 4.4(b) as soon as reasonably practicable after delivery of notice from such Securityholder that the conditions to removal are satisfied (together with any documentation required to be delivered by such Securityholder pursuant to the immediately preceding sentence). The Company shall bear all costs and expenses associated with the removal of a legend pursuant to this Section 4.4(b).

ARTICLE V **TERMINATION**

Section 5.1 Termination. This Agreement (except with respect to the rights and obligations under Section 3.5 , which shall not be terminable) shall terminate upon the earliest to occur of: (a) the termination of the Merger Agreement in accordance with its terms; (b) with respect to any Securityholder, the Expiration Date of the members of such Securityholder’s Standstill Restricted Group; and (b) the mutual written consent of the parties. Notwithstanding the

foregoing, (i) the provisions of this Agreement shall survive any such termination to the extent necessary for any Person to enforce any right of such Person that accrued hereunder prior to or on account of such termination, (ii) this Article V and Article VI (other than Section 6.19) shall survive any such termination and (iii) the rights and obligations of a Securityholder provided under Section 6.19 shall terminate as set forth in such section.

ARTICLE VI

MISCELLANEOUS

Section 6.1 Amendments and Waivers.

(a) This Agreement may be amended, modified or waived if, and only if, such amendment, modification or waiver is in writing and signed, in the case of an amendment or modification, by the Company and the Securityholders or, in the case of a waiver, by the Party(ies) against whom the waiver is to be effective.

(b) The failure or delay of any Party to enforce any of the provisions of this Agreement will in no way be construed as a waiver of such provisions and will not affect the right of such Party thereafter to enforce each and every provision of this Agreement in accordance with its terms. A waiver or consent to or of any breach or default by any Party in the performance by that Party of his, her or its obligations under this Agreement will not be deemed to be a consent or waiver to or of any other breach or default in the performance by that Party of the same or any other obligations of that Party under this Agreement.

Section 6.2 Remedies. Each of the Parties acknowledges and agrees that the rights of each Party under this Agreement are special, unique and of extraordinary character and that if for any reason any of the provisions of this Agreement are not performed in accordance with their specific terms or are otherwise breached, immediate and irreparable harm or damage would be caused for which money damages would not be an adequate remedy. Accordingly, each Party agrees that, in addition to any other available remedies a Party may have in equity or at Law, each Party shall be entitled to enforce specifically the terms and provisions of this Agreement and to obtain an injunction restraining any breach or violation or threatened breach or violation of the provisions of this Agreement in the Chosen Courts without necessity of posting a bond or other form of security or proof of damages. In the event that any action or Proceeding should be brought in equity to enforce the provisions of this Agreement, no Party shall allege, and each Party waives the defense, that there is an adequate remedy at Law. The pursuit of specific performance or other equitable remedies by any Party hereto will not be deemed an election of remedies or waiver of the right to pursue any other right or remedy (whether at law or in equity) to which such Party may be entitled at any time. Any and all remedies herein expressly conferred upon a Party will be deemed cumulative with and not exclusive of any other remedy conferred hereby, or by law or equity upon such Party, and the exercise by a Party of any one remedy will not preclude the exercise at any time of any other remedy.

Section 6.3 Severability. Whenever possible, each provision of this Agreement will be interpreted in such manner as to be effective and valid under applicable Law, but if any provision of this Agreement is held to be prohibited, invalid, illegal or unenforceable in any respect under any applicable Law or regulation in any jurisdiction, such prohibition, invalidity, illegality or unenforceability will not affect the validity, legality or enforceability of any other provision of this Agreement in such jurisdiction or in any other jurisdiction, but this Agreement will be reformed, construed and enforced in such jurisdiction as if such prohibited, invalid, illegal or unenforceable provision had never been contained herein.

Section 6.4 Entire Agreement. Except as otherwise provided herein, this Agreement (including the exhibits hereto) contains the complete agreement and understanding among the Parties with respect to the subject matter hereof and supersedes and preempts any prior understandings, agreements or representations by or among the Parties, written or oral, which may have related to the subject matter hereof in any way including the other documents referred to herein.

Section 6.5 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors, legal representatives and permitted assigns. No Party may assign any of its rights or delegate any of its obligations under this Agreement, in whole or in part, by operation of Law or otherwise, directly or indirectly, without the prior written consent of, each Investor (or relevant successor), in the case of the Company, or the Company, in the case of any Securityholder (or its relevant successor). Notwithstanding the foregoing, any Securityholder is permitted to assign its rights and obligations under this Agreement to any member of its Investor Group to whom it has transferred Common Stock and/or Common Stock Equivalents, subject to execution by such Person of a Joinder.

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Section 6.6 Notices. Any notice, demand or other communication to be given under or by reason of the provisions of this Agreement will be in writing and will be deemed to have been given (i) when delivered personally to the recipient, (ii) when sent by confirmed electronic mail or facsimile if sent during normal business hours of the recipient; but if not, then on the next Business Day, (iii) one Business Day after it is sent to the recipient by reputable overnight courier service (charges prepaid) or (iv) three Business Days after it is mailed to the recipient by first class mail, return receipt requested. Such notices, demands and other communications will be sent, as applicable, to the Company at the address specified below, or to the applicable Securityholder at the most recent address for such Securityholder as shown in the Company's register of its stockholders, or at such address or to the attention of such other Person as the recipient party has specified by prior written notice to the sending party. Any Party may change such Party's address for receipt of notice by giving prior written notice of the change to the sending party as provided herein. The Company's address is:

Helix Energy Solutions Group, Inc.
3505 West Sam Houston Parkway North, Suite 400 Houston, TX 77043
Attention: Ken Neikirk
Email: [***]

With copy, which shall not constitute notice, to

Baker Botts L.L.P.
910 Louisiana Street
Houston, Texas 77002
Attention: Travis Wofford
E-mail: [***]

Section 6.7 Business Days. If any time period for giving notice or taking action hereunder expires on a day that is not a Business Day, the time period will automatically be extended to the Business Day immediately following such Saturday, Sunday or legal holiday.

Section 6.8 Governing Law. The corporate law of the State of Delaware will govern all issues and questions concerning the relative rights of the Company and its equityholders. All issues and questions concerning the construction, validity, interpretation and enforcement of this Agreement and the exhibits and schedules hereto will be governed by, and construed in accordance with, the laws of the State of Delaware, without giving effect to any choice of law or conflict of law rules or provisions (whether of the State of Delaware or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of Delaware.

Section 6.9 MUTUAL WAIVER OF JURY TRIAL. AS A SPECIFICALLY BARGAINED FOR INDUCEMENT FOR EACH OF THE PARTIES TO ENTER INTO THIS AGREEMENT (AFTER HAVING THE OPPORTUNITY TO CONSULT WITH COUNSEL), EACH PARTY EXPRESSLY WAIVES THE RIGHT TO TRIAL BY JURY IN ANY LAWSUIT OR PROCEEDING RELATING TO OR ARISING IN ANY WAY FROM THIS AGREEMENT OR THE MATTERS CONTEMPLATED HEREBY.

Section 6.10 CONSENT TO JURISDICTION AND SERVICE OF PROCESS. EACH OF THE PARTIES IRREVOCABLY SUBMITS TO THE NON-EXCLUSIVE JURISDICTION OF THE COURT OF CHANCERY IN THE STATE OF DELAWARE (OR, SOLELY IF THE COURT OF CHANCERY IN THE STATE OF DELAWARE DECLINES SUBJECT MATTER JURISDICTION, IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF DELAWARE OR STATE COURTS OF DELAWARE, LOCATED IN WILMINGTON) (THE "CHOSEN COURTS"), FOR THE PURPOSES OF ANY SUIT, ACTION OR OTHER PROCEEDING ARISING OUT OF THIS AGREEMENT, ANY RELATED AGREEMENT OR ANY TRANSACTION CONTEMPLATED HEREBY OR THEREBY. EACH OF THE PARTIES FURTHER AGREES THAT SERVICE OF ANY PROCESS, SUMMONS, NOTICE OR DOCUMENT BY U.S. REGISTERED MAIL TO SUCH PARTY'S RESPECTIVE ADDRESS SET FORTH HEREIN WILL BE EFFECTIVE SERVICE OF PROCESS FOR ANY ACTION, SUIT OR PROCEEDING WITH RESPECT TO ANY MATTERS TO WHICH IT HAS SUBMITTED TO JURISDICTION IN THIS PARAGRAPH. EACH OF THE PARTIES IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY OBJECTION TO THE LAYING OF VENUE OF ANY ACTION, SUIT OR PROCEEDING ARISING OUT OF THIS AGREEMENT, ANY RELATED DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY AND

THEREBY IN THE CHOSEN COURTS, AND HEREBY AND THEREBY FURTHER IRREVOCABLY AND UNCONDITIONALLY WAIVES AND AGREES NOT TO PLEAD OR CLAIM IN ANY SUCH COURT THAT ANY SUCH ACTION, SUIT OR PROCEEDING BROUGHT IN ANY SUCH COURT HAS BEEN BROUGHT IN AN INCONVENIENT FORUM.

Section 6.11 No Recourse. Notwithstanding anything to the contrary in this Agreement, the Company and each Securityholder agrees and acknowledges that no recourse under this Agreement or any documents or instruments delivered in connection with this Agreement, will be had against any current or future director, officer, employee, general or limited partner or member of any Securityholder or any Affiliate or assignee thereof, whether by the enforcement of any assessment or by any legal or equitable proceeding, or by virtue of any statute, regulation or other applicable law, it being expressly agreed and acknowledged that no personal liability whatsoever will attach to, be imposed on or otherwise be incurred by any current or future officer, agent or employee of any Securityholder or any current or future member of any Securityholder or any current or future director, officer, employee, partner or member of any Securityholder or of any Affiliate or assignee thereof, as such for any obligation of any Securityholder under this Agreement or any documents or instruments delivered in connection with this Agreement for any claim based on, in respect of or by reason of such obligations or their creation.

Section 6.12 Descriptive Headings; Interpretation. The descriptive headings of this Agreement are inserted for convenience only and do not constitute a part of this Agreement. The use of the word “including” in this Agreement will be by way of example rather than by limitation.

Section 6.13 No Strict Construction. The language used in this Agreement will be deemed to be the language chosen by the Parties to express their mutual intent, and no rule of strict construction will be applied against any Party.

Section 6.14 Counterparts. This Agreement may be executed in multiple counterparts (which may be by electronic transmission, including, PDF or DocuSign), any one of which need not contain the signature of more than one Party, but all such counterparts taken together will constitute one and the same agreement.

Section 6.15 Electronic Delivery. This Agreement, the agreements referred to herein, and each other agreement or instrument entered into in connection herewith or therewith or contemplated hereby or thereby, and any amendments hereto or thereto, to the extent executed and delivered by means of a photographic, photostatic, facsimile or similar reproduction of such signed writing using a facsimile machine or electronic mail will be treated in all manner and respects as an original agreement or instrument and will be considered to have the same binding legal effect as if it were the original signed version thereof delivered in person. At the request of any Party or party to any such agreement or instrument, each other Party or party thereto will re-execute original forms thereof and deliver them to all other parties. No Party or party to any such agreement or instrument will raise the use of a facsimile machine or electronic mail to deliver a signature or the fact that any signature or agreement or instrument was transmitted or communicated through the use of a facsimile machine or electronic mail as a defense to the formation or enforceability of a contract and each such party forever waives any such defense.

Section 6.16 Further Assurances. In connection with this Agreement and the transactions contemplated hereby, each Securityholder and the Company agrees to execute and deliver any additional documents and instruments and perform any additional acts that may be necessary or appropriate to effectuate and perform the provisions of this Agreement and the transactions contemplated hereby.

Section 6.17 Dividends, Recapitalizations, Etc. If at any time or from time to time there is any change in the capital structure of the Company by way of a stock split, stock dividend, combination or reclassification, or through a merger, consolidation, reorganization or recapitalization, or by any other means, appropriate adjustment will be made in the provisions hereof so that the rights and privileges granted hereby will continue.

Section 6.18 No Third Party Beneficiaries. No term or provision of this Agreement is intended to be, or shall be, for the benefit of any Person not a Party, and no such other Person shall have any right or cause of action hereunder, except as otherwise expressly provided herein. Notwithstanding the foregoing, each of Section 3.5 and Section 6.19 shall inure to the benefit of, and be enforceable by, the Identified Persons and Related Companies and Section 3.3 shall inure to the benefit of, and be enforceable by, each Investor Director.

Section 6.19 Confidentiality. For a period of one (1) year following the date on which no Investor Director appointed by the applicable Securityholder remains a director of the Company, each such Securityholder and Investor Director appointed by such Securityholder shall maintain the confidentiality of any confidential and proprietary information of the Company and its subsidiaries (“Confidential Information”) using the same standard of care, but in

no event less than reasonable care, as it applies to its own confidential information, except that such Confidential Information may be disclosed: (i) by a Securityholder to its Affiliates and to its and their respective directors, managers, officers, employees, and authorized representatives (including attorneys, accountants, consultants, bankers, and financial advisors of such Securityholder or its Affiliates) (collectively, "Representatives") who need to be provided such Confidential Information to assist such Securityholder in evaluating or reviewing its investment in securities of the Company if the applicable recipient has been previously informed by Securityholder of the confidential nature of such information and has been advised of their obligation to keep such information confidential; provided, that each of such Representatives shall be deemed to be bound by the provisions of this Section 6.19 and such Securityholder shall be responsible for any breach of this Section 6.19 by its Representatives; (ii) by a Securityholder to the current or prospective lenders, partners, members, or other investors of such Securityholder (or any direct or indirect investor in such Securityholder) or former partners, members, or other investors who retained an economic interest in such Securityholder (or such other investors) to the extent such disclosure is limited to customary disclosures made in the ordinary course of business by an investment fund to its current, prospective, or former investors or equity holders in respect of investments made thereby, including in connection with the disposition thereof, after obtaining assurance that confidential treatment will be accorded to such information (for the avoidance of doubt, without violation of applicable Law or disclosure of material nonpublic information or competitively sensitive information); (iii) by a Securityholder to any Permitted Transferee if the applicable recipient has been previously informed by Securityholder of the confidential nature of such information and has been advised of their obligation to keep such information confidential; provided, that each such Permitted Transferee shall be deemed to be bound by the provisions of this Section 6.19 and such Securityholder shall be responsible for any breach of this Section 6.19 by such Permitted Transferee; (iv) by any Securityholder or Representative to the extent that such Securityholder or its Representative has received advice from its counsel that it is legally compelled to do so or is required to do so pursuant to a subpoena or other order from a court of competent jurisdiction or other applicable Law or audit or inquiries by a regulator, bank examiner, or self-regulatory organization; provided, that prior to making such disclosure, such Securityholder or Representative, as the case may be, uses commercially reasonable efforts to preserve the confidentiality of the Confidential Information to the extent permitted by Law or regulator, bank examiner or self-regulatory organization, including providing prior written notice to and consulting with the Company regarding such disclosure and, if reasonably requested by the Company, assisting the Company, at the Company's expense, in seeking a protective order to prevent the requested disclosure and taking legally available steps to resist or narrow such request (including obtaining assurance that confidential treatment will be accorded to such information); provided, however, that the Securityholder or Representative, as the case may be, discloses only that portion of the Confidential Information as is, based on the advice of its counsel, legally required; (v) notwithstanding the foregoing clause (iv), by any Securityholder or Representative, without the requirement to provide notice or take any other action under this Agreement, in connection with any audit or any examination by a regulator, bank examiner, or self-regulatory organization with regulatory oversight over such Securityholder or Representative; provided, that such audit or examination is not specifically directed primarily at the Company, any of its subsidiaries or the Confidential Information, (vi) by any Securityholder for any Confidential Information which is publicly available (other than as a result of dissemination by such Securityholder in breach of this Agreement) or a matter of public knowledge generally; or (vii) by any Securityholder for Confidential Information that was known to such Securityholder on a non-confidential basis, without, to such Securityholder's knowledge, breach of any confidentiality obligations to the Company or its Affiliates in respect thereof, prior to its disclosure by the Company or its Affiliates. Notwithstanding the foregoing, each Securityholder and each Person deemed to be bound by the provisions of this Section 6.19 shall maintain in accordance with the confidentiality obligations set forth in this Section 6.19 any information constituting trade secrets for such longer time as such information constitutes a trade secret of the Company as defined under 18 U.S.C. § 1839(3).

[Signature page follows.]

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IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first written above.

HELIX ENERGY SOLUTIONS GROUP, INC.

By: /s/ Erik Staffeldt
Name: Erik Staffeldt
Title: Executive Vice President and Chief Financial Officer

Acknowledged and Agreed with respect to Section 3.1(a):

HORNBECK OFFSHORE SERVICES, INC.

By: /s/ Todd M. Hornbeck
Name: Todd M. Hornbeck
Title: President and Chief Executive Officer

[Signature Page to New Securityholders Agreement]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first written above.

ASSF IV AIV B Holdings III, L.P.

By: ASSF Operating Manager IV, L.P., its manager

By: /s/ Aaron Rosen

Name: Aaron Rosen

Title: Authorized Signatory

ASOF Holdings I, L.P.

By: ASOF Investment Management LLC, its manager

By: /s/ Aaron Rosen

Name: Aaron Rosen

Title: Authorized Signatory

ASOF HOS AIV 1, L.P.

By: ASOF Investment Management LLC, its manager

By: /s/ Aaron Rosen

Name: Aaron Rosen

Title: Authorized Signatory

ASOF HOS AIV 2, L.P.

By: ASOF Investment Management LLC, its manager

By: /s/ Aaron Rosen

Name: Aaron Rosen

Title: Authorized Signatory

**Ares Credit Strategies Insurance Dedicated Fund
Series Interests of the SALI Multi-Series Fund, L.P.**

By: Ares Management LLC, its investment manager

By: /s/ Aaron Rosen

Name: Aaron Rosen

Title: Authorized Signatory

ASOF II Holdings I, L.P.

By: ASOF Investment Management LLC, its manager

By: /s/ Aaron Rosen

Name: Aaron Rosen

Title: Authorized Signatory

[Signature Page to New Securityholders Agreement]

ASOF II A (DE) Holdings I, L.P.

By: ASOF Investment Management LLC, its manager

By: /s/ Aaron Rosen

Name: Aaron Rosen

Title: Authorized Signatory

ASSF IV AIV B, L.P.

By: ASSF Operating Manager IV, L.P., its manager

By: /s/ Aaron Rosen

Name: Aaron Rosen

Title: Authorized Signatory

ASSF IV HOS AIV 1, L.P.

By: ASSF Operating Manager IV, L.P., its manager

By: /s/ Aaron Rosen

Name: Aaron Rosen

Title: Authorized Signatory

ASSF IV HOS AIV 2, L.P.

By: ASSF Operating Manager IV, L.P., its manager

By: /s/ Aaron Rosen

Name: Aaron Rosen

Title: Authorized Signatory

SA Real Assets 19 Limited

By: Ares Management LLC, its manager

By: /s/ Aaron Rosen

Name: Aaron Rosen

[Signature Page to New Securityholders Agreement]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first written above.

PANDORA SELECT PARTNERS LP

By: Whitebox Advisors LLC its investment manager

By: /s/ Andrew Thau

Name: Andrew Thau

Title: Managing Director

WHITEBOX CAJA BLANCA FUND LP

By: Whitebox Advisors LLC its investment manager

By: /s/ Andrew Thau

Name: Andrew Thau

Title: Managing Director

WHITEBOX CREDIT PARTNERS LP

By: Whitebox Advisors LLC its investment manager

By: /s/ Andrew Thau

Name: Andrew Thau

Title: Managing Director

WHITEBOX GT FUND LP

By: Whitebox Advisors LLC its investment manager

By: /s/ Andrew Thau

Name: Andrew Thau

Title: Managing Director

WHITEBOX MULTI-STRATEGY PARTNERS LP

By: Whitebox Advisors LLC its investment manager

By: /s/ Andrew Thau

Name: Andrew Thau

Title: Managing Director

[Signature Page to New Securityholders Agreement]

WHITEBOX RELATIVE VALUE PARTNERS LP

By: Whitebox Advisors LLC its investment manager

By: /s/ Andrew Thau

Name: Andrew Thau

Title: Managing Director

WHITEBOX ASYMMETRIC PARTNERS LP

By: Whitebox Advisors LLC its investment manager

By: /s/ Andrew Thau

Name: Andrew Thau

Title: Managing Director

[Signature Page to New Securityholders Agreement]

EXHIBIT A

INITIAL INVESTOR DIRECTOR

[***]

Exhibit A-1

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EXHIBIT B

FORM OF JOINDER

The undersigned is executing and delivering this Joinder pursuant to the Securityholders Agreement dated as of _____, 20____ (as amended, modified and waived from time to time, the "Securityholders Agreement"), among Helix Energy Solutions Group, Inc., a Minnesota corporation (the "Company"), and the other persons named as parties therein (including pursuant to other Joinders). Capitalized terms used herein have the meaning set forth in the Securityholders Agreement.

By executing and delivering this Joinder to the Company, the undersigned hereby agrees to become a party to, to be bound by, and to comply with the provisions of, the Securityholders Agreement as a Securityholder and member of the [Ares] // [Whitebox] Investor Group in the same manner as if the undersigned were an original signatory to the Securityholders Agreement, and the undersigned will be deemed for all purposes to be a Securityholder and a member of the [Ares] // [Whitebox] Investor Group thereunder.

Accordingly, the undersigned has executed and delivered this Joinder as of the ____ day of _____, 20____.

Signature

Print Name

Address: _____

Agreed and Accepted as of
_____, 20____:

HELIX ENERGY SOLUTIONS GROUP, INC.

By:

Its:

Exhibit B-1

EXHIBIT C

PROHIBITED TRANSFEREES

[***]

Exhibit C-1

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SCHEDULE I

ADDITIONAL ARES INVESTOR GROUP MEMBERS

[***]

Schedule I-1

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REGISTRATION RIGHTS AGREEMENT

THIS REGISTRATION RIGHTS AGREEMENT (this “Agreement”), dated as of April 22, 2026 and effective as of the Effective Time (as defined herein) (except as otherwise provided herein), is made and entered into by and among Helix Energy Solutions Group, Inc., a Minnesota corporation (the “Company”), each Person (as defined herein) listed on the signature pages hereto (the “Initial Holders”), and any other Person who executes a Joinder and becomes a party hereto from time to time in accordance with this Agreement. Except as otherwise specified herein, all capitalized terms used in this Agreement are defined in Exhibit A attached hereto.

WHEREAS, the Company, Odyssey Sub, Inc., a Delaware corporation and direct, wholly owned subsidiary of the Company (“Merger Sub Inc.”), Hercules Sub LLC, a Delaware limited liability company and direct, wholly owned subsidiary of the Company (“Merger Sub LLC”), and Hornbeck Offshore Services, Inc., a Delaware corporation (“Hornbeck”), entered into that certain Agreement and Plan of Merger, dated as of the date herewith (the “Merger Agreement”), pursuant to which, among other things, (i) the Company will convert from a Minnesota corporation to a Delaware corporation in accordance with Section 265 of the General Corporation Law of the State of Delaware and Section 302A.682 of the Minnesota Business Corporations Act and the Plan of Conversion attached as Exhibit A to the Merger Agreement (the “Conversion”), (ii) following the Conversion, Merger Sub Inc. will merge with and into Hornbeck (the “First Merger”), with Hornbeck surviving the First Merger as a wholly owned subsidiary of the Company (the “Surviving Corporation”), and (iii) immediately following the First Merger, the Surviving Corporation will merge with and into Merger Sub LLC (the “Second Merger”), with Merger Sub LLC surviving the Second Merger as a wholly owned subsidiary of the Company;

WHEREAS, as a result of the Conversion, each issued and outstanding share of Company common stock, no par value, will be converted into one share of common stock, par value \$0.00001 per share, of the Company following the Conversion (the “Common Stock”);

WHEREAS, in connection with the closing of the transactions contemplated by the Merger Agreement (the “Closing” and such date of closing, the “Closing Date”), among other things, the Initial Holders will receive shares of Common Stock pursuant to the First Merger and the Company will change its name to “Hornbeck Offshore Services, Inc.”;

WHEREAS, in connection with the execution of the Merger Agreement, the Company and each of the Initial Holders have entered into this Agreement to set forth certain understandings among themselves with respect to, among other things, the registration of securities owned by the Holders; and

WHEREAS, except for Section 9(u), which is effective upon execution of this Agreement on the date hereof, this Agreement shall become effective automatically immediately prior to the effective time of the First Merger (the “Effective Time”) on the Closing Date.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties to this Agreement hereby agree as follows:

Section 1. Shelf Registration.

(a) Initial Shelf Registration. The Company shall use reasonable best efforts to file with the SEC a Registration Statement for a Shelf Registration (the “Initial Shelf Registration Statement”), as soon as practicable after the Closing Date, but in any event within five Business Days of the later of (x) the Closing Date and (y) the date on which the Company has filed with the SEC such audited and interim historical financial statements of Hornbeck and pro forma financial statements related to the Merger as are required to be included in the Initial Shelf Registration Statement, covering, subject to Section 7, the public resale of all of the Registrable Securities (determined upon the consummation of the Closing) on a delayed or continuous basis and shall use its reasonable best efforts to cause such Initial Shelf Registration Statement to be an automatic shelf registration statement (as defined in Rule 405 promulgated under the Securities Act) (an “Automatic Shelf Registration Statement”). The Initial Shelf Registration Statement shall be on Form S-3 or, if Form S-3 is not then available to the Company, on Form S-1 or such other form of registration statement as is then available to effect a registration for resale of the Registrable Securities and shall contain a prospectus in such form as to permit the resale of the Registrable Securities included therein pursuant to any method or combination of methods legally available to, and requested by, any Holder named therein. As soon as practicable following the effective date of the Initial Shelf Registration

Statement, but in any event within three Business Days of such date, the Company shall notify the Holders of the effectiveness of such Initial Shelf Registration Statement.

(b) Subsequent Shelf Registrations. The Company shall use reasonable best efforts to maintain a Shelf Registration Statement for the benefit of the Holders in accordance with the terms hereof, and shall prepare and file with the SEC such amendments, including post-effective amendments, and supplements as may be necessary to keep a Shelf Registration Statement continuously effective, available for use by each Holder and in compliance with the provisions of the Securities Act until such time as there are no longer any Registrable Securities. If any Shelf Registration Statement ceases to be effective under the Securities Act for any reason at any time while Registrable Securities are still outstanding, the Company shall, subject to Section 1(e) and Section 7, use its reasonable best efforts to as promptly as reasonably practicable cause such Shelf Registration Statement to again become effective under the Securities Act (including obtaining the prompt withdrawal of any order suspending the effectiveness of such Shelf Registration Statement), including, if necessary, amending such Shelf Registration Statement in a manner reasonably expected to result in the withdrawal of any order suspending the effectiveness of such Shelf Registration Statement or filing an additional Registration Statement as a Shelf Registration (a “Subsequent Shelf Registration”) registering the resale of all Registrable Securities (determined as of two Business Days prior to such filing), and pursuant to any method or combination of methods legally available to, and requested by, any Holder named therein. If a Subsequent Shelf Registration is filed, the Company shall use its reasonable best efforts to (i) cause such Subsequent Shelf Registration to become effective under the Securities Act as promptly as reasonably practicable after the filing thereof (it being agreed that the Subsequent Shelf Registration shall be an Automatic Shelf Registration Statement if the Company is a WSKI at the most recent applicable eligibility determination date) and (ii) keep such Subsequent Shelf Registration continuously effective, available for use and in compliance with the provisions of the Securities Act until such time as there are no longer any Registrable Securities. Any such Subsequent Shelf Registration shall be on Form S-3 to the extent that the Company is eligible to use such form. Otherwise, such Subsequent Shelf Registration shall be on another appropriate form. As soon as practicable following the effective date of any Subsequent Shelf Registration, but in any event within three Business Days of such date, the Company shall notify the Holders of the effectiveness of such Subsequent Shelf Registration.

(c) Underwritten Shelf Takedowns.

(i) At any time and from time to time while a Shelf Registration Statement is and remains effective, any one or more Holder(s) may request (such requesting Holder(s), the “Initiating Holders”) to sell all or any portion of its or their Registrable Securities in an underwritten offering that is registered pursuant to such Shelf Registration Statement (each a “Shelf Offering”); provided, in each case, that the Company shall not be obligated to effect any Shelf Offering unless the Initiating Holders reasonably expect gross proceeds of at least \$50,000,000 from such Shelf Offering; provided, further, that the Company shall have no obligation to effect a Shelf Offering prior to the Lock-Up Release Date. The Initiating Holders of a Shelf Offering shall deliver to the Company a written notice (a “Shelf Offering Notice”) specifying the number of Registrable Securities that such Initiating Holders desire to sell pursuant to such Shelf Offering. As promptly as practicable, but in no event later than two Business Days after receipt of a Shelf Offering Notice, the Company will give written notice of such Shelf Offering Notice to all other Holders of Registrable Securities (other than any Opt-Out Holder) that have been identified as selling stockholders in such Shelf Registration Statement and are otherwise permitted to sell in such Shelf Offering, which such notice shall request that each such Holder specify, within seven days after the Company’s receipt of the Shelf Offering Notice, the maximum number of such Holder’s Registrable Securities such Holder desires to dispose of in such Shelf Offering. The Company, subject to Section 1(d) and Section 7, will include in such Shelf Offering all Registrable Securities with respect to which the Company has received timely written requests for inclusion. The Company will, as expeditiously as possible (and in any event within 14 days after the receipt of a Shelf Offering Notice), but subject to Section 1(e), use reasonable best efforts to consummate such Shelf Offering.

(ii) The Company shall select the investment banker(s) and manager(s) to administer any Shelf Offering, subject to the same being acceptable to the Applicable Approving Party.

(iii) All determinations as to whether to complete any Shelf Offering and as to the timing, manner, price and other terms of any Shelf Offering contemplated by this Section 1(c) shall be determined by the Applicable Approving Party, and the Company shall use reasonable best efforts to cause any Shelf Offering to occur in accordance with such determinations as promptly as practicable.

(iv) The Company will, at the request of any Holder participating in a Shelf Offering pursuant to this Section 1(c), file any prospectus supplement or any post-effective amendments and otherwise take any action necessary to include therein all disclosure and language deemed necessary or advisable by such Holder(s) to effect such Shelf Offering.

(d) Priority on Shelf Offerings. Except as provided in Section 1(j), the Company will not include in any Shelf Offering any securities which are not Registrable Securities without the prior written consent of the Applicable Approving Party. If the managing underwriters of a Shelf Offering advise the Company in writing that in their opinion the number of Registrable Securities and (if permitted hereunder) other securities requested to be included in such offering exceeds the maximum dollar amount or maximum number of Registrable Securities and other securities (if any), which can be sold therein without adversely affecting the marketability, proposed offering price, timing or method of distribution of the offering (such maximum dollar amount or maximum number of such securities, as applicable, the “Maximum Number of Securities”), then the Company will include in such offering (prior to the inclusion of any securities which are not Registrable Securities) (i) first, the number of Registrable Securities requested to be included by any Holder which, in the opinion of such underwriters, can be sold, without any such adverse effect, pro rata among such Holders on the basis of the number of Registrable Securities owned by each such Holder; and (ii) thereafter, to the extent that the Maximum Number of Securities has not been reached under the foregoing clause (ii), the Common Stock of other Persons that the Company is obligated to include in such offering pursuant to separate written contractual arrangements and that can be sold without any such adverse effect. Notwithstanding anything to the contrary herein, the Registrable Securities of a Holder and one or more of its Affiliates that are permitted to be included in any such underwritten offering after application of the priorities set forth in this Section 1(d) may be allocated amongst such affiliated Holders in such Holders’ sole discretion.

(e) Restrictions on Shelf Offerings and Use of Shelf Registration Statements.

(i) The Company may postpone, for up to 60 days (or with the consent of the Applicable Approving Party, a longer period) (the “Suspension Period”), the filing or the effectiveness of a Registration Statement pursuant to Section 1(a) or Section 1(b) or suspend the use of a prospectus that is part of a Shelf Registration Statement (and therefore suspend sales of the Registrable Securities covered by such Shelf Registration Statement) by providing written notice to the Holders if the following conditions are met: (A) the Company determines that the offer or sale of Registrable Securities would reasonably be expected to have a material adverse effect on any proposal or plan by the Company or any Subsidiary to engage in any material acquisition of assets or stock (other than in the ordinary course of business) or any material merger, consolidation, tender offer, recapitalization, reorganization, financing or other transaction involving the Company and (B) upon advice of counsel, the sale of Registrable Securities pursuant to the Registration Statement would require disclosure of material non-public information not otherwise required to be disclosed under applicable law, and either (x) the Company has a bona fide business purpose for preserving the confidentiality of such transaction, (y) disclosure would have a material adverse effect on the Company or the Company’s ability to consummate such transaction, or (z) such transaction renders the Company unable to comply with SEC requirements, in each case under circumstances that would make it impractical or inadvisable to cause the Registration Statement (or such filings) to become effective or to promptly amend or supplement the Registration Statement on a post effective basis, as applicable. The Company may delay or suspend the effectiveness of a Shelf Registration Statement pursuant to this Section 1(e)(i) only once in any 12-month period (for avoidance of doubt, in addition to the Company’s rights and obligations under Section 4(a)(vi)) unless additional delays or suspensions are approved by the Applicable Approving Party.

(ii) In the case of an event that causes the Company to suspend the use of a Shelf Registration Statement as set forth in Section 1(e)(i) above or pursuant to Section 4(a)(vi) (a “Suspension Event”), the Company will give a notice to the Holders whose Registrable Securities are registered pursuant to such Shelf Registration Statement (a “Suspension Notice”) to suspend sales of the Registrable Securities and such notice must state generally the basis for the notice and that such suspension will continue only for so long as the Suspension Event or its effect is continuing. Each Holder agrees not to effect any sales of its Registrable Securities pursuant to such Shelf Registration Statement (or such filings) at any time after it has received a Suspension Notice from the Company and prior to receipt of an End of Suspension Notice (as defined below). A Holder may recommence effecting sales of the Registrable Securities pursuant to the Shelf Registration Statement (or such filings) following further written notice to such effect (an “End of Suspension Notice”) from the Company, which End of Suspension Notice will be given by the Company to the Holders promptly

following the conclusion of any Suspension Event (and in any event during the permitted Suspension Period). Notwithstanding any provision herein to the contrary, if the Company gives a Suspension Notice with respect to any Shelf Registration Statement pursuant to this Section 1(e), the Company will extend the period of time during which such Shelf Registration Statement will be maintained effective pursuant to this Agreement by the number of days during the period from the date of receipt by the Holders of the Suspension Notice to and including the date of receipt by the Holders of the End of Suspension Notice and provide copies of the supplemented or amended prospectus necessary to resume sales, with respect to each Suspension Event.

(f) Block Trades; Other Coordinated Offerings.

(i) From and after the Lock-Up Release Date, notwithstanding any other provision of this Section 1, but subject to Section 1(e), at any time and from time to time when an effective Shelf Registration Statement is on file with the SEC, if any one or more 5% Holder(s) desire to engage in (x) an underwritten registered offering with the assistance of the Company not involving a “roadshow,” an offer commonly known as a “block trade” (an “Underwritten Block Trade”), or (y) or other coordinated registered offering (other than an “at the market” offering) with the assistance of the Company through a broker, sales agent, distribution agent or placement agent, whether as agent or principal (an “Other Coordinated Offering”), in each case, reasonably expected to result in aggregate gross proceeds to such Holder(s) of at least \$25,000,000, then notwithstanding the time periods set forth in Section 1(c)(i), such Holder(s) shall notify the Company of the Underwritten Block Trade or Other Coordinated Offering (such notifying Holder(s), the “Block Trade Initiating Holders”) not less than three Business Days prior to the day such offering is first anticipated to commence and the Company shall use its reasonable best efforts to facilitate such Underwritten Block Trade or Other Coordinated Offering; provided that the Block Trade Initiating Holders shall use reasonable best efforts to coordinate with the Company and any underwriters, brokers, sales agents, distribution agents or placement agents prior to making such request in order to facilitate preparation of the prospectus and other offering documentation related to the Underwritten Block Trade or Other Coordinated Offering. Upon receiving notice of an Underwritten Block Trade (but not an Other Coordinated Offering) from the Block Trade Initiating Holders, the Company will promptly notify the other 5% Holders (other any Opt-Out Holder), if any, and, only if requested by the Block Trade Initiating Holders, all other Holders, of such Underwritten Block Trade and such notified Holders (each, a “Potential Participant”) may elect whether or not to participate no later than the next Business Day (*i.e.* two Business Days prior to the day such offering is to commence) (unless a longer period is agreed to by the Block Trade Initiating Holders), and the Company will as expeditiously as possible use its best efforts to facilitate such Underwritten Block Trade (which may close as early as one Business Day after the date it commences); provided further that, notwithstanding the provisions of Section 1(c)(i), no Holder (other than a 5% Holder) will be permitted to participate in an Underwritten Block Trade without the written consent of the Block Trade Initiating Holders. Any Potential Participant’s request to participate in an Underwritten Block Trade shall be binding on the Potential Participant. For the avoidance of doubt, solely with respect to Holders party to the Securityholders Agreement, any Underwritten Block Trade or Other Coordinated Offering shall remain subject to the transfer restrictions set forth in the Securityholders Agreement if such Securityholders Agreement is then in effect with respect to such Holder.

(ii) Prior to the filing of any applicable “red herring” prospectus or prospectus supplement used in connection with a Underwritten Block Trade or Other Coordinated Offering, a majority-in-interest of the Block Trade Initiating Holders shall have the right to withdraw upon written notification to the Company, the underwriter or underwriters (if any) and any brokers, sales agents, distribution agents or placement agents (if any) of their intention to withdraw from such Underwritten Block Trade or Other Coordinated Offering.

(iii) Notwithstanding anything to the contrary in this Agreement, Section 2 shall not apply to an Underwritten Block Trade or Other Coordinated Offering initiated by Block Trade Initiating Holders pursuant to this Agreement.

(iv) The Block Trade Initiating Holders in an Underwritten Block Trade or Other Coordinated Offering shall have the right to select the underwriters and any brokers, sales agents or placement agents (if any) for such Underwritten Block Trade or Other Coordinated Offering (in each case, which shall consist of one or more reputable, nationally recognized investment banking firms reasonably acceptable to the Company).

(g) Other Registration Rights. The Company shall not, without the prior written consent of the Majority Holders, enter into any agreement with any current or future holder of any securities of the Company that would allow such current or future holder to require the Company to include securities in any Registration Statement filed by the Company for other Holders unless such securities are included in the applicable Registration Statement on a basis that is expressly subordinate to the rights of the Holders of Registrable Securities hereunder; provided that, with the prior approval of the Majority Holders, the Company may grant rights to employees of the Company and its Subsidiaries to participate in Piggyback Underwritten Offerings so long as they sign a Joinder.

(h) Revocation of Shelf Offering Notice. At any time prior to the “pricing” of any offering relating to a Shelf Offering Notice, the applicable Initiating Holders may revoke or withdraw such Shelf Offering Notice on behalf of all Holders participating in such Shelf Offering without liability to such Holders (including, for the avoidance of doubt and if applicable, the other Participating 5% Holders), in each case by providing written notice to the Company.

(i) Confidentiality; Opt-Out Notices.

(i) Each Holder agrees to treat as confidential the receipt of any notice hereunder (including notice of a Shelf Offering Notice and a Suspension Notice) and the information contained therein, and not to disclose or use the information contained in any such notice (or the existence thereof) without the prior written consent of the Company until such time as the information contained therein is or becomes available to the public generally (other than as a result of disclosure by such Holder in breach of the terms of this Agreement).

(ii) Any Holder may deliver notice (an “Opt-Out Notice”) to the Company requesting that such Holder not receive notice from the Company of any proposed Shelf Offering, Piggyback Underwritten Offering or Underwritten Block Trade; provided, however, that such Holder may later revoke any such Opt-Out Notice by giving notice to the Company of such revocation. Following receipt of an Opt-Out Notice from a Holder (unless subsequently revoked), the Company shall not deliver any notice to such Opt-Out Holder pursuant to Section 1(c)(i), Section 1(f)(i) or Section 2.2(a), as applicable, and such Opt-Out Holder shall no longer be entitled to the rights associated with any such notice.

(j) Warrant Shares. If any Holder(s) desire to sell Warrant Shares issuable upon exercise of outstanding Warrants pursuant to a Shelf Offering, a Piggyback Underwritten Offering or an Underwritten Block Trade in accordance with this Agreement, the Company (x) in its sole discretion, may elect to or (y) if such Holder(s) desire to sell at least 100,000 Warrant Shares in such offering, upon the written request of such Holder(s), shall, issue and sell shares of Common Stock for its own account in lieu of including (and in satisfaction of its obligation hereunder to include) all (but not less than all) Warrant Shares proposed to be sold in such offering by any Holders (after giving effect to Section 1(d), Section 2(c) or Section 2(d), as applicable) and use the proceeds therefrom to repurchase from such Holder(s) the Warrants that are exercisable for all such Warrant Shares substantially contemporaneously with the closing of such offering (a “Synthetic Secondary”). The purchase price to be paid by the Company for each Warrant repurchased pursuant to a Synthetic Secondary in connection with a Shelf Offering, a Piggyback Underwritten Offering or an Underwritten Block Trade shall be: (a) in the case of Jones Act Warrants, the Underwriter Purchase Price *multiplied* by the Warrant Share Number; and (b) in the case of Creditor Warrants, if any, the product of (x) the Underwriter Purchase Price, *less* the Warrant Exercise Price, *multiplied* by (y) the Warrant Share Number. The Company and each Holder agree to enter into customary warrant repurchase agreements in connection with any Synthetic Secondary providing for the foregoing terms which, for the avoidance of doubt, are intended to result in the same proceeds to such Holders from the repurchase of Warrants as would be received by such Holders had they exercised such Warrants and sold the underlying Warrant Shares in the applicable Shelf Offering, Piggyback Underwritten Offering or Underwritten Block Trade. Any shares of Common Stock to be sold by the Company in a Synthetic Secondary for the purpose of repurchasing a Holder’s Warrants will be deemed to be Warrant Shares of such Holder for purposes of determining compliance with the terms of this Agreement (including, but not limited to, underwriter cutbacks pursuant to Section 1(d), Section 2(c) and Section 2(d)).

Section 2. Piggyback Registrations.

(a) Right to Piggyback. If the Company proposes to file an Underwritten Offering Filing for an underwritten offering of its own account or for the account of any other stockholders of the Company who have been granted registration rights (a “Piggyback Underwritten Offering”), then the Company shall give written notice of such proposed Piggyback Underwritten Offering to all of the Holders of Registrable Securities

(other than any Opt-Out Holder) as soon as practicable but not less than five Business Days before the anticipated filing date of Underwritten Offering Filing, which notice shall (A) describe the amount and type of securities to be included in such offering, the intended method(s) of distribution, and the name of the proposed managing underwriter or underwriters in such offering, and (B) offer to all of the Holders of Registrable Securities the opportunity to include such number of Registrable Securities as such Holders may request in writing within five days after receipt of such written notice. Each Holder of Registrable Securities shall then have four Business Days after the date on which such Holder received notice pursuant to this Section 2(a) to request inclusion of Registrable Securities in the Piggyback Underwritten Offering (which request shall specify the maximum number of Registrable Securities intended to be disposed of by such Holder and such other information as is reasonably required to effect the inclusion of such Registrable Securities). If no request for inclusion from a Holder is received within such period, such Holder shall have no further right to participate in such Piggyback Underwritten Offering. All such Holders proposing to distribute their Registrable Securities through a Piggyback Underwritten Offering under this Section 2(a), shall enter into an underwriting agreement in customary form with the underwriter(s) selected for such Piggyback Underwritten Offering by the Company; provided that any participating Holder may withdraw its request for inclusion at any time prior to executing the underwriting agreement. The Company shall use reasonable best efforts to cause the managing underwriter or underwriters of a proposed Piggyback Underwritten Offering to permit the Registrable Securities requested by the Holders pursuant to this Section 2(a) to be included in a Piggyback Underwritten Offering on the same terms and conditions as any similar securities of the Company included in such Piggyback Underwritten Offering and to permit the sale or other disposition of such Registrable Securities in accordance with the intended method(s) of distribution thereof.

(b) Priority on Primary Offerings. If a Piggyback Underwritten Offering is an underwritten primary offering on behalf of the Company, and the managing underwriters advise the Company in writing that in their opinion the number of securities requested to be included in such offering exceeds the Maximum Number of Securities, the Company will include in such Piggyback Underwritten Offering (i) first, the securities the Company proposes to sell, (ii) second, to the extent that the Maximum Number of Securities has not been reached under the foregoing clause (i), the number of Registrable Securities requested to be included in such offering by any Holder which, in the opinion of such underwriters, can be sold, without any adverse effect, pro rata among such Holders on the basis of the number of Registrable Securities owned by each such Holder and (iii) third, to the extent that the Maximum Number of Securities has not been reached under the foregoing clauses (i) and (ii), other securities requested to be included in such offering which, in the opinion of the underwriters, can be sold without any adverse effect. Notwithstanding anything to the contrary herein, the Registrable Securities of a Holder and one or more of its Affiliates that are permitted to be included in any such Piggyback Underwritten Offering that is an underwritten primary offering after application of the priorities set forth in this Section 2(b) may be allocated amongst such affiliated Holders in such Holders' sole discretion.

(c) Priority on Secondary Offerings. If a Piggyback Underwritten Offering is an underwritten secondary offering on behalf of holders of the Company's Equity Securities (other than pursuant to Section 1 hereof), and the managing underwriters advise the Company in writing that in their opinion the number of securities requested to be included in such offering exceeds the number which can be sold in such offering without adversely affecting the marketability, proposed offering price, timing or method of distribution of the offering, the Company will include in such Piggyback Underwritten Offering (i) first, the securities requested to be included therein by the holders initially requesting such offering which, in the opinion of the underwriters, can be sold without any such adverse effect, (ii) second, the number of Registrable Securities requested to be included in such offering by any Holder which, in the opinion of such underwriters, can be sold, without any such adverse effect, pro rata among such Holders on the basis of the number of Registrable Securities owned by each such Holder and (iii) third, other securities requested to be included in such offering which, in the opinion of the underwriters, can be sold without any such adverse effect. Notwithstanding anything to the contrary herein, the Registrable Securities of a Holder and one or more of its Affiliates that are permitted to be included in any such Piggyback Underwritten Offering that is an underwritten secondary offering after application of the priorities set forth in this Section 2(c) may be allocated amongst such affiliated Holders in such Holders' sole discretion.

(d) Right to Terminate Registration. The Company will have the right to terminate or withdraw any Piggyback Underwritten Offering initiated by it under this Section 2, whether or not any Holder of Registrable Securities has elected to include securities in such offering.

(e) Selection of Underwriters. The Company shall select the investment banker(s) and manager(s) for any Piggyback Underwritten Offering.

Section 3. Holdback Agreements.

(a) Holders. Each 5% Holder agrees that in connection with any underwritten Public Offering, and upon request from the managing underwriter(s) for that offering, that Holder shall not, without the prior written consent of that managing underwriter(s), during such period as is reasonably requested by the managing underwriter(s) (which period shall in no event be longer than three days prior to and 90 days after the pricing of such offering), (i) offer, sell, contract to sell, pledge or otherwise dispose of (including sales pursuant to Rule 144), directly or indirectly, any Registrable Securities, (ii) enter into a transaction which would have the same effect as described in clause (i) above, (iii) enter into any swap, hedge or other arrangement that transfers, in whole or in part, any of the economic consequences or ownership of any Registrable Securities, whether such transaction is to be settled by delivery of such Registrable Securities, in cash or otherwise (each of (i), (ii) and (iii) above, a “Sale Transaction”), or (iv) publicly disclose the intention to enter into any Sale Transaction. The restrictions in this Section 3(a) shall not apply to offers or sales of Registrable Securities that are included in an offering pursuant to Sections 1 or 2 of this Agreement and shall be applicable to the Holders only if, for so long as and to the extent that the Company, all the directors and executive officers of the Company, each selling stockholder included in such offering and each other Person holding or beneficially owning at least 10% of the outstanding Common Stock are subject to the same restrictions. Each Holder agrees to execute and deliver such other agreements as may be reasonably requested by the managing underwriter(s) that are consistent with the provisions of this Section 3(a) and are necessary to give further effect to those provisions.

(b) The Company. To the extent requested by the managing underwriter(s) for the applicable offering, the Company shall not effect any sale registered under the Securities Act of Equity Securities during the period commencing three days prior to and ending 90 days after the pricing of an underwritten Public Offering pursuant to Section 1 of this Agreement, other than a registration (i) pursuant to a Registration Statement on Form S-8 (or other registration solely relating to an offering or sale to employees or directors of the Company pursuant to any employee stock plan or other employee benefit arrangement), (ii) pursuant to a Registration Statement on Form S-4 (or similar form that relates to a transaction subject to Rule 145 under the Securities Act or any successor rule to Rule 145), (iii) in connection with any dividend or distribution reinvestment or similar plan or (iv) as consideration to any third-party seller in connection with the bona fide acquisition by the Company or any subsidiary of the Company of the assets or securities of any Person in any transaction approved by the Company’s board of directors. Each Holder agrees to execute and deliver such other agreements as may be reasonably requested by the managing underwriter(s) that are consistent with the provisions of this Section 3(b) and are necessary to give further effect to those provisions.

Section 4. Registration Procedures.

(a) Company Obligations. Whenever the Company is required to register any Registrable Securities pursuant to this Agreement, one or more Holders have initiated a Shelf Offering, Underwritten Block Trade or Other Coordinated Offering, or in connection with any Piggyback Underwritten Offering, the Company will use reasonable best efforts to effect the registration and the sale of such Registrable Securities in accordance with the intended method of disposition thereof, and pursuant thereto the Company will as expeditiously as possible:

(i) prepare and file with (or submit confidentially to) the SEC a Registration Statement, and all amendments and supplements thereto and related prospectuses, with respect to such Registrable Securities and use reasonable best efforts to cause such Registration Statement to become effective, all in accordance with the Securities Act and all applicable rules and regulations promulgated thereunder (provided that before filing or confidentially submitting a Registration Statement or prospectus or any amendments or supplements thereto, the Company will furnish to the counsel selected by the Applicable Approving Party copies of all such documents proposed to be filed or submitted, which documents will be subject to the review and comment of such counsel);

(ii) notify each Holder of (A) the issuance by the SEC of any stop order suspending the effectiveness of any Registration Statement or the initiation of any proceedings for that purpose, (B) the receipt by the Company or its counsel of any notification with respect to the suspension of the qualification of the Registrable Securities for sale in any jurisdiction or the initiation or threatening of any proceeding for such purpose, and (C) the effectiveness of each Registration Statement filed hereunder;

(iii) prepare and file with the SEC such amendments and supplements to such Registration Statement and the prospectus used in connection therewith as may be necessary to keep such Registration Statement effective for a period ending when all of the securities covered by such Registration Statement have been disposed of in accordance with the intended methods of distribution by the sellers thereof set forth in such Registration Statement (but not in any event before the expiration of any longer period required under the Securities Act or, if such Registration Statement relates to an underwritten Public Offering, such longer period as in the opinion of counsel for the underwriters a prospectus is required by law to be delivered in connection with sale of Registrable Securities by an underwriter or dealer) and comply with the provisions of the Securities Act with respect to the disposition of all securities covered by such Registration Statement during such period in accordance with the intended methods of disposition by the sellers thereof set forth in such Registration Statement;

(iv) furnish, without charge, to each seller of Registrable Securities thereunder and each underwriter, if any, such number of copies of such Registration Statement, each amendment and supplement thereto, the prospectus included in such Registration Statement (including each preliminary prospectus) (in each case including all exhibits and documents incorporated by reference therein), each amendment and supplement thereto, each Free Writing Prospectus and such other documents as such seller or underwriter, if any, may reasonably request in order to facilitate the disposition of the Registrable Securities owned by such seller (the Company hereby consenting to the use in accordance with all applicable laws of each such Registration Statement, each such amendment and supplement thereto, and each such prospectus (or preliminary prospectus or supplement thereto) or Free Writing Prospectus by each such seller of Registrable Securities and the underwriters, if any, in connection with the offering and sale of the Registrable Securities covered by such Registration Statement or prospectus);

(v) use its reasonable best efforts to register or qualify such Registrable Securities under such other securities or blue sky laws of such jurisdictions as any seller reasonably requests and do any and all other acts and things which may be reasonably necessary or advisable to enable such seller to consummate the disposition in such jurisdictions of the Registrable Securities owned by such seller (provided that the Company will not be required to (A) qualify generally to do business in any jurisdiction where it would not otherwise be required to qualify but for this subparagraph or (B) consent to general service of process in any such jurisdiction or (C) subject itself to taxation in any such jurisdiction);

(vi) notify in writing each seller of such Registrable Securities (A) promptly after it receives notice thereof, of the date and time when such Registration Statement and each post-effective amendment thereto has become effective or a prospectus or supplement to any prospectus relating to a Registration Statement has been filed and when any registration or qualification has become effective under a state securities or blue sky law or any exemption thereunder has been obtained, (B) promptly after receipt thereof, of any request by the SEC for the amendment or supplementing of such Registration Statement or prospectus or for additional information, and (C) at any time when a prospectus relating thereto is required to be delivered under the Securities Act, of the happening of any event or of any information or circumstances as a result of which the prospectus included in such Registration Statement contains an untrue statement of a material fact or omits any fact necessary to make the statements therein not misleading, and, subject to Section 1(e), if required by applicable law or to the extent requested by the Applicable Approving Party, the Company will use reasonable best efforts to promptly prepare and file a supplement or amendment to such prospectus so that, as thereafter delivered to the purchasers of such Registrable Securities, such prospectus will not contain an untrue statement of a material fact or omit to state any fact necessary to make the statements therein not misleading and (D) if at any time the representations and warranties of the Company in any underwriting agreement, securities sale agreement, or other similar agreement, relating to the offering shall cease to be true and correct;

(vii) (A) use reasonable best efforts to cause all such Registrable Securities to be listed on each securities exchange on which similar securities issued by the Company are then listed and, if not so listed, to be listed on a securities exchange and, without limiting the generality of the foregoing, to arrange for at least two market makers to register as such with respect to such Registrable Securities with FINRA, and (B) comply (and continue to comply) with the requirements of any self-regulatory organization applicable to the Company, including without limitation all corporate governance requirements;

(viii) use reasonable best efforts to provide a transfer agent and registrar for all such Registrable Securities not later than the effective date of such Registration Statement;

(ix) enter into and perform such customary agreements (including, as applicable, underwriting agreements in customary form) and take all such other actions as the Applicable Approving Party or the underwriters, if any, reasonably request in order to expedite or facilitate the disposition of such Registrable Securities (including, without limitation, making available the executive officers of the Company and participating in “road shows,” investor presentations, marketing events and other selling efforts and effecting a stock or unit split or combination, recapitalization or reorganization);

(x) make available for inspection by any seller of Registrable Securities, any underwriter participating in any disposition or sale pursuant to such Registration Statement and any attorney, accountant or other agent retained by any such seller or underwriter, all financial and other records, pertinent corporate and business documents and properties of the Company as will be necessary to enable them to exercise their due diligence responsibility, and cause the Company’s officers, directors, employees, agents, representatives and independent accountants to supply all information reasonably requested by any such seller, underwriter, attorney, accountant or agent in connection with such Registration Statement and the disposition of such Registrable Securities pursuant thereto;

(xi) take all actions to ensure that any Free Writing Prospectus utilized in connection with any Shelf Offering, Piggyback Underwritten Offering, Underwritten Block Trade or Other Coordinated Offering hereunder complies in all material respects with the Securities Act, is filed in accordance with the Securities Act to the extent required thereby, is retained in accordance with the Securities Act to the extent required thereby and, when taken together with the related prospectus, prospectus supplement and related documents, will not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading;

(xii) otherwise use its reasonable best efforts to comply with all applicable rules and regulations of the SEC, and make available to its security holders, as soon as reasonably practicable, an earnings statement covering the period of at least 12 months beginning with the first day of the Company’s first full calendar quarter after the effective date of the Registration Statement, which earnings statement will satisfy the provisions of Section 11(a) of the Securities Act and Rule 158 thereunder;

(xiii) permit any Holder which, in its sole and exclusive judgment, might be deemed to be an underwriter or a controlling person of the Company, to participate in the preparation of such registration or comparable statement and to allow such Holder to provide language for insertion therein, in form and substance satisfactory to the Company, which in the reasonable judgment of such Holder and its counsel should be included;

(xiv) use reasonable best efforts to (A) maintain eligibility to use Form S-3 (or any successor form under the Securities Act) as provided herein for the sale of Registrable Securities and (B) prevent the issuance of any stop order suspending the effectiveness of a Registration Statement, or the issuance of any order suspending or preventing the use of any related prospectus or suspending the qualification of any Common Stock included in such Registration Statement for sale in any jurisdiction use, and in the event any such order is issued, reasonable best efforts to obtain promptly the withdrawal of such order;

(xv) use reasonable best efforts to cause such Registrable Securities covered by such Registration Statement to be registered with or approved by such other governmental agencies or authorities as may be necessary to enable the sellers thereof to consummate the disposition of such Registrable Securities;

(xvi) cooperate with the Holders covered by the Registration Statement and the managing underwriter or agent, if any, to facilitate the timely preparation and delivery of certificates, if any, representing Registrable Securities to be sold and not bearing any restrictive legends (or arrange for book entry transfer of securities in the case of uncertificated securities), and enable such Registrable Securities to be in such denominations and registered in such names as the managing underwriter, or agent, if any, or such Holders may request at least two Business Days prior to any proposed sale of Registrable Securities to the underwriters;

(xvii) if requested by any managing underwriter, include in any prospectus or prospectus supplement updated financial or business information for the Company’s most recent period or current quarterly period (including estimated results or ranges of results) if required for purposes of marketing the offering in the view of the managing underwriter;

(xviii) take no direct or indirect action prohibited by Regulation M under the Exchange Act; provided, however, that to the extent that any prohibition is applicable to the Company, the Company will take such action as is necessary to make any such prohibition inapplicable;

(xix) cooperate with each Holder covered by the Registration Statement and each underwriter or agent participating in the disposition of such Registrable Securities and their respective counsel in connection with the preparation and filing of applications, notices, registrations and responses to requests for additional information with FINRA, the New York Stock Exchange, Nasdaq or any other national securities exchange on which the shares of Common Stock are or are to be listed, and to the extent required by the rules and regulations of FINRA, retain a qualified independent underwriter acceptable to the managing underwriter;

(xx) in the case of any underwritten offering, use reasonable best efforts to obtain, and deliver to the underwriter(s), in the manner and to the extent provided for in the applicable underwriting agreement, one or more cold comfort letters from the Company's independent public accountants in customary form and covering such matters of the type customarily covered by cold comfort letters;

(xxi) use reasonable best efforts to provide (A) a legal opinion of the Company's outside counsel, dated the effective date of such Registration Statement addressed to the Company, (B) on the date that such Registrable Securities are delivered to the underwriters for sale in connection with a Shelf Offering, Piggyback Underwritten Offering, Underwritten Block Trade or Other Coordinated Offering, if such securities are being sold through underwriters, or, if such securities are not being sold through underwriters, on the closing date of the applicable sale, (1) one or more legal opinions of the Company's outside counsel, dated such date, in form and substance as customarily given to underwriters in an underwritten public offering or, in the case of a non-underwritten offering, to the broker, placement agent or other agent of the Holders assisting in the sale of the Registrable Securities and (2) one or more "negative assurances letters" of the Company's outside counsel, dated such date, in form and substance as is customarily given to underwriters in an underwritten public offering or, in the case of a non-underwritten offering, to the broker, placement agent or other agent of the Holders assisting in the sale of the Registrable Securities, in each case, addressed to the underwriters, if any, or, if requested, in the case of a non-underwritten offering, to the broker, placement agent or other agent of the Holders assisting in the sale of the Registrable Securities and (3) customary certificates executed by authorized officers of the Company as may be requested by any Holder or any underwriter of such Registrable Securities;

(xxii) if the Company files an Automatic Shelf Registration Statement covering any Registrable Securities, use reasonable best efforts to remain a WKSI (and not become an ineligible issuer (as defined in Rule 405 under the Securities Act)) during the period during which such Automatic Shelf Registration Statement is required to remain effective;

(xxiii) if the Company does not pay the filing fee covering the Registrable Securities at the time an Automatic Shelf Registration Statement is filed, pay such fee at such time or times as the Registrable Securities are to be sold;

(xxiv) if an Automatic Shelf Registration Statement covering Registrable Securities has been outstanding for at least three years, at the end of the third year, refile a new Automatic Shelf Registration Statement covering the Registrable Securities, and, if at any time when the Company is required to re-evaluate its WKSI status the Company determines that it is not a WKSI, use reasonable best efforts to refile the Shelf Registration Statement on Form S-3 and, if such form is not available, Form S-1 and keep such Registration Statement effective during the period during which such Registration Statement is required to be kept effective; and

(xxv) if requested by any Holder, cooperate with such Holder and with the managing underwriter or agent, if any, on reasonable notice to facilitate any Charitable Gifting Event and to prepare and file with the SEC such amendments and supplements to such Registration Statement and the prospectus used in connection therewith as may be necessary to permit any such recipient Charitable Organization to sell in the underwritten offering if it so elects.

(b) Officer Obligations. Each Holder that is an officer of the Company agrees that if and for so long as he or she is employed by the Company or any Subsidiary thereof, he or she will participate fully in the sale process in a manner customary for persons in like positions and consistent with his or her other duties with the Company, including the preparation of the Registration Statement and the preparation and presentation of any road shows.

(c) Automatic Shelf Registration Statements. If the Company files any Automatic Shelf Registration Statement for the benefit of the holders of any of its securities other than the Holders, the Company agrees that, at the request of any 5% Holder whose Registrable Securities are not then covered by an effective Automatic Shelf Registration Statement, it will include in such Automatic Shelf Registration Statement such disclosures as may be required by Rule 430B in order to ensure that the 5% Holders may be added to such Shelf Registration Statement at a later time through the filing of a prospectus supplement rather than a post-effective amendment. If the Company has filed any Automatic Shelf Registration Statement for the benefit of the holders of any of its securities other than the Holders, the Company shall, at the request of any 5% Holder, file any post-effective amendments necessary to include therein all disclosure and language necessary to ensure that the holders of Registrable Securities may be added to such Shelf Registration Statement.

(d) Additional Information. The Company may require each seller of Registrable Securities as to which any registration or offering is being effected to furnish the Company such information regarding such seller and the distribution of such securities as the Company may from time to time reasonably request in writing, as a condition to such seller's participation in such registration or offering.

(e) In-Kind Distributions. If any Holder (and/or any of their Affiliates) seeks to effectuate an in-kind distribution of all or part of their Registrable Securities to their respective direct or indirect equityholders, the Company will, subject to any applicable lock-ups and other applicable restrictions on Transfer (including restrictions set forth under the Jones Act and applicable securities laws), reasonably cooperate with and assist such Holder and the Company's transfer agent to facilitate such in-kind distribution in the manner reasonably requested by such Holder (including the delivery of instruction letters by the Company or its counsel to the Company's transfer agent, the delivery of customary legal opinions by counsel to the Company and the delivery of the Registrable Securities without restrictive legends, to the extent no longer applicable); provided, however, that the Company may request any such Holder to deliver to the Company representation letters regarding such Holder's compliance with the Securities Act and the rules and regulations promulgated thereunder, as may be applicable.

(f) Suspended Distributions. Each Person participating in a registration hereunder agrees that, upon receipt of any notice from the Company of the happening of any event of the kind described in Section 4(a)(vi), such Person will immediately discontinue the disposition of its Registrable Securities pursuant to the Registration Statement until such Person's receipt of the copies of a supplemented or amended prospectus as contemplated by Section 4(a)(vi), subject to the Company's compliance with its obligations under Section 4(a)(vi).

(g) Registrable Securities Transactions. If requested by any Holder in connection with any transaction involving any Registrable Securities (including any sale or other Transfer in accordance with this Agreement of such securities without registration under the Securities Act, any margin loan with respect to such securities) not otherwise prohibited (including by this Agreement or any other restrictions on Transfer, such as restrictions set forth under the Jones Act and applicable securities laws), the Company agrees to provide such Holder with customary and reasonable assistance to facilitate such transaction, including, without limitation, (i) such action as such Holder may reasonably request from time to time to enable such Holder to sell Registrable Securities without registration under the Securities Act, (ii) entering into an "issuer's agreement" in connection with any margin loan with respect to such securities in customary form (which, for the avoidance of doubt, shall not require the Company to provide registration rights to any lender or its transferees or waive any terms or conditions of its Insider Trading Policy, this Agreement or any other restrictions on Transfer, such as restrictions set forth under the Jones Act and applicable securities laws), (iii) issuing such directions to any transfer agent, registrar or depositary, as applicable, as may be reasonably required for such transaction, (iv) using reasonable best efforts to obtain from outside counsel and deliver to the transfer agent, registrar or depositary such legal opinions, if appropriate and subject to receipt of any reasonably requested representation letters required to support such opinions, as are customary for the transaction of this type and are reasonably requested by the same, and (v) taking or causing to be taken such other actions as are reasonably necessary (in each case on a timely basis) in order to cause any legends, notations or similar designations restricting transferability of the Registrable Securities held by such Holder to be removed and to rescind any transfer restrictions with respect to such Registrable Securities, in each case, to the extent no longer applicable; provided, however, that such Holder shall deliver to the Company, in form and substance

reasonably satisfactory to the Company and the transfer agent, representation letters regarding such Holder's compliance the Securities Act and the rules and regulations promulgated thereunder, as may be applicable, or as otherwise requested by the transfer agent. Notwithstanding anything to the contrary, the Company shall have no obligation to obtain or bear the cost of any medallion guarantee (or provide any indemnification in lieu thereof) required by any transfer agent, registrar or depository with respect to such requested transaction or provide similar assurances or be responsible for the actions or status of such Holder or its transferees.

(h) Other. To the extent that any of the Participating 5% Holders is or may be deemed to be an "underwriter" of Registrable Securities pursuant to any SEC comments or policies, the Company agrees that (i) the indemnification and contribution provisions contained in Section 6 shall be applicable to the benefit of such Participating 5% Holder in their role as an underwriter or deemed underwriter in addition to their capacity as a holder and (ii) such Participating 5% Holder shall be entitled to conduct the due diligence which they would normally conduct in connection with an offering of securities registered under the Securities Act, including without limitation receipt of customary opinions and comfort letters addressed to such Participating 5% Holder.

Section 5. Registration Expenses. All expenses incident to the Company's performance of or compliance with this Agreement and/or in connection with any Shelf Registration Statement, Piggyback Underwritten Offering, Shelf Offering, Underwritten Block Trade or Other Coordinated Offering shall be paid by the Company, including, without limitation: (i) all registration and filing fees, and any other fees and expenses associated with filings required to be made with the SEC, FINRA, the New York Stock Exchange, Nasdaq or any other national securities exchange on which the shares of Common Stock are or are to be listed, (ii) all fees and expenses in connection with compliance with any securities or "blue sky" laws, (iii) all printing, duplicating, word processing, messenger, telephone, facsimile and delivery expenses (including expenses of printing certificates for the Registrable Securities in a form eligible for deposit with The Depository Trust Company or other depository and of printing prospectuses and Company Free Writing Prospectuses if reasonably requested by a Holder of Registrable Securities included in the Registration Statement), (iv) all fees and disbursements of counsel for the Company and of all independent certified public accountants of the Company (including the expenses of any special audit and cold comfort letters required by or incident to such performance), (v) Securities Act liability insurance or similar insurance if the Company so desires, or the underwriters so require in accordance with then-customary underwriting practice, (vi) all fees and expenses incurred in connection with the listing of the Registrable Securities on any securities exchange on which similar securities of the Company are then listed, (vii) all applicable rating agency fees with respect to the Registrable Securities, (viii) all fees and disbursements of legal counsel for the Company, (ix) all reasonable fees and disbursements of one legal counsel for all selling Holders selected by the Applicable Approving Party (which may be the same counsel as selected for the Company), together with any necessary local counsel (not to exceed one local counsel in each relevant jurisdiction) as may be required by the Participating 5% Holders, (x) any fees and disbursements of underwriters customarily paid by issuers in connection with secondary sales of securities, (xi) all fees and expenses of any experts or other Persons retained by the Company in connection with the consummation of the transactions contemplated by this Agreement and (xii) all expenses related to marketing the sale of the Registrable Securities, including expenses related to conducting a "road-show." All such expenses are referred to herein as "Registration Expenses." The Company shall not be required to pay, and each Person that sells securities pursuant to a Shelf Registration Statement, Piggyback Underwritten Offering, Shelf Offering, Underwritten Block Trade or Other Coordinated Offering hereunder will bear and pay, all underwriting discounts and commissions applicable to the Registrable Securities sold for such Person's account and all transfer taxes (if any) attributable to the sale of Registrable Securities (provided that the Company shall bear and pay all underwriting discounts and commissions applicable to any shares of Common Stock sold by the Company in lieu of Holders' Warrant Shares pursuant to a Synthetic Secondary, and the purchase price of the Warrants to be repurchased by the Company in connection therewith shall be net of such underwriting discounts and commissions).

Section 6. Indemnification and Contribution.

(a) By the Company. The Company will indemnify and hold harmless, to the fullest extent permitted by law and without limitation as to time, each Holder, such Holder's officers, directors employees, agents, fiduciaries, stockholders, managers, partners, members, affiliates, direct and indirect equityholders, consultants and representatives, and any successors and assigns thereof, and each Person who controls such holder (within the meaning of the Securities Act) (the "Indemnified Parties") against all losses, claims, actions, damages, liabilities and expenses (including with respect to actions or proceedings, whether commenced or threatened, and including reasonable attorney fees and expenses) (collectively, "Losses") caused by, resulting from, arising out of, based upon or related to any of the following (each, a "Violation") by the Company: (i) any untrue or alleged untrue

statement of material fact contained in (A) any Registration statement, prospectus, preliminary prospectus or Free Writing Prospectus, or any amendment thereof or supplement thereto or (B) any application or other document or communication (in this Section 6, collectively called an “application”) executed by or on behalf of the Company or based upon written information furnished by or on behalf of the Company filed in any jurisdiction in order to qualify any securities covered by such registration under the “blue sky” or securities laws thereof, (ii) any omission or alleged omission of a material fact required to be stated therein or necessary to make the statements therein not misleading or (iii) any violation or alleged violation by the Company of the Securities Act or any other similar federal or state securities laws or any rule or regulation promulgated thereunder applicable to the Company and relating to action or inaction required of the Company in connection with any such registration, qualification or compliance. In addition, the Company will reimburse such Indemnified Party for any legal or any other expenses reasonably incurred by them in connection with investigating or defending any such Losses. Notwithstanding the foregoing, the Company will not be liable in any such case to the extent that any such Losses result from, arise out of, are based upon, or relate to an untrue statement, or omission, made in such Registration Statement, any such prospectus, preliminary prospectus or Free Writing Prospectus or any amendment or supplement thereto, or in any application, in reliance upon, and in conformity with, written information prepared and furnished in writing to the Company by any Indemnified Party expressly for use therein or by any Indemnified Party’s failure to deliver a copy of the Registration Statement or prospectus or any amendments or supplements thereto after the Company has furnished such Indemnified Party with a sufficient number of copies of the same as requested by such Indemnified Party. In connection with an underwritten offering, the Company will indemnify such underwriters, their officers and directors, and each Person who controls such underwriters (within the meaning of the Securities Act) to the same extent as provided above with respect to the indemnification of the Indemnified Parties or as otherwise agreed to in the underwriting agreement executed in connection with such underwritten offering. Such indemnity and reimbursement of expenses shall remain in full force and effect regardless of any investigation made by or on behalf of such Indemnified Party and shall survive the transfer of such securities by such seller.

(b) By Holders. In connection with any Registration Statement in which a Holder is participating, each such Holder will furnish to the Company in writing such information and affidavits as the Company reasonably requests for use in connection with any such Registration Statement or prospectus and, to the extent permitted by law, will indemnify the Company, its officers, directors, employees, agents and representatives, and each Person who controls the Company (within the meaning of the Securities Act) against any Losses resulting from (as determined by a final and appealable judgment, order or decree of a court of competent jurisdiction) any untrue statement of material fact contained in the Registration Statement, prospectus or preliminary prospectus or any amendment thereof or supplement thereto or any omission of a material fact required to be stated therein or necessary to make the statements therein not misleading, but only to the extent that such untrue statement or omission is contained in any information or affidavit so furnished in writing by such Holder expressly for use therein; provided that the obligation to indemnify will be individual, not joint and several, for each Holder and will be limited to the net amount of proceeds received by such Holder from the sale of Registrable Securities pursuant to such Registration Statement. The Company and the Holders hereby acknowledge and agree that, unless otherwise expressly agreed to in writing by a Holder, the only information furnished or to be furnished to the Company for use in any Registration Statement, prospectus or preliminary prospectus or any amendment thereof or supplement thereto are statements specifically relating to (i) the beneficial ownership of Company Securities by such Holder and its Affiliates, (ii) the name and address of such Holder and (c) any additional information about such Holder or the plan of distribution (other than for an underwritten Public Offering) required by law or regulation to be disclosed in any such document.

(c) Claim Procedure. Any Person entitled to indemnification hereunder will (i) give prompt written notice to the indemnifying party of any claim with respect to which it seeks indemnification (provided that the failure to give prompt notice will impair any Person’s right to indemnification hereunder only to the extent such failure has prejudiced the indemnifying party) and (ii) unless in such indemnified party’s reasonable judgment a conflict of interest between such indemnified and indemnifying parties may exist with respect to such claim, permit such indemnifying party to assume the defense of such claim with counsel reasonably satisfactory to the indemnified party. If such defense is assumed, the indemnifying party will not be subject to any liability for any settlement made by the indemnified party without its consent (but such consent will not be unreasonably withheld, conditioned or delayed). An indemnifying party who is not entitled to, or elects not to, assume the defense of a claim will not be obligated to pay the fees and expenses of more than one counsel for all parties indemnified by such indemnifying

party with respect to such claim, unless in the reasonable judgment of any indemnified party a conflict of interest may exist between such indemnified party and any other of such indemnified parties with respect to such claim. In such instance, the conflicted indemnified parties will have a right to retain one separate counsel, chosen by the majority of the conflicted indemnified parties involved in the indemnification and approved by the Applicable Approving Party, at the expense of the indemnifying party.

(d) Contribution. If the indemnification provided for in this Section 6 is held by a court of competent jurisdiction to be unavailable to, or is insufficient to hold harmless, an indemnified party or is otherwise unenforceable with respect to any Loss referred to herein, then such indemnifying party will contribute to the amounts paid or payable by such indemnified party as a result of such Loss, (i) in such proportion as is appropriate to reflect the relative fault of the indemnifying party on the one hand and of the indemnified party on the other hand in connection with the statements or omissions which resulted in such Loss as well as any other relevant equitable considerations or (ii) if the allocation provided by clause (i) of this Section 6(d) is not permitted by applicable law, then in such proportion as is appropriate to reflect not only such relative fault but also the relative benefit of the Company on the one hand and of the sellers of Registrable Securities and any other sellers participating in the Registration Statement on the other in connection with the statement or omissions which resulted in such Losses, as well as any other relevant equitable considerations; provided that the maximum amount of liability in respect of such contribution will be limited, in the case of each seller of Registrable Securities, to an amount equal to the net proceeds actually received by such seller from the sale of Registrable Securities effected pursuant to such registration. The relative fault of the indemnifying party and of the indemnified party will be determined by reference to, among other things, whether the untrue (or, as applicable alleged) untrue statement of a material fact or the omission to state a material fact relates to information supplied by the indemnifying party or by the indemnified party and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission. The parties hereto agree that it would not be just or equitable if the contribution pursuant to this Section 6(d) were to be determined by pro rata allocation or by any other method of allocation that does not take into account such equitable considerations. The amount paid or payable by an indemnified party as a result of the Losses referred to herein will be deemed to include any legal or other expenses reasonably incurred by such indemnified party in connection with investigating or defending against any action or claim which is the subject hereof. No person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) will be entitled to contribution from any Person who is not guilty of such fraudulent misrepresentation.

(e) Release. No indemnifying party will, except with the consent of the indemnified party, consent to the entry of any judgment or enter into any settlement that does not include as an unconditional term thereof giving by the claimant or plaintiff to such indemnified party of a release from all liability in respect to such claim or litigation.

(f) Non-exclusive Remedy; Survival. The indemnification and contribution provided for under this Agreement will be in addition to any other rights to indemnification or contribution that any indemnified party may have pursuant to law or contract (and the Company and its Subsidiaries shall be considered the indemnitors of first resort in all such circumstances to which this Section 6 applies) and will remain in full force and effect regardless of any investigation made by or on behalf of the indemnified party or any officer, director or controlling Person of such indemnified party and will survive the transfer of Registrable Securities and the termination or expiration of this Agreement.

Section 7. Cooperation with Underwritten Offerings. No Person may participate in any underwritten registration or offering hereunder unless such Person (i) agrees to sell such Person's securities on the basis provided in any underwriting arrangements approved by the Person or Persons entitled hereunder to approve such arrangements (including, without limitation, pursuant to the terms of any over-allotment or "green shoe" option requested by the underwriters; provided that no Holder will be required to sell more than the number of Registrable Securities such Holder has requested to include in such registration) and (ii) completes, executes and delivers all questionnaires, powers of attorney, stock powers, custody agreements, indemnities, underwriting agreements and other documents and agreements required under the terms of such underwriting arrangements or as may be reasonably requested by the Company and the lead managing underwriter(s). To the extent that any such agreement is entered into pursuant to, and consistent with, Section 3, Section 4 and/or this Section 7, the respective rights and obligations created under such agreement will supersede the respective rights and obligations of the Holders, the Company and the underwriters created thereby with respect to such registration.

Section 8. Joinder; Additional Parties. The Company may from time to time (with the prior written consent of the Majority Holders) permit any Person who acquires Common Stock (or rights to acquire Common Stock) to become a party to this Agreement and to be entitled to and be bound by all of the rights and obligations as a Holder by obtaining an executed joinder to this Agreement from such Person in the form of Exhibit B attached hereto (a “Joinder”). Upon the execution and delivery of a Joinder by such Person, the Common Stock beneficially owned by such Person and all shares of Common Stock issuable upon conversion or exercise of any Company Securities beneficially owned by such Person shall become Registrable Securities, and such Person shall be deemed to be a Holder hereunder.

Section 9. General Provisions.

(a) Transfer Restrictions.

(i) Except as permitted pursuant to Section 9(a)(ii), during the Lock-Up Period, each Holder, individually and not jointly, agrees with the Company (and only with the Company) that it shall not Transfer any Lock-Up Securities beneficially owned or owned of record by such Holder without the prior written consent of the Company. Notwithstanding anything to the contrary herein, the Company may terminate the Lock-Up Period at any time prior to the Scheduled Lock-Up Release Date; provided that any such early termination of the Lock-Up Period (i) may, in the Company’s sole discretion, be subject to the satisfaction of one or more conditions precedent and (ii) shall apply to all, but not less than all, Holders. Upon any determination by the Company to terminate the Lock-Up Period prior to the Scheduled Lock-Up Release Date, the Company shall use commercially reasonable efforts to notify all Holders of the expected Lock-Up Release Date as promptly as practicable, but in any event no later than two Business Days after such determination. If any such early termination of the Lock-Up Period is subject to the satisfaction of one or more conditions precedent, such notice shall describe each such condition, and if applicable, shall state that, in the Company’s discretion, the Lock-Up Release Date may be delayed until such time as any or all such conditions shall be satisfied or waived; provided that in no event shall such Lock-Up Release Date be delayed to a date later than the Scheduled Lock-Up Release Date. Any termination or waiver of the Lock-Up Period by the Company pursuant to this Section 9(a) shall be subject to prior approval by the Company’s board of directors (or a duly authorized committee thereof).

(ii) Notwithstanding the provisions set forth in Section 9(a)(i), Transfers of Lock-Up Securities are permitted (i) as a bona fide gift or charitable contribution; (ii) if such Holder is a natural person, (A) to a trust, or other entity formed for estate planning purposes for the primary benefit of the spouse, domestic partner, parent, sibling, child or grandchild of such Holder of Lock-Up Securities or any other person with whom such Holder has a relationship by blood, marriage or adoption not more remote than first cousin; (B) by will or intestate succession upon the death of the Holder; or (C) pursuant to a qualified domestic order, court order or in connection with a divorce settlement; (iii) if such Holder is a corporation, partnership (whether general, limited or otherwise), limited liability company, trust or other business entity, (A) to another corporation, partnership, limited liability company, trust or other business entity that controls, is controlled by or is under common control or management with the Holder; (B) to partners, limited liability company members, or stockholders of the Holder, including, for the avoidance of doubt, where the Holder is a partnership, to its general partner or a successor partnership or fund, or any other funds managed by such partnership; or (C) by virtue of the laws of the state or jurisdiction of the entity’s organization and the entity’s organizational documents upon dissolution of the entity; (iv) pursuant to transactions in the event of completion of a liquidation, merger, consolidation, stock exchange, reorganization, tender offer or other similar transaction which results in all of the Company’s security holders having the right to exchange their shares of Common Stock for cash, securities or other property; (v) pursuant to sales by a Holder and its Permitted Transferees of shares of Common Stock or Warrants in an aggregate amount not to exceed 3,100 shares (with Warrants being considered the sale of the number of shares of Common Stock for which such Warrants are then exercisable for purposes of this limitation); (vi) to the Company in connection with the repurchase of such Holder’s Lock-Up Securities in connection with the termination of such Holder’s employment with the Company pursuant to contractual agreements with the Company; (vii) to satisfy tax withholding obligations in connection with the exercise of options to purchase shares of Common Stock of the Company or the vesting of Company stock-based awards; or (viii) in payment on a “net exercise” or “cashless” basis of the exercise or purchase price with respect to the exercise of options to purchase shares of Common Stock of the Company or for the purpose of paying the exercise price of such options or for paying taxes due as a result of the exercise of such options, the vesting of such options or stock awards; provided, however, that in the case of clauses (i)

through (iv), prior to any such Transfer, such permitted transferees, to the extent not already party hereto, must enter into a written agreement agreeing to be bound by the restrictions in this Section 9(a); provided further, in each case, that such Transfer complies with any other applicable restrictions on Transfer (including restrictions set forth under the Jones Act and applicable securities laws). Notwithstanding anything to the contrary in this Section 9(a)(ii), during the Lock-Up Period, each Holder of Lock-Up Securities shall be permitted to establish a trading plan pursuant to Rule 10b5-1 promulgated under the Exchange Act; provided that such plan does not provide for the Transfer of Lock-Up Securities during the Lock-Up Period.

(iii) Each Holder of Lock-Up Securities hereby represents and warrants that as of the Effective Time it has and, except as contemplated by this Section 9(a), for the duration of the Lock-Up Period will have, good and marketable title to its Lock-Up Securities, free and clear of all liens, encumbrances, and claims that could impact the ability of such Holder to comply with the foregoing restrictions. Each such Holder agrees and consents to the entry of stop transfer instructions with the Company's transfer agent and registrar against the transfer of any Lock-Up Securities during the Lock-Up Period.

(iv) As promptly as practicable following the Lock-Up Release Date, the Company shall take or cause to be taken such actions as are reasonably necessary in order to cause any legends, notations or similar designations restricting transferability of the Lock-Up Securities held by each Holder to be removed and to rescind any transfer restrictions with respect to such Lock-Up Securities, in each case, to the extent no longer applicable; provided, however, that the Company may request any such Holder to deliver to the Company, in form and substance reasonably satisfactory to the Company, representation letters regarding such Holder's compliance with the Securities Act and the rules and regulations promulgated thereunder, as may be applicable.

(b) Amendments and Waivers. Except as otherwise provided herein, the provisions of this Agreement may be amended, modified or waived only with the prior written consent of the Company and the Majority Holders; provided that amendments to the provisions of Section 9(a) and any related defined terms that are adverse to Holders (for the avoidance of doubt, any extension of the Scheduled Lock-Up Release Date shall be deemed to be an amendment adverse to the Holders) shall additionally require the prior written consent of each Holder adversely impacted; provided further that no such amendment, modification or waiver that would treat a specific Holder or group of Holders of Registrable Securities in a manner materially and adversely different than any other Holder or group of Holders will be effective against such Holder or group of Holders without the consent of the holders of a majority of the Registrable Securities that are held by the group of Holders that is materially and adversely affected thereby. The failure or delay of any Person to enforce any of the provisions of this Agreement will in no way be construed as a waiver of such provisions and will not affect the right of such Person thereafter to enforce each and every provision of this Agreement in accordance with its terms. A waiver or consent to or of any breach or default by any Person in the performance by that Person of his, her or its obligations under this Agreement will not be deemed to be a consent or waiver to or of any other breach or default in the performance by that Person of the same or any other obligations of that Person under this Agreement.

(c) Remedies. Each of the parties to this Agreement acknowledges and agrees that the rights of each party under this Agreement are special, unique and of extraordinary character and that if for any reason any of the provisions of this Agreement are not performed in accordance with their specific terms or are otherwise breached, immediate and irreparable harm or damage would be caused for which money damages would not be an adequate remedy. Accordingly, each party to this Agreement agrees that, in addition to any other available remedies a party to this Agreement may have in equity or at law, each party to this Agreement shall be entitled to enforce specifically the terms and provisions of this Agreement and to obtain an injunction restraining any breach or violation or threatened breach or violation of the provisions of this Agreement in the Chosen Courts without necessity of posting a bond or other form of security or proof of damages. In the event that any action or proceeding should be brought in equity to enforce the provisions of this Agreement, no party to this Agreement shall allege, and each party to this Agreement waives the defense, that there is an adequate remedy at law. The pursuit of specific performance or other equitable remedies by any party to this Agreement will not be deemed an election of remedies or waiver of the right to pursue any other right or remedy (whether at law or in equity) to which such party may be entitled at any time. Any and all remedies herein expressly conferred upon a party to this Agreement will be deemed cumulative with and not exclusive of any other remedy conferred hereby, or by law or equity upon such party, and the exercise by a party to this Agreement of any one remedy will not preclude the exercise at any time of any other remedy.

(d) Severability. Whenever possible, each provision of this Agreement will be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement is held to be prohibited, invalid, illegal or unenforceable in any respect under any applicable law or regulation in any jurisdiction, such prohibition, invalidity, illegality or unenforceability will not affect the validity, legality or enforceability of any other provision of this Agreement in such jurisdiction or in any other jurisdiction, but this Agreement will be reformed, construed and enforced in such jurisdiction as if such prohibited, invalid, illegal or unenforceable provision had never been contained herein.

(e) Entire Agreement. Except as otherwise provided herein, this Agreement contains the complete agreement and understanding among the parties hereto with respect to the subject matter hereof and supersedes and preempts any prior understandings, agreements or representations by or among the parties hereto, written or oral, which may have related to the subject matter hereof in any way including the other documents referred to herein.

(f) Successors and Assigns. Except as otherwise provided herein, this Agreement will bind and inure to the benefit and be enforceable by the Company and its successors and permitted assigns and the Holders and their respective successors and permitted assigns (whether so expressed or not).

(g) Notices. Any notice, demand or other communication to be given under or by reason of the provisions of this Agreement will be in writing and will be deemed to have been given (i) when delivered personally to the recipient, (ii) when sent by confirmed electronic mail or facsimile if sent during normal business hours of the recipient; but if not, then on the next Business Day, (iii) one Business Day after it is sent to the recipient by reputable overnight courier service (charges prepaid) or (iv) three Business Days after it is mailed to the recipient by first class mail, return receipt requested. Such notices, demands and other communications will be sent, as applicable, to the Company at the address specified below, or to the applicable Holder(s) at the address specified on the signature page hereto or any Joinder and to any holder, or at such address or to the attention of such other Person as the recipient party has specified by prior written notice to the sending party. Any party may change such party's address for receipt of notice by giving prior written notice of the change to the sending party as provided herein. The Company's address is:

Helix Energy Solutions Group, Inc.
3505 West Sam Houston Parkway North, Suite 400
Houston, Texas 77043
Attention: Ken Neikirk
E-mail: [***]

With a copy to (which shall not constitute notice):

Baker Botts L.L.P.
910 Louisiana Street
Houston, Texas 77002
Attention: Travis Wofford
E-mail: [***]

(h) Business Days. If any time period for giving notice or taking action hereunder expires on a day that is not a Business Day, the time period will automatically be extended to the Business Day immediately following such Saturday, Sunday or legal holiday.

(i) Governing Law. The corporate law of the State of Delaware will govern all issues and questions concerning the relative rights of the Company and its equityholders. All issues and questions concerning the construction, validity, interpretation and enforcement of this Agreement and the exhibits and schedules hereto will be governed by, and construed in accordance with, the laws of the State of Delaware, without giving effect to any choice of law or conflict of law rules or provisions (whether of the State of Delaware or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of Delaware.

(j) MUTUAL WAIVER OF JURY TRIAL. AS A SPECIFICALLY BARGAINED FOR INDUCEMENT FOR EACH OF THE PARTIES HERETO TO ENTER INTO THIS AGREEMENT (AFTER HAVING THE

OPPORTUNITY TO CONSULT WITH COUNSEL), EACH PARTY HERETO EXPRESSLY WAIVES THE RIGHT TO TRIAL BY JURY IN ANY LAWSUIT OR PROCEEDING RELATING TO OR ARISING IN ANY WAY FROM THIS AGREEMENT OR THE MATTERS CONTEMPLATED HEREBY.

(k) CONSENT TO JURISDICTION AND SERVICE OF PROCESS. EACH OF THE PARTIES IRREVOCABLY SUBMITS TO THE NON-EXCLUSIVE JURISDICTION OF THE COURT OF CHANCERY IN THE STATE OF DELAWARE (OR, SOLELY IF THE COURT OF CHANCERY IN THE STATE OF DELAWARE DECLINES SUBJECT MATTER JURISDICTION, IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF DELAWARE OR STATE COURTS OF DELAWARE, LOCATED IN WILMINGTON) (THE “CHOSEN COURTS”), FOR THE PURPOSES OF ANY SUIT, ACTION OR OTHER PROCEEDING ARISING OUT OF THIS AGREEMENT, ANY RELATED AGREEMENT OR ANY TRANSACTION CONTEMPLATED HEREBY OR THEREBY. EACH OF THE PARTIES HERETO FURTHER AGREES THAT SERVICE OF ANY PROCESS, SUMMONS, NOTICE OR DOCUMENT BY U.S. REGISTERED MAIL TO SUCH PARTY’S RESPECTIVE ADDRESS SET FORTH HEREIN WILL BE EFFECTIVE SERVICE OF PROCESS FOR ANY ACTION, SUIT OR PROCEEDING WITH RESPECT TO ANY MATTERS TO WHICH IT HAS SUBMITTED TO JURISDICTION IN THIS PARAGRAPH. EACH OF THE PARTIES HERETO IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY OBJECTION TO THE LAYING OF VENUE OF ANY ACTION, SUIT OR PROCEEDING ARISING OUT OF THIS AGREEMENT, ANY RELATED DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY AND THEREBY IN THE CHOSEN COURTS, AND HEREBY AND THEREBY FURTHER IRREVOCABLY AND UNCONDITIONALLY WAIVES AND AGREES NOT TO PLEAD OR CLAIM IN ANY SUCH COURT THAT ANY SUCH ACTION, SUIT OR PROCEEDING BROUGHT IN ANY SUCH COURT HAS BEEN BROUGHT IN AN INCONVENIENT FORUM.

(l) No Recourse. Notwithstanding anything to the contrary in this Agreement, the Company and each Holder agrees and acknowledges that no recourse under this Agreement or any documents or instruments delivered in connection with this Agreement, will be had against any current or future director, officer, employee, general or limited partner or member of any Holder or any Affiliate or assignee thereof, whether by the enforcement of any assessment or by any legal or equitable proceeding, or by virtue of any statute, regulation or other applicable law, it being expressly agreed and acknowledged that no personal liability whatsoever will attach to, be imposed on or otherwise be incurred by any current or future officer, agent or employee of any Holder or any current or future member of any Holder or any current or future director, officer, employee, partner or member of any Holder or of any Affiliate or assignee thereof, as such for any obligation of any Holder under this Agreement or any documents or instruments delivered in connection with this Agreement for any claim based on, in respect of or by reason of such obligations or their creation.

(m) Descriptive Headings; Interpretation. The descriptive headings of this Agreement are inserted for convenience only and do not constitute a part of this Agreement. The use of the word “including” in this Agreement will be by way of example rather than by limitation.

(n) No Strict Construction. The language used in this Agreement will be deemed to be the language chosen by the parties hereto to express their mutual intent, and no rule of strict construction will be applied against any party.

(o) Counterparts. This Agreement may be executed in multiple counterparts (which may be by electronic transmission, including, PDF or DocuSign), any one of which need not contain the signature of more than one party, but all such counterparts taken together will constitute one and the same agreement.

(p) Electronic Delivery. This Agreement, the agreements referred to herein, and each other agreement or instrument entered into in connection herewith or therewith or contemplated hereby or thereby, and any amendments hereto or thereto, to the extent executed and delivered by means of a photographic, photostatic, facsimile or similar reproduction of such signed writing using a facsimile machine or electronic mail will be treated in all manner and respects as an original agreement or instrument and will be considered to have the same binding legal effect as if it were the original signed version thereof delivered in person. At the request of any party hereto or to any such agreement or instrument, each other party hereto or thereto will re-execute original forms thereof and deliver them to all other parties. No party hereto or to any such agreement or instrument will raise the use of

a facsimile machine or electronic mail to deliver a signature or the fact that any signature or agreement or instrument was transmitted or communicated through the use of a facsimile machine or electronic mail as a defense to the formation or enforceability of a contract and each such party forever waives any such defense.

(q) Further Assurances. In connection with this Agreement and the transactions contemplated hereby, each Holder agrees to execute and deliver any additional documents and instruments and perform any additional acts that may be necessary or appropriate to effectuate and perform the provisions of this Agreement and the transactions contemplated hereby.

(r) Dividends, Recapitalizations, Etc. If at any time or from time to time there is any change in the capital structure of the Company by way of a stock split, stock dividend, combination or reclassification, or through a merger, consolidation, reorganization or recapitalization, or by any other means, appropriate adjustment will be made in the provisions hereof so that the rights and privileges granted hereby will continue.

(s) No Third-Party Beneficiaries. No term or provision of this Agreement is intended to be, or shall be, for the benefit of any Person not a party hereto, and no such other Person shall have any right or cause of action hereunder, except as otherwise expressly provided herein.

(t) Current Public Information. At all times after the Company has filed a registration statement with the SEC pursuant to the requirements of either the Securities Act or the Exchange Act, the Company will file all reports required to be filed by it under the Securities Act and the Exchange Act and will take such further action as the Majority Holders may reasonably request, all to the extent required to enable such Holders to sell Registrable Securities, unless otherwise agreed by the Majority Holders.

(u) Effectiveness. Except for this Section 9(u), which is effective upon execution of this Agreement on the date hereof, this Agreement is effective as of the Effective Time on the Closing Date. In the event that the Merger Agreement is terminated prior to the consummation of the transactions contemplated thereby, this Agreement and all the terms hereunder shall also terminate without any further action of the parties hereto, regardless of any other provisions set forth in this Agreement.

(v) Term. This Agreement shall terminate with respect to any Holder and each of its Affiliates that is a Holder upon the later of (x) the first anniversary of the Closing Date and (y) the date on which (A) such Holder's Total Ownership Percentage is less than 5% and (B) such Holder's Registrable Securities are eligible for resale under Rule 144 without volume or manner-of-sale restrictions and without the requirement for the Company to be in compliance with the current public information requirement under Rule 144(c)(1). Notwithstanding the foregoing, the provisions of Section 5, Section 6 and this Section 9 shall survive any such termination. Upon the written request of the Company, each Holder agrees to promptly deliver a certificate to the Company setting forth the number of Registrable Securities then beneficially owned by such Holder.

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IN WITNESS WHEREOF, the parties have executed this Registration Rights Agreement as of the date first written above.

HELIX ENERGY SOLUTIONS GROUP, INC.

By: /s/ Erik Staffeldt
Name: Erik Staffeldt
Title: Executive Vice President and Chief Financial Officer

[Signature Page to Registration Rights Agreement]

HOLDERS:

ASSF IV AIV B Holdings III, L.P.

By: ASSF Operating Manager IV, L.P., its manager

By: /s/ Aaron Rosen

Name: Aaron Rosen

Title: Authorized Signatory

ASOF Holdings I, L.P.

By: ASOF Investment Management LLC, its manager

By: /s/ Aaron Rosen

Name: Aaron Rosen

Title: Authorized Signatory

ASOF HOS AIV 1, L.P.

By: ASOF Investment Management LLC, its manager

By: /s/ Aaron Rosen

Name: Aaron Rosen

Title: Authorized Signatory

ASOF HOS AIV 2, L.P.

By: ASOF Investment Management LLC, its manager

By: /s/ Aaron Rosen

Name: Aaron Rosen

Title: Authorized Signatory

**Ares Credit Strategies Insurance Dedicated Fund
Series Interests of the SALI Multi-Series Fund, L.P.**

By: Ares Management LLC, its investment manager

By: /s/ Greg Margolies

Name: Greg Margolies

Title: Authorized Signatory

[Signature Page to Registration Rights Agreement]

ASOF II Holdings I, L.P.

By: ASOF Investment Management LLC, its manager

By: /s/ Aaron Rosen
Name: Aaron Rosen
Title: Authorized Signatory

ASOF II A (DE) Holdings I, L.P.

By: ASOF Investment Management LLC, its manager

By: /s/ Aaron Rosen
Name: Aaron Rosen
Title: Authorized Signatory

ASSF IV AIV B, L.P.

By: ASSF Operating Manager IV, L.P., its manager

By: /s/ Aaron Rosen
Name: Aaron Rosen
Title: Authorized Signatory

ASSF IV HOS AIV 1, L.P.

By: ASOF Operating Manager IV, L.P., its manager

By: /s/ Aaron Rosen
Name: Aaron Rosen
Title: Authorized Signatory

ASSF IV HOS AIV 2, L.P.

By: ASOF Operating Manager IV, L.P., its manager

By: /s/ Aaron Rosen
Name: Aaron Rosen
Title: Authorized Signatory

SA Real Assets 19 Limited

By: Ares Management LLC, its manager

By: /s/ Greg Margolies
Name: Greg Margolies
Title: Authorized Signatory

[Signature Page to Registration Rights Agreement]

HOLDERS:

BofA Securities, Inc. executes this Agreement and signature page solely on behalf of its U.S. Special Situations – Distressed Group (“SSG”) and its managed positions. This signature in no way any other of business, division, group activities or positions at BofA Securities, Inc. or any of its affiliates or subsidiaries. In the event the terms of this signature are not accepted, the signature shall be deemed null and void ab initio.

By: /s/ Kevin Muholland

Name: Kevin Mulholland

Title: Managing Director

[Signature Page to Registration Rights Agreement]

HOLDERS:

Citigroup Financial Products Inc.

By: /s/ David Quinn
Name: David Quinn
Title: Authorized Signatory

Citigroup Global Markets Inc.

By: /s/ David Quinn
Name: David Quinn
Title: Authorized Signatory

[Signature Page to Registration Rights Agreement]

HOLDERS:

**1992 MASTER FUND CO-INVEST SPC SERIES 1
SEGREGATED PORTFOLIO**

By: Highbridge Capital Management, LLC, as Trading
Manager, and not in its individual capacity

By: s/ Damon P. Meyer
Name: Damon P. Meyer
Title: Authorized Signatory, Head of Special Situations &
Restructuring

HIGHBRIDGE SCF SPECIAL SITUATIONS SPV, LP

By: Highbridge Capital Management, LLC, as Trading
Manager, and not in its individual capacity

By: s/ Damon P. Meyer
Name: Damon P. Meyer
Title: Authorized Signatory, Head of Special Situations &
Restructuring

**HIGHBRIDGE TACTICAL CREDIT INSTITUTIONAL
FUND LTD**

By: Highbridge Capital Management, LLC, as Trading
Manager, and not in its individual capacity

By: s/ Damon P. Meyer
Name: Damon P. Meyer
Title: Authorized Signatory, Head of Special Situations &
Restructuring

HIGHBRIDGE TACTICAL CREDIT MASTER FUND LP

By: Highbridge Capital Management, LLC, as Trading
Manager, and not in its individual capacity

By: /s/ Damon P. Meyer
Name: Damon P. Meyer
Title: Authorized Signatory, Head of Special Situations &
Restructuring

[Signature Page to Registration Rights Agreement]

HOLDERS:

Merced Partners Limited Partnership

By: /s/ Joseph McElroy
Name: Joseph McElroy
Title: Authorized Signatory

Merced Partners V, L.P.

By: /s/ Joseph McElroy
Name: Joseph McElroy
Title: Authorized Signatory

Athilon Capital Corp. LLC

By: /s/ Joseph McElroy
Name: Joseph McElroy
Title: Authorized Signatory

[Signature Page to Registration Rights Agreement]

HOLDERS:

Morgan Stanley & Co., LLC

By: /s/ Brian McGowan

Name: Brian McGowan

Title: Managing Director

[Signature Page to Registration Rights Agreement]

HOLDERS:

SOLA LTD

By: Solus Alternative Asset Management LP, its
Investment Advisor

By: /s/ Christopher Pucillo
Name: Christopher Pucillo
Title: Chief Executive Officer

SOLUS OPPORTUNITIES FUND 5 LP

By: Solus Alternative Asset Management LP, its
Investment Advisor

By: /s/ Christopher Pucillo
Name: Christopher Pucillo
Title: Chief Executive Officer

SOLUS OPPORTUNITIES FUND 4 LP

By: Solus Alternative Asset Management LP, its
Investment Advisor

By: /s/ Christopher Pucillo
Name: Christopher Pucillo
Title: Chief Executive Officer

**SOLUS LONG-TERM OPPORTUNITIES FUND
MASTER LP**

By: Solus Alternative Asset Management LP, its
Investment Advisor

By: /s/ Christopher Pucillo
Name: Christopher Pucillo
Title: Chief Executive Officer

ULTRA NB LLC

By: Solus Alternative Asset Management LP, its
Investment Manager

By: /s/ Christopher Pucillo
Name: Christopher Pucillo
Title: Chief Executive Officer

[Signature Page to Registration Rights Agreement]

HOLDERS:

PANDORA SELECT PARTNERS LP

By: Whitebox Advisors LLC its investment manager

By: /s/ Andrew Thau

Name: Andrew Thau

Title: Managing Director

WHITEBOX CAJA BLANCA FUND LP

By: Whitebox Advisors LLC its investment manager

By: /s/ Andrew Thau

Name: Andrew Thau

Title: Managing Director

WHITEBOX CREDIT PARTNERS LP

By: Whitebox Advisors LLC its investment manager

By: /s/ Andrew Thau

Name: Andrew Thau

Title: Managing Director

WHITEBOX GT FUND LP

By: Whitebox Advisors LLC its investment manager

By: /s/ Andrew Thau

Name: Andrew Thau

Title: Managing Director

WHITEBOX MULTI-STRATEGY PARTNERS LP

By: Whitebox Advisors LLC its investment manager

By: /s/ Andrew Thau

Name: Andrew Thau

Title: Managing Director

[Signature Page to Registration Rights Agreement]

WHITEBOX RELATIVE VALUE PARTNERS LP

By: Whitebox Advisors LLC its investment manager

By: /s/ Andrew Thau
Name: Andrew Thau
Title: Managing Director

WHITEBOX ASYMMETRIC PARTNERS LP

By: Whitebox Advisors LLC its investment manager

By: /s/ Andrew Thau
Name: Andrew Thau
Title: Managing Director

[Signature Page to Registration Rights Agreement]

EXHIBIT A

DEFINITIONS

“2% Holder” at any time of determination means each Holder that has a Security Ownership Percentage at such time greater than or equal to 2%.

“5% Holder” at any time of determination means each Holder that has a Security Ownership Percentage at such time greater than or equal to 5%.

“Affiliate” of any specified Person means (i) each other Person who, directly or indirectly, controls, is controlled by or is under common control with such specified Person and (ii) each Affiliated Fund of such specified Person, and the term “control” (including the terms “controlled,” “controlled by” and “under common control with”) means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through ownership of voting securities, by contract (including proxy) or otherwise; provided, however, that no Holder shall be deemed an Affiliate of any other Holder and no Holder shall be deemed an Affiliate of the Company or any of its Subsidiaries (or vice versa), in each case solely on account of ownership of Company Securities or being party to the Securityholders Agreement.

“Affiliated Fund” means, with respect to any Person, a fund, pooled investment vehicle, managed account (including separately managed accounts) or other entity now or hereafter existing that is directly or indirectly controlled, managed, advised or sub-advised by (i) such Person, (ii) such Person’s or any of such Person’s Affiliates’ investment manager, advisor or subadvisor or (iii) an Affiliate of (x) such Person or (y) such Person’s or any of such Person’s Affiliates’ investment manager, advisor or subadvisor (in each case, excluding, except for the purpose of calculating beneficial ownership of Fully Diluted Securities, any portfolio company of such Person).

“Agreement” has the meaning set forth in the preamble.

“Applicable Approving Party” means a majority (as measured by the aggregate number of Registrable Securities included in the applicable offering or registration) of the Holders that are participating or requesting to participate in the applicable offering or registration.

“Application” has the meaning set forth in [Section 6\(a\)](#).

“Automatic Shelf Registration Statement” has the meaning set forth in [Section 1\(a\)](#).

“Business Day” means a day that is not a Saturday or Sunday or a day on which banks in New York City are authorized or requested by law to close.

“Charitable Gifting Event” means any transfer by a Holder, or any subsequent transfer by such Holder’s members, partners or other employees, in connection with a bona fide gift to any Charitable Organization on the date of, but prior to, the execution of the underwriting agreement entered into in connection with any underwritten offering.

“Charitable Organization” means a charitable organization as described by Section 501(c)(3) of the Internal Revenue Code of 1986, as in effect from time to time.

“Chosen Courts” has the meaning set forth in [Section 9\(k\)](#).

“Closing” has the meaning set forth in the recitals.

“Closing Date” has the meaning set forth in the recitals.

“Common Stock” has the meaning set forth in the recitals.

“Common Stock Equivalents” means, without duplication, Common Stock and any warrants (including the Creditor Warrants, if any, and Jones Act Warrants), options, securities or other rights exercisable for or convertible or exchangeable into, directly or indirectly, Common Stock, whether exercisable, convertible or exchangeable at the time of issuance or upon the passage of time or the occurrence of some future event, including, for greater clarity, restricted stock units, performance stock units or any substantially similar award, whether or not settled in Common Stock or a Common Stock Equivalent, if the value of such award is derived from or measured in part or in full from the value of the Common Stock or a Common Stock Equivalent.

“Company” has the meaning set forth in the preamble and shall include its successor(s).

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“Company Securities” means (i) the Common Stock, (ii) the Warrants, (iii) all other Common Stock Equivalents and Equity Securities of the Company and (iv) all securities, bonds, notes, guarantees, indebtedness, options or other rights or instruments exercisable or exchangeable for or convertible into any of the foregoing.

“Conversion” has the meaning set forth in the recitals.

“Creditor Warrant Agreement” means the Creditor Warrant Agreement dated as of September 4, 2020, among Hornbeck, and Computershare, Inc. and Computershare Trust Company, N.A., collectively as warrant agent, with respect to the Creditor Warrants, as it may be amended, restated, amended and restated, supplemented or otherwise modified from time to time.

“Creditor Warrants” means warrants to purchase a number of shares of Common Stock on the terms set forth in and as governed by the Creditor Warrant Agreement, if any, which warrants will, except as otherwise set forth in an amendment to the Creditor Warrant Agreement in connection with Closing, automatically and without any action on the part of any Person, be converted into the right to receive a number of shares of Common Stock (or, in accordance with the applicable Jones Act restrictions to be set forth in the Company’s certificate of incorporation upon Closing, Jones Act Warrants to acquire such Common Stock).

“Effective Time” has the meaning set forth in the recitals.

“End of Suspension Notice” has the meaning set forth in Section 1(e)(ii).

“Equity Interest” in any Person means all of the units, membership interests, partnership interests, trust interests or shares of capital stock of, or other ownership or profit interests in, such Person.

“Equity Security” means with respect to any Person, (i) any of the Equity Interests of such Person, (ii) any of the options, warrants or other rights for the purchase or acquisition from such Person of Equity Interests of such Person, and (iii) any security, bond, note, guarantee, indebtedness, option or other right or instrument exercisable or exchangeable for or convertible into any of the foregoing.

“Exchange Act” means the Securities Exchange Act of 1934, as amended from time to time, or any successor federal law then in force, together with all rules and regulations promulgated thereunder.

“Family Group” means with respect to any individual, such individual’s current or former spouse, their respective parents, descendants of such parents (whether natural or adopted) and the spouses of such descendants, any trust, limited partnership, corporation or limited liability company established solely for the benefit of such individual or such individual’s current or former spouse, their respective parents, descendants of such parents (whether natural or adopted) or the spouses of such descendants.

“FINRA” means the Financial Industry Regulatory Authority.

“First Merger” has the meaning set forth in the recitals.

“Free Writing Prospectus” means a free-writing prospectus, as defined in Rule 405.

“Fully Diluted Securities” means the aggregate number of issued and outstanding shares of Common Stock after giving effect to a hypothetical exercise of all of the issued and outstanding Jones Act Warrants (and not, for the avoidance of doubt, the Creditor Warrants, if any) into shares of Common Stock, without regard to whether such Jones Act Warrants are then exercisable in accordance with their respective terms or the terms of the Company’s organizational documents (but disregarding and without giving effect to the issuance, conversion or exercise, as applicable, of any Common Stock, Common Stock Equivalent or other Equity Security of the Company issued or issuable pursuant to any Company equity incentive plan). References to the Fully Diluted Securities beneficially owned by any Holder shall be to the aggregate number of issued and outstanding shares of Common Stock beneficially owned by such Holder and, without duplication, its Affiliates, after giving effect to such hypothetical exercise.

“Holder” means a holder of Registrable Securities who is a party to this Agreement (including by way of Joinder), including its Permitted Transferees who hold Registrable Securities.

“Hornbeck” has the meaning set forth in the preamble.

“Indemnified Parties” has the meaning set forth in Section 6(a).

“Initial Holders” has the meaning set forth in the preamble.

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“Initial Shelf Registration Statement” has the meaning set forth in Section 1(a).

“Joinder” has the meaning set forth in Section 8.

“Jones Act” means the Merchant Marine Act of 1920 and the Shipping Act, 1916, as amended, and the rules and regulations promulgated thereunder.

“Jones Act Warrant Agreement” means the Amended and Restated Jones Act Warrant Agreement to be entered into on the Closing Date by and between the Company and Computershare, Inc. and Computershare Trust Company, N.A., collectively as warrant agent, as it may be amended, restated, amended and restated, supplemented or otherwise modified from time to time.

“Jones Act Warrants” means warrants to purchase a number of shares of Common Stock on the terms set forth in and as governed by the Jones Act Warrant Agreement, which warrants will be assumed by the Company pursuant to the Jones Act Warrant Agreement in connection with the Closing.

“Lock-Up Period” means the period beginning on the Closing Date and ending on the earlier of (x) the Scheduled Lock-Up Release Date and (y) the termination of the Lock-Up Period by the Company in accordance with Section 9(a)(i).

“Lock-Up Release Date” means the date of the termination or expiration of the Lock-Up Period, whether by its terms or by the earlier agreement of the Company.

“Lock-Up Securities” means (A) Common Stock (solely to the extent (i) issued as consideration pursuant to the First Merger, including, for the avoidance of doubt, any shares of Common Stock issued in respect of Creditor Warrants in connection with the First Merger pursuant to the terms of the Creditor Warrant Agreement; (ii) issued or issuable upon the exercise of stock options or warrants outstanding as of immediately following the Closing in respect of stock options or warrants of Hornbeck outstanding immediately prior to the Closing; or (iii) issued or issuable upon the vesting of restricted stock units or performance restricted stock units outstanding as of immediately following the Closing in respect of restricted stock units or performance restricted stock units of Hornbeck outstanding immediately prior to the Closing), (B) Creditor Warrants, if any, and Jones Act Warrants (in each case, solely to the extent issued in connection with the transactions contemplated by the Merger Agreement in respect of warrants to purchase Hornbeck common stock outstanding immediately prior to the Closing) and (C) any shares of Common Stock issued or issuable upon exercise of Creditor Warrants or Jones Act Warrants referred to in the foregoing clause (B).

“Losses” has the meaning set forth in Section 6(a).

“Majority Holders” means the holders of the majority of the Registrable Securities.

“Maximum Number of Securities” has the meaning set forth in Section 1(d).

“Merger Agreement” has the meaning set forth in the recitals.

“Merger Sub Inc.” has the meaning set forth in the recitals.

“Merger Sub LLC” has the meaning set forth in the recitals.

“Opt-Out Holder” means a Holder that has delivered to the Company an Opt-Out Notice, and has not revoked such Opt-Out Notice, pursuant to Section 1(i)(ii).

“Opt-Out Notice” has the meaning set forth in Section 1(i)(ii).

“Other Coordinated Offering” has the meaning set forth in Section 1(f)(i).

“Participating 5% Holders” means any 5% Holder(s) participating in a Shelf Offering, Piggyback Underwritten Offering, Underwritten Block Trade or Other Coordinated Offering.

“Permitted Transferee” means any transferee pursuant to a Transfer of Company Securities (i) in the case of a Holder that is an individual, by such Holder to or among such Holder’s Family Group (including, without limitation, for estate planning purposes) or pursuant to applicable laws of descent and distribution, provided that (x) Company Securities may not be Transferred to a Holder’s spouse in connection with a divorce proceeding and (y) any Holder that is a trust or estate planning vehicle or entity must remain for the benefit of the same person(s) for so long as such trust

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holds Company Securities or (ii) in the case of any Holders, to any of their respective Affiliates (other than the Company or any of its Subsidiaries), in each case of clauses (i) and (ii), that is a party to this Agreement or agrees to become party to, and be bound to the same extent as its transferor by, the terms of this Agreement by signing a Joinder.

“Person” means an individual, a partnership, a corporation, a limited liability company, an association, a joint stock company, a trust, a joint venture, an unincorporated organization and a governmental entity or any department, agency or political subdivision thereof.

“Piggyback Underwritten Offering” has the meaning set forth in Section 2(a).

“Public Offering” means any sale or distribution by the Company, one of its Subsidiaries and/or Holders to the public of Common Stock or other securities convertible into or exchangeable for Common Stock pursuant to an offering registered under the Securities Act.

“Registrable Securities” means (i) all shares of Common Stock beneficially owned by any Holder, (ii) all shares of Common Stock issuable upon conversion or exercise of any Company Securities beneficially owned by any Holder, and (iii) any Equity Securities of the Company or any Subsidiary issued or issuable with respect to the securities referred to in clauses (i) and (ii) above by way of dividend, distribution, split or combination of securities, or any recapitalization, merger, consolidation or other reorganization. As to any particular Registrable Securities, such securities will cease to be Registrable Securities when they have been (a) sold or distributed pursuant to a Public Offering, (b) sold in compliance with Rule 144, or (c) repurchased by the Company or a Subsidiary of the Company.

“Registration Expenses” has the meaning set forth in Section 5.

“Registration Statement” means a registration statement of the Company in the form required to register under the Securities Act and other applicable law the resale of the Registrable Securities in accordance with the intended plan of distribution of each Holder of Registrable Securities included therein, and including any prospectus, amendments and supplements to each such registration statement or prospectus, including pre- and post-effective amendments, all exhibits thereto, and all material incorporated by reference or deemed to be incorporated by reference in such registration statement.

“Rule 144,” “Rule 158,” “Rule 405” and “Rule 415,” mean, in each case, such rule promulgated under the Securities Act (or any successor provision) by the SEC, as the same may be amended from time to time, or any successor rule then in force.

“Sale Transaction” has the meaning set forth in Section 3(a).

“Scheduled Lock-Up Release Date” means 180 days after the Closing Date.

“SEC” means the United States Securities and Exchange Commission.

“Second Merger” has the meaning set forth in the recitals.

“Securities Act” means the Securities Act of 1933, as amended from time to time, or any successor federal law then in force, together with all rules and regulations promulgated thereunder.

“Security Ownership Percentage” of any Holder at any time of determination means a fraction (expressed as a percentage), (i) the numerator of which is the aggregate number of Fully Diluted Securities beneficially owned by such Holder and, without duplication, its Affiliates at such time and (ii) the denominator of which is the aggregate number of Fully Diluted Securities at such time beneficially owned by all Holders.

“Securityholders Agreement” means the Securityholders Agreement to be entered into on the Closing Date by and among the Company and the holders listed therein, as it may be amended, restated, amended and restated, supplemented or otherwise modified from time to time.

“Shelf Offering” has the meaning set forth in Section 1(c)(i).

“Shelf Offering Notice” has the meaning set forth in Section 1(c)(i).

“Shelf Registration” has the meaning set forth in the definition of “Shelf Registration Statement.”

“Shelf Registration Statement” means a Registration Statement of the Company filed with the SEC on Form S-3 (or any successor form or other appropriate form under the Securities Act) for an offering to be made on a continuous or delayed basis pursuant to Rule 415 (or any similar rule that may be adopted by the SEC) (a “Shelf Registration”) or,

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if the Company is not then eligible to file on Form S-3, on Form S-1 or any other appropriate form under the Securities Act, or any successor rule that may be adopted by the SEC, and all amendments and supplements to such Registration Statement (including post-effective amendments), covering the Registrable Securities, as applicable, including the Initial Shelf Registration Statement and any Subsequent Shelf Registration.

“Subsequent Shelf Registration” has the meaning set forth in Section 1(b).

“Subsidiary” means, with respect to the Company, any corporation, limited liability company, partnership, association or other business entity of which (i) if a corporation, a majority of the total voting power of shares of stock entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers or trustees thereof is at the time owned or controlled, directly or indirectly, by the Company or one or more of the other Subsidiaries of the Company or a combination thereof, or (ii) if a limited liability company, partnership, association or other business entity, a majority of the limited liability company, partnership or other similar ownership interest thereof is at the time owned or controlled, directly or indirectly, by the Company or one or more Subsidiaries of the Company or a combination thereof. For purposes hereof, a Person or Persons will be deemed to have a majority ownership interest in a limited liability company, partnership, association or other business entity if such Person or Persons will be allocated a majority of limited liability company, partnership, association or other business entity gains or losses or will be or control the managing director or general partner of such limited liability company, partnership, association or other business entity.

“Surviving Corporation” has the meaning set forth in the recitals.

“Suspension Event” has the meaning set forth in Section 1(e)(ii).

“Suspension Notice” has the meaning set forth in Section 1(e)(ii).

“Suspension Period” has the meaning set forth in Section 1(e)(i).

“Synthetic Secondary” has the meaning set forth in Section 1(j).

“Total Ownership Percentage” of any Holder at any time of determination means a fraction (expressed as a percentage), (i) the numerator of which is the aggregate number of Fully Diluted Securities beneficially owned by such Holder and, without duplication, its Affiliates at such time and (ii) the denominator of which is the aggregate number of outstanding Fully Diluted Securities.

“Transfer” shall mean the (a) sale or assignment of, offer to sell, contract or agreement to sell, encumber, hypothecate, pledge, grant of any option to purchase or otherwise dispose of or agreement to dispose of, directly or indirectly, or establishment or increase of a put equivalent position or liquidation with respect to or decrease of a call equivalent position within the meaning of Section 16 of the Exchange Act with respect to, any security beneficially owned by a Person or any interest in any security beneficially owned by a Person, including derivative or similar transactions or arrangements whereby the voting or economic interest therein are transferred to another Person, (b) entry into any swap or other arrangement that transfers to another, in whole or in part, any of the economic consequences of ownership of any security, whether any such transaction is to be settled by delivery of such securities, in cash or otherwise, or (c) public announcement of any intention to effect any transaction specified in clause (a) or (b).

“Underwriter Purchase Price” means the price per share of Common Stock to be paid by the underwriters in a Shelf Offering or Piggyback Underwritten Offering.

“Underwritten Offering Filing” means (a) with respect to a Shelf Offering, a preliminary prospectus supplement (or prospectus supplement if no preliminary prospectus supplement is used) to the Shelf Registration Statement relating to such Shelf Offering, and (b) with respect to a Piggyback Underwritten Offering, (i) a preliminary prospectus supplement (or prospectus supplement if no preliminary prospectus supplement is used) to an effective shelf Registration Statement (other than the Shelf Registration Statement) in which Registrable Securities could be included and the Holders could be named as selling security holders without the filing of a post-effective amendment thereto (other than a post-effective amendment that becomes effective upon filing) or (ii) a Registration Statement (other than the Shelf Registration Statement), in each case relating to such Piggyback Underwritten Offering.

“Violation” has the meaning set forth in Section 6(a).

“Warrant Exercise Price” means, with respect to Creditor Warrants at any time of determination, the exercise price per Warrant Share underlying such Creditor Warrants, if any, determined in accordance with the terms of the Creditor Warrant Agreement.

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“Warrant Share Number” means, with respect to any Warrant at any time of determination, the number of shares of Common Stock issuable upon exercise of such Warrant, determined in accordance with the terms of the Creditor Warrant Agreement or Jones Act Warrant Agreement, as applicable.

“Warrant Shares” means, to the extent constituting Registrable Securities hereunder, shares of Common Stock issuable upon exercise of Warrants beneficially owned or held of record by a Holder.

“Warrants” means, collectively, the Jones Act Warrants and the Creditor Warrants, if any.

“WKSI” means a “well-known seasoned issuer” as defined under Rule 405.

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EXHIBIT B

The undersigned is executing and delivering this Joinder pursuant to the Registration Rights Agreement dated as of _____, 20____ (as amended, modified and waived from time to time, the “Registration Rights Agreement”), among Helix Energy Solutions Group, Inc., a Minnesota corporation (the “Company”), and the other persons named as parties therein (including pursuant to other Joinders). Capitalized terms used herein have the meaning set forth in the Registration Rights Agreement.

By executing and delivering this Joinder to the Company, the undersigned hereby agrees to become a party to, to be bound by, and to comply with the provisions of, the Registration Rights Agreement as a Holder in the same manner as if the undersigned were an original signatory to the Registration Rights Agreement, and the undersigned will be deemed for all purposes to be a Holder thereunder, the undersigned hereby agrees that the undersigned hereby assumes and agrees to perform the covenants and obligations of a Holder under the Registration Rights Agreement, and the undersigned’s [] shares of Common Stock (including [] shares issuable upon conversion or exercise of Company Securities) received from Transferor will be deemed for all purposes to be Registrable Securities under the Registration Rights Agreement.

Accordingly, the undersigned has executed and delivered this Joinder as of the ____ day of _____, 20____.

TRANSFEROR:

Signature

Print Name

Address: _____

TRANSFeree:

Signature

Print Name

Address: _____

Agreed and Accepted as of
_____, 20____:

HELIX ENERGY SOLUTIONS GROUP, INC.

By: _____

Its: _____

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PART II—INFORMATION NOT REQUIRED IN PROSPECTUS**Item 20. Indemnification of Officers and Directors.**

Helix currently is a Minnesota corporation subject to the applicable indemnification provisions of the MBCA. However, upon satisfaction of the conditions to closing set forth in the merger agreement, immediately prior to the first merger, Helix will convert from a Minnesota corporation to a Delaware corporation in accordance with Section 265 of the DGCL and Section 302A.682 of the MBCA. Following the Conversion and the consummation of the mergers, the combined company will be a Delaware corporation subject to the applicable indemnification provisions of the DGCL.

Minnesota Law

Section 302A.521 of the MBCA provides that, unless prohibited by its articles of incorporation or bylaws, a corporation shall indemnify any person, including an officer or director, who is made or threatened to be made a party to a proceeding by reason of the former or present official capacity of such person, under certain circumstances and subject to certain conditions and limitations as stated therein and set forth in the articles of incorporation or bylaws of such corporation, against judgments, penalties, fines (including, without limitation, excise taxes assessed against such person with respect to any employee benefit plan), settlements and reasonable expenses (including attorneys' fees and disbursements incurred by such person in connection with the proceeding) incurred by such person in connection with the proceeding, if, with respect to the acts or omissions of such person complained of in the proceeding, such person: (i) has not been indemnified therefor by another organization or employee benefit plan; (ii) acted in good faith; (iii) received no improper personal benefit and, in the case of a conflict of interest, any requirements relating to directors' conflicts of interest as set forth under Section 302A.255 of the Minnesota Business Corporation Act, as applicable, have been satisfied; (iv) in the case of a criminal proceeding, had no reasonable cause to believe the conduct was unlawful; and (v) in the case of acts or omission occurring in such person's performance in an official capacity, such person reasonably believed that the conduct was in the best interests of the corporation or reasonably believed that the conduct was not opposed to the best interests of the corporation.

Helix's current charter contains provisions that eliminate the personal liability of Helix's directors to Helix and its shareholders to the fullest extent permitted by the MBCA. However, these provisions do not limit or eliminate the rights of Helix or its shareholders to seek an injunction or any other non-monetary relief in the event of a breach of a director's fiduciary duty and do not limit or eliminate the liability of directors under federal securities laws. Article IX of Helix's current charter provides that directors serving on the Helix Board shall not be personally liable to Helix or its shareholders for monetary damages for breach of fiduciary duty as a director, except for: (i) liability based on a breach of the duty of loyalty to Helix or its shareholders; (ii) liability for acts or omissions not in good faith or that involve intentional misconduct or a knowing violation of law; (iii) liability based on the payment of an improper dividend or an improper repurchase of Helix common stock under Section 302A.559 of the MBCA, or on material violations of federal or state securities laws; (iv) liability for any transaction from which the director derived a material improper personal benefit; or (v) liability for any act or omission occurring prior to the date Article IX of Helix's current charter became effective. Helix's current charter further provides that, if the MBCA is amended subsequent to the effectiveness of Article IX, then the liability of a Helix director shall be limited to the fullest extent permitted by the amended MBCA, in addition to the limitation on liability provided under Article IX of Helix's current charter as then in effect. Under Article IX of Helix's current charter, any repeal of Article IX as a matter of law or any modification of Article IX by Helix shareholders shall be prospective only, and shall not adversely affect any limitation on the personal liability of a Helix director existing at the time of such repeal or modification.

Article 7 of Helix's current bylaws provides that Helix shall defend and indemnify a person made or threatened to be made a party to a proceeding by reason of the former or present official capacity of the person with Helix against judgments, penalties, fines (including, without limitation, excise taxes assessed against the person with respect to an employee benefit plan), settlements, and reasonable expenses (including, without limitation, attorneys' fees and disbursements), incurred by the person in connection with the proceeding, if, with respect to the acts or omissions of the person complained of in the proceeding, the person: (i) with respect to a director or officer of Helix who, while a director or officer of Helix, is or was serving at the request of Helix or whose duties in that position involve or involved service as a director, officer or trustee of another organization, the position of that person as a director, officer or trustee, as the case may be, of the other organization, has not been indemnified by another organization or employee benefit plan for the same judgments, penalties, fines (including, without limitation, excise taxes assessed against the person with respect to an employee benefit plan), settlements, and reasonable expenses (including attorneys' fees and disbursements), incurred by the person in connection with the proceeding with respect to the same acts or omissions; (ii) acted in good

faith; (iii) received no improper personal benefit and the applicable provisions of the MBCA relating to director conflicts of interest have been satisfied; (iv) in the case of a criminal proceeding, had no reasonable cause to believe the conduct was unlawful; and (v) (a) in the case of acts or omissions undertaken while acting either, with respect to a director, in the official capacity of the position as a director, or with respect to a person other than a director, in the official capacity of the elective or appointive position held by an officer or member of a committee of the Helix Board, reasonably believed that the conduct was in the best interests of Helix, or (b) in the case of acts or omissions undertaken while acting in the official capacity as a director or officer of Helix who, while a director or officer of Helix, is or was serving at the request of Helix or whose duties in that position involve or involved service as a director, officer or trustee of another organization, the position of that person as a director, officer or trustee, as the case may be, of the other organization, reasonably believed that the conduct was not opposed to the best interests of Helix; provided that, if a person's acts or omissions complained of in an applicable proceeding relate to such person's conduct as a director, officer or trustee, the conduct is not considered to be opposed to the best interests of Helix if the person reasonably believed that the conduct was in the best interests of the participants or beneficiaries of the employee benefit plan. The bylaws also provide that Helix must pay or reimburse the reasonable expenses (including attorneys' fees) incurred by such person in advance of the final disposition of the proceeding, subject to certain conditions.

The foregoing is only a general summary of certain aspects of Minnesota law and Helix's current charter and bylaws dealing with indemnification of directors and officers and does not purport to be complete. It is qualified in its entirety by reference to the detailed provisions of the MBCA and Helix's current charter and bylaws.

Delaware Law

Under Section 145 of the DGCL, each director and officer of the combined company may be indemnified by the combined company against all expenses and liabilities (including attorney's fees, judgments, fines and amounts paid in settlement) actually or reasonably incurred in connection with the defense or settlement of any threatened, pending or completed legal proceedings (other than a proceeding by or in the right of the combined company) in which he or she is involved by reason of the fact that he or she is or was a director or officer of the combined company if such director or officer acted in good faith and in a manner that he or she reasonably believed to be in or not opposed to the best interests of the combined company and, with respect to any criminal action or proceeding, if he or she had no reasonable cause to believe that his or her conduct was unlawful. If the legal proceeding, however, is by or in the right of the combined company, the director or officer (i) may be indemnified by the combined company only for expenses (including attorneys' fees) but not for judgments, fines or amounts paid in settlements and (ii) may not be indemnified for expenses in respect of any claim, issue or matter as to which he or she shall have been adjudged to be liable to the combined company unless a court determines otherwise.

The combined company's certificate of incorporation contains provisions that eliminate the personal liability of the combined company's directors and officers to the combined company and its stockholders to the fullest extent permitted by the DGCL. However, these provisions do not limit or eliminate the rights of the combined company or any combined company stockholder to seek an injunction or any other non-monetary relief in the event of a breach of a director or officer's fiduciary duty and do not limit or eliminate the liability of directors under federal securities laws. In addition, the combined company's certificate of incorporation provides that, to the fullest extent authorized or permitted by the DGCL, as now in effect or as amended, the combined company will indemnify any person who was or is a party or is threatened to be made a party to or is otherwise involved (including involvement, without limitation, as a witness) in any threatened, pending or completed action, suit or proceeding by reason of the fact that such person is or was the combined company's director, advisory director, board observer or officer, or by reason of the fact that the combined company's director, advisory director, board observer or officer is or was serving, at the combined company's request, as a director, advisory director, board observer, officer, employee or agent of another corporation or of a partnership, joint venture, trust or other enterprise, including service with respect to employee benefit plans. Provided that such person acted in good faith and in a manner the person reasonably believed to be in or not opposed to the best interests of the combined company, and, with respect to any criminal action or proceeding, had no reasonable cause to believe such person's conduct was unlawful, the combined company will indemnify such persons against expenses, liabilities, and loss (including attorneys' fees and related disbursements, judgments, fines, excise taxes or penalties under the Employee Retirement Income Security Act of 1974 ("ERISA"), penalties and amounts paid in settlement) actually and reasonably incurred in connection with such action. The combined company's certificate of incorporation further provides that the combined company shall only be required to indemnify a person potentially eligible for indemnification (as specified above) in connection with a proceeding commenced by such person if the commencement of such proceeding (or part thereof) by the person was authorized by the combined company board.

The foregoing is only a general summary of certain aspects of Delaware law and the combined company's certificate of incorporation and bylaws dealing with indemnification of directors and officers and does not purport to be complete. It is qualified in its entirety by reference to the detailed provisions of the DGCL and the combined company's certificate of incorporation and bylaws.

The combined company expects to enter into indemnification agreements with its directors and executive officers, and intends to enter into indemnification agreements with any new directors and executive officers in the future. Pursuant to such agreements, the combined company will, to the fullest extent authorized or permitted by the DGCL, indemnify such persons against all expenses, liabilities, and loss (including attorneys' fees and related disbursements, judgments, fines, excise taxes or penalties under ERISA, penalties and amounts paid in settlement) actually and reasonably incurred in connection with any such actions brought against them by reason of the fact that they were directors or executive officers of the combined company or assumed certain responsibilities at the direction of the combined company. The preceding discussion of the combined company's indemnification agreements with its directors and executive officers is not intended to be exhaustive and is qualified in its entirety by reference to such indemnification agreements.

Merger Agreement

Helix has agreed that it and the surviving corporation will indemnify and hold harmless to the fullest extent as such individuals would be indemnified as of the date of the merger agreement under applicable law, Hornbeck's organizational documents and any indemnification agreements in effect as of the date of the merger agreement, each present and former (determined as of the effective time) director and officer of Hornbeck or any of its subsidiaries or any person who acts as a fiduciary under any benefit plan (as defined in the merger agreement) of Hornbeck or any of its subsidiaries, or any person who, prior to the effective time, served at the request of Hornbeck or any of its subsidiaries as a director or officer of another person or acts as a fiduciary under any benefit plan of another person, in each case, in which Hornbeck or any of its subsidiaries has an equity investment, in each case, when acting in such capacity (each, an "indemnified party," and collectively the "indemnified parties"), against any costs or expenses (including reasonable attorneys' fees, costs and expenses), judgments, inquiries, fines, losses, claims, damages or liabilities incurred in connection with, arising out of or otherwise related to any proceeding, in connection with, arising out of or otherwise related to any matters existing or occurring at or prior to the effective time, whether asserted or claimed prior to, at or after, the effective time, including in connection with (i) the merger agreement, the mergers or the other transactions contemplated by the merger agreement and (ii) actions to enforce the applicable provision of the merger agreement under which Helix and the surviving corporation so agreed or any other indemnification or advancement right of any indemnified party, and Helix and the surviving corporation will also advance expenses as incurred to the fullest extent that such individual would have been entitled to under applicable law, Hornbeck's organizational documents and any indemnification agreements in effect as of the date of the merger agreement, provided that any person to whom expenses are advanced provides an undertaking to repay such advances if it is ultimately determined by final adjudication that such person is not entitled to indemnification.

Prior to the effective time, Hornbeck will purchase (and pay in full the aggregate premium for) "tail" insurance policies (the "tail policies") for the extension of (i) the directors' and officers' liability coverage of Hornbeck's existing directors' and officers' insurance policies and (ii) Hornbeck's existing fiduciary liability insurance policies, in each case, for a claims reporting or discovery period of six years from and after the effective time (the "tail period") from one or more insurance carriers with the same or better credit rating as Hornbeck's insurance carrier as of the date of the merger agreement with respect to directors' and officers' liability insurance and fiduciary duty liability insurance (collectively, the "D&O insurance") with terms conditions, retentions and limits of liability that are no less favorable in the aggregate to the insureds as Hornbeck's existing policies with respect to matters existing or occurring at or prior to the effective time (including in connection with the merger agreement, the mergers and the other transactions contemplated by the merger agreement). If Hornbeck fails to obtain such prepaid tail policies as of the effective time, Helix will continue to maintain for the tail period the D&O insurance in place as of the date of the merger agreement with terms, conditions, retentions and limits of liability that are no less favorable in the aggregate to the insureds as provided in Hornbeck's existing policies as of the date of the merger agreement, or Helix will purchase comparable D&O insurance for the tail period with terms, conditions, retentions and limits of liability that are no less favorable in the aggregate to the insureds as provided in Hornbeck's existing policies as of the date of the merger agreement, in each case, for a maximum aggregate cost of the tail policies and the D&O insurance not to exceed during the tail period 300% of the current aggregate annual premium paid by Hornbeck for such purpose for its fiscal year ended December 31, 2026, provided that if the cost of such insurance coverage exceeds such amount, Helix or Hornbeck will obtain a policy with the greatest amount of D&O insurance available for a cost not exceeding such amount.

During the tail period, all rights to indemnification and exculpation from liabilities for acts or omissions occurring at or prior to the effective time and rights to advancement of expenses relating thereto existing at the time of the merger agreement in favor of any indemnified party as provided in the organizational documents of Hornbeck and its subsidiaries or any indemnification agreement between such indemnified party and Hornbeck or any of its subsidiaries, in each case, as in effect on the date of the merger agreement, will survive the mergers and the other transactions contemplated by the merger agreement unchanged and will not be amended, restated, repealed or otherwise modified in any manner that would adversely affect any right thereunder of any such indemnified party.

The rights of the indemnified parties described above will survive the consummation of the mergers and are in addition to, and will not abridge or otherwise modify, any rights such indemnified parties may have under the Hornbeck organizational documents or the organizational documents of any of its subsidiaries or any rights such indemnified parties may have under any indemnification agreements or other applicable contracts of Hornbeck or under applicable laws. The indemnification, exculpation and insurance provisions in the merger agreement are for the benefit of, and from and after the effective time will be enforceable by, each of the indemnified parties, who are third-party beneficiaries of such provisions.

Item 21. Exhibits and Financial Statement Schedules.

A list of exhibits included as part of this registration statement is set forth in the Exhibit Index which is hereby incorporated by reference.

Item 22. Undertakings.

The undersigned registrant hereby undertakes:

- (1) To file, during any period in which offers or sales are being made, a post-effective amendment to this registration statement: (i) to include any prospectus required by Section 10(a)(3) of the Securities Act; (ii) to reflect in the prospectus any facts or events arising after the effective date of the registration statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the registration statement (notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of prospectus filed with the SEC pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than 20% change in the maximum aggregate offering price set forth in the "Calculation of Registration Fee" table in the effective registration statement); and (iii) to include any material information with respect to the plan of distribution not previously disclosed in the registration statement or any material change to such information in the registration statement.
- (2) That, for the purpose of determining any liability under the Securities Act, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.
- (3) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.
- (4) That, for purposes of determining any liability under the Securities Act to any purchaser, each prospectus filed pursuant to Rule 424(b) as part of a registration statement relating to an offering, other than registration statements relying on Rule 430B or other than prospectuses filed in reliance on Rule 430A, shall be deemed to be part of and included in the registration statement as of the date it is first used after effectiveness. Provided, however, that no statement made in a registration statement or prospectus that is part of the registration statement or made in a document incorporated or deemed incorporated by reference into the registration statement or prospectus that is part of the registration statement will, as to a purchaser with a time of contract of sale prior to such first use, supersede or modify any statement that was made in the registration statement or prospectus that was part of the registration statement or made in any such document immediately prior to such date of first use.
- (5) That, for the purpose of determining liability of the registrant under the Securities Act to any purchaser in the initial distribution of the securities, in a primary offering of securities of the registrant pursuant to this registration statement, regardless of the underwriting method used to sell the securities to the purchaser, if the securities are offered or sold to such purchaser by means of any of the following communications, the

undersigned registrant will be a seller to the purchaser and will be considered to offer or sell such securities to such purchaser: (i) any preliminary prospectus or prospectus of the undersigned registrant relating to the offering required to be filed pursuant to Rule 424; (ii) any free writing prospectus relating to the offering prepared by or on behalf of the undersigned registrant or used or referred to by the undersigned registrant; (iii) the portion of any other free writing prospectus relating to the offering containing material information about the undersigned registrant or its securities provided by or on behalf of the undersigned registrant; and (iv) any other communication that is an offer in the offering made by the undersigned registrant to the purchaser.

- (6) That, for purposes of determining any liability under the Securities Act, each filing of the registrant's annual report pursuant to Section 13(a) or 15(d) of the Exchange Act (and, where applicable, each filing of an employee benefit plan's annual report pursuant to Section 15(d) of the Exchange Act) that is incorporated by reference in this registration statement shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.
- (7) That prior to any public reoffering of the securities registered hereunder through use of a prospectus which is a part of this registration statement, by any person or party who is deemed to be an underwriter within the meaning of Rule 145(c), the registrant undertakes that such reoffering prospectus will contain the information called for by the applicable registration form with respect to reofferings by persons who may be deemed underwriters, in addition to the information called for by the other Items of the applicable form.
- (8) That every prospectus (i) that is filed pursuant to paragraph (5) above, or (ii) that purports to meet the requirements of Section 10(a)(3) of the Securities Act and is used in connection with an offering of securities subject to Rule 415, will be filed as a part of an amendment to this registration statement and will not be used until such amendment has become effective, and that for the purpose of determining liability under the Securities Act, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.
- (9) Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers and controlling persons of the registrant pursuant to the foregoing provisions, or otherwise, the registrant has been advised that in the opinion of the SEC such indemnification is against public policy as expressed in the Securities Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the registrant of expenses incurred or paid by a director, officer or controlling person of the registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Act and will be governed by the final adjudication of such issue.
- (10) To respond to requests for information that is incorporated by reference into the prospectus pursuant to Items 4, 10(b), 11 or 13 of this Form, within one business day of receipt of such request, and to send the incorporated documents by first class mail or other equally prompt means. This includes information contained in documents filed subsequent to the effective date of the registration statement through the date of responding to the request.
- (11) To supply by means of a post-effective amendment all information concerning a transaction, and the company being acquired involved therein, that was not the subject of and included in this registration statement when it became effective.

EXHIBIT INDEX

Exhibit Number	Description	Filed or Furnished Herewith or Incorporated by Reference from the Following Documents (Registration or File Number)
2.1	Agreement and Plan of Merger, dated as of April 22, 2026, between Helix Energy Solutions Group, Inc., Hornbeck Offshore Services, Inc., Odyssey Sub, Inc. and Hercules Sub LLC.	Filed herewith (included as Annex A to the proxy statement/prospectus which forms a part of this registration statement on Form S-4)
2.2	Form of Plan of Conversion.	Filed herewith (included as Annex C to the proxy statement/prospectus which forms a part of this registration statement on Form S-4)
3.1	2005 Amended and Restated Articles of Incorporation, as amended, of Helix Energy Solutions Group, Inc.	Exhibit 3.1 to the Current Report on Form 8-K filed on March 1, 2006 (000-22739)
3.2	Second Amended and Restated By-Laws of Helix Energy Solutions Group, Inc., as amended.	Exhibit 3.1 to the Current Report on Form 8-K filed on September 28, 2006 (001-32936)
3.3	Form of Certificate of Incorporation of Helix Energy Solutions Group, Inc., to be renamed Hornbeck Offshore Services, Inc.	Filed herewith (included as Annex D to the proxy statement/prospectus which forms a part of this registration statement on Form S-4)
3.4	Form of Bylaws of Helix Energy Solutions Group, Inc., to be renamed Hornbeck Offshore Services, Inc.	Filed herewith (included as Annex E to the proxy statement/prospectus which forms a part of this registration statement on Form S-4)
4.1	Description of Securities Registered Pursuant to Section 12 of the Exchange Act of 1934.	Filed herewith
4.2	Form of Amended and Restated Jones Act Warrant Agreement.	Exhibit H to Exhibit 2.1 to the Current Report on Form 8-K filed on April 24, 2026 (001-32936)
4.3	Form of Amended and Restated Jones Act Anti-Dilution Warrant.	Exhibit D to Exhibit H to Exhibit 2.1 to the Current Report on Form 8-K filed on April 24, 2026 (001-32936)
4.4	Creditor Warrant Agreement, dated as of September 4, 2020, between Hornbeck Offshore Services, Inc. and Computershare, Inc. and Computershare Trust Company, N.A.	Filed herewith
4.5	Amendment No. 1 to Creditor Warrant Agreement, dated December 10, 2024, between Hornbeck Offshore Services, Inc. and Computershare Inc. and Computershare Trust Company, N.A.	Filed herewith
4.6	Amendment No. 2 to Creditor Warrant Agreement, dated April 22, 2026, between Hornbeck Offshore Services, Inc., Computershare Inc. and Computershare Trust Company, N.A.	Filed herewith
4.7	Securityholders Agreement, dated as of April 22, 2026, by and among Helix Energy Solutions Group, Inc. and each Securityholder Party thereto.	Filed herewith (included as Annex F to the proxy statement/prospectus which forms a part of this registration statement on Form S-4)
4.8	Registration Rights Agreement, dated as of April 22, 2026, by and among Helix Energy Solutions Group, Inc., each person listed on the signature pages thereto and each other person who executes a joinder and becomes a party thereto from time to time.	Filed herewith (included as Annex G to the proxy statement/prospectus which forms a part of this registration statement on Form S-4)

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Exhibit Number	Description	Filed or Furnished Herewith or Incorporated by Reference from the Following Documents (Registration or File Number)
5.1	Opinion of Baker Botts L.L.P. regarding the legality of the securities being registered.	Filed herewith
8.1	Form of opinion of Kirkland & Ellis LLP regarding certain U.S. federal income tax matters.	Filed herewith
10.1	Credit Agreement, dated as of August 13, 2024, by and among Hornbeck Offshore Services, Inc., DNB Bank ASA, New York Branch, as administrative agent, Wilmington Trust, National Association, as collateral agent, and the lenders party thereto.	Filed herewith
10.2	First Amendment to Credit Agreement, dated as of December 27, 2024, by and among Hornbeck Offshore Services, Inc., DNB Bank ASA, New York Branch, as administrative agent, Wilmington Trust, National Association, as collateral agent, and the lenders party thereto.	Filed herewith
10.3	Second Lien Term Loan Credit Agreement, dated December 27, 2024, by and among Hornbeck Offshore Services, Inc., as borrower, Wilmington Trust, National Association, as administrative agent and collateral agent, and the lenders party thereto.	Filed herewith
10.4	Settlement Term Sheet, effective as of October 3, 2023, by and among Hornbeck Offshore Services, LLC, Gulf Island Shipyards, LLC, Gulf Island Fabrication, Inc., Fidelity & Deposit Company of Maryland and Zurich American Insurance Company.	Filed herewith
10.5	Takeover Agreement, dated as of October 3, 2023, by and among Hornbeck Offshore Services, LLC, Fidelity & Deposit Company of Maryland and Zurich American Insurance Company.	Filed herewith
10.6	Form of D&O Indemnification Agreement (between Hornbeck Offshore Services, Inc. (formerly known as Helix Energy Solutions Group, Inc.) and its directors and officers).	Exhibit F to Exhibit 2.1 to the Current Report on Form 8-K filed on April 24, 2026 (001-32936)
10.7	Fourth Amended and Restated Trade Name and Trademark License Agreement, dated as of April 23, 2026, by and among HFR, LLC and Hornbeck Offshore Services, Inc.	Filed herewith
10.8	Lock-Up Agreement between Helix Energy Solutions Group, Inc. and the securityholders of Hornbeck Offshore Services, Inc. party thereto.	Filed herewith
10.9	Equity Purchase Agreement, dated May 1, 2026, by and among Helix Alliance Decom, LLC, C-Dive, L.L.C. and, for the limited purposes set forth therein, Helix Energy Solutions Group, Inc.	Exhibit 10.1 to the Current Report on Form 8-K filed on May 5, 2026 (001-32936)
21.1	List of Helix's Subsidiaries.	Filed herewith
23.1	Consent of KPMG LLP, independent registered public accounting firm for Helix Energy Solutions Group, Inc.	Filed herewith
23.2	Consent of Ernst & Young LLP, independent certified public accountants for Hornbeck Offshore Services, Inc.	Filed herewith
23.3	Consent of Baker Botts L.L.P. (included in Exhibit 5.1).	Filed herewith (included in Exhibit 5.1 to this registration statement on Form S-4)
23.4*	Consent of Kirkland & Ellis LLP (included in Exhibit 8.1).	
24.1	Power of Attorney for Helix Energy Solutions Group, Inc.	Filed herewith (included on the signature page of this registration statement on Form S-4)

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Exhibit Number	Description	Filed or Furnished Herewith or Incorporated by Reference from the Following Documents (Registration or File Number)
99.1*	Form of Proxy Card for Special Meeting of Helix Energy Solutions Group, Inc.	
99.2	Consent of Goldman Sachs & Co. LLC.	Filed herewith
99.3	Consent of Todd M. Hornbeck to be named as a director upon completion of the mergers.	Filed herewith
99.4*	Consent of to be named as a director upon completion of the mergers.	
99.5*	Consent of to be named as a director upon completion of the mergers.	
99.6*	Consent of to be named as a director upon completion of the mergers.	
107	Filing Fee Table.	Filed herewith

* To be filed by amendment.

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the registrant has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Houston, State of Texas, on June 4, 2026.

HELIX ENERGY SOLUTIONS GROUP, INC.

By: /s/ Owen Kratz
 Name: Owen Kratz
 Title: President and Chief Executive Officer

POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below hereby constitutes and appoints Erik Staffeldt and Kenneth E. Neikirk, and either of them, severally, the individual's true and lawful attorney-in-fact and agent, with full power of substitution and resubstitution, for him or her and in his or her name, place and stead, in any and all capacities, to sign any or all amendments (including post-effective amendments) to this Registration Statement (and any additional registration statements related thereto permitted by Rule 462(b) promulgated under the Securities Act of 1933, as amended (and all further amendments, including post-effective amendments, thereto)), and to file the same, with all exhibits thereto, and all other documents in connection therewith, with the Securities and Exchange Commission, and hereby grants to such attorneys-in-fact and agents, and each of them, full power and authority to do and perform each and every act and thing requisite and necessary to be done, as fully to all intents and purposes as he or she might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agents or any of them, or his, her or their substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, as amended, this Registration Statement has been signed below by the following persons on behalf of the registrant and in the capacities indicated on June 4, 2026.

<u>Signature</u>	<u>Title</u>
<u>/s/ WILLIAM L. TRANSIER</u> WILLIAM L. TRANSIER	Chairman of the Board
<u>/s/ OWEN KRATZ</u> OWEN KRATZ	President, Chief Executive Officer and Director (Principal Executive Officer)
<u>/s/ ERIK STAFFELDT</u> ERIK STAFFELDT	Executive Vice President and Chief Financial Officer (Principal Financial Officer)
<u>/s/ BRENT ARRIAGA</u> BRENT ARRIAGA	Vice President and Chief Accounting Officer (Principal Accounting Officer)
<u>/s/ DIANA GLASSMAN</u> DIANA GLASSMAN	Director
<u>/s/ PAULA HARRIS</u> PAULA HARRIS	Director
<u>/s/ T. MITCH LITTLE</u> T. MITCH LITTLE	Director
<u>/s/ JOHN V. LOVOI</u> JOHN V. LOVOI	Director
<u>/s/ AMY H. NELSON</u> AMY H. NELSON	Director

Description of Securities Registered Pursuant to Section 12 of the Exchange Act of 1934

The following summary of the material terms of the capital stock of Helix Energy Solutions Group, Inc. (“Helix,” “we” and “our”), as well as certain additional information, does not purport to be complete and is subject to and qualified in its entirety by reference to our Certificate of Incorporation (the “Certificate”), and our Bylaws (the “Bylaws”). You are encouraged to read our Certificate, Bylaws and the applicable provisions of the General Corporation Law of the State of Delaware, as amended (the “DGCL”), for additional information.

The description below reflects the Certificate and Bylaws as those documents will be in effect following the consummation of the transactions contemplated by the Agreement and Plan of Merger, dated as of April 22, 2026, among Helix, Odyssey Sub, Inc., Hercules Sub LLC and Hornbeck Offshore Services, Inc. (the “Merger Agreement”), and assumes approval by Helix’s shareholders of all shareholder proposals relating to the Certificate proposed to the Helix shareholders at the special meeting of Helix shareholders in connection with the transactions contemplated by the Merger Agreement.

General

Our Certificate authorizes the issuance of 410,000,000 shares of capital stock, consisting of (i) up to 400,000,000 shares of common stock, par value \$0.00001 per share (the “Common Stock”), and (ii) 10,000,000 shares of preferred stock, par value \$0.00001 per share (the “Preferred Stock”).

Description of Common Stock***Voting Rights***

Each Helix stockholder is entitled to one vote for each share of capital stock entitled to vote on the subject matter under consideration held by such stockholder. The holders of shares of our Common Stock do not have cumulative voting rights.

Dividend Rights

Holders of our Common Stock are entitled to receive dividends, if any, in the amounts and at the times declared by the board of directors of Helix (the “Board”).

Liquidation Rights

Upon our liquidation, dissolution or winding-up, the assets legally available for distribution to our stockholders would be distributable ratably among the holders of our Common Stock and any participating Preferred Stock outstanding at that time after payment of liquidation preferences, if any, on any outstanding shares of Preferred Stock and payment of claims of creditors.

Assessment and Redemption

All shares of our Common Stock are validly issued, fully paid and nonassessable. There is no provision for any voluntary redemption of our Common Stock.

Preemptive Rights

Holders of our Common Stock do not have any preemptive right to subscribe to an additional issue of our Common Stock or to any security convertible into such stock.

Limitations on Ownership by Non-U.S. Citizens

We are subject to the Jones Act (as defined in our Certificate), which, subject to limited exceptions, restricts maritime transportation of merchandise between points in the United States (known as marine cabotage services or coastwise trade) to vessels built in the United States, registered under the U.S. flag, crewed by U.S. citizens or lawful permanent residents, and owned and operated by U.S. citizens within the meaning of the Jones Act. Under the Jones Act, at least 75% of our outstanding shares of each class or series of the capital stock must be owned and controlled by U.S. citizens. In order to ensure compliance with the Jones Act coastwise citizenship requirement that at least 75% of our outstanding Common Stock is owned by U.S. citizens, our Certificate restricts ownership of the shares of our outstanding Common Stock by non-U.S. citizens in the aggregate to not more than 21%, with certain limited grandfathered circumstances allowing up to 24% of the outstanding shares of our Common Stock to be owned by non-U.S. citizens on and after the date on which our Certificate was filed with the Secretary of State of the State of Delaware (the “Effective Date”). Our Certificate further prohibits the acquisition of shares by a non-U.S. citizen where (i) such acquisition would cause the aggregate number of shares held by all non-U.S. citizens to exceed 21% of our issued and outstanding Common Stock and (ii) such acquisition would cause the aggregate number of shares held by any individual non-U.S. citizen to exceed 4.9% of our issued and outstanding Common Stock. Our Certificate further provides the Board with authority to redeem any share of Common Stock that is owned by non-U.S. citizens that would result in ownership by non-U.S. citizens in the aggregate in excess of 21% of our issued and outstanding Common Stock, with certain limited grandfathered circumstances allowing up to 24% of the outstanding shares of our Common Stock to be owned by non-U.S. citizens on and after the Effective Date. In the event the Board authorizes such a redemption, we would instruct our transfer agent to issue one of our Jones Act Warrants (as defined in our Certificate), or in certain situations, cash or interest bearing promissory notes, in respect of shares of Common Stock that caused ownership by non-U.S. citizens to exceed the applicable permitted limit, and such holder(s)’ interests in those shares will be terminated. Our Certificate further provides that we may require beneficial owners of our Common Stock to confirm their citizenship from time to time through written statement or affidavit and could, in the discretion of the Board, suspend the voting rights of such beneficial owner, pay into an escrow account dividends or other distributions (upon liquidation or otherwise) with respect to such shares held by such beneficial owner and restrict, prohibit or void the transfer of such shares and refuse to register such shares of Common Stock held by such beneficial owner until confirmation of its citizenship status is received.

Listing

Our Common Stock is listed on the New York Stock Exchange under the symbol “HOS.”

Description of Preferred Stock

Our Board is authorized to issue up to 10,000,000 shares of our Preferred Stock in one or more series, to establish from time to time the number of shares to be included in each series, to fix the designation, powers, preferences and rights of the shares of each series and any qualifications, limitations or restrictions thereof, in each case without further action by our stockholders. Subject to the terms of any series of Preferred Stock so designated, our Board is also authorized to increase or decrease the number of shares of any series of Preferred Stock, but not below the number of shares of that series then outstanding. Our Board will be able to authorize the issuance of Preferred Stock with voting or conversion or other rights that could adversely affect the voting power or other rights of the holders of our Common Stock. The issuance of Preferred Stock, while providing flexibility in connection with possible acquisitions and other corporate purposes, could, among other things, have the effect of delaying, deferring or preventing a change in our control and could adversely affect the market price of our Common Stock and the voting and other rights of the holders of our Common Stock. We have no current plan to issue any shares of Preferred Stock in the foreseeable future.

Description of Warrants

Jones Act Warrants

The Jones Act Warrants (as defined in our Certificate) have a perpetual term and are exercisable until the date on which no Jones Act Warrants remain outstanding. Each Jones Act Warrant represents the right to purchase one share of our Common Stock for an exercise price of \$0.00001 per share, subject to the terms and conditions of the Jones Act Warrant Agreement (as defined in our Certificate) pursuant to which such warrants are issued, including the limitations on foreign ownership as set forth in our Certificate that are intended to assist us in complying with the Jones Act.

Computershare Inc., a Delaware corporation, together with its affiliate, Computershare Trust Company, N.A., a federally chartered trust company, is the warrant agent for the Jones Act Warrants.

Creditor Warrants

The warrants issued pursuant to the Creditor Warrant Agreement dated as of September 4, 2022 between Hornbeck Offshore Services, Inc. and Computershare, Inc. and Computershare Trust Company, N.A., collectively as warrant agent (such warrants, the “Creditor Warrants” and such agreement, the “Creditor Warrant Agreement”), have seven-year terms and are exercisable through September 4, 2027. Each Creditor Warrant represents the right to purchase one share of our Common Stock at an exercise price of approximately \$2.71 per share (based on the current exercise price of the Creditor Warrants, after adjusting for the exchange ratio), subject to certain adjustments as provided in the Creditor Warrant Agreement pursuant to which such warrants were issued. All unexercised Creditor Warrants will expire, and the rights of the holders of Creditor Warrants to purchase shares of our Common Stock will terminate on the first to occur of (i) the close of business on September 4, 2027, or (ii) upon their earlier exercise or settlement in accordance with the terms of the Creditor Warrant Agreement.

Computershare Inc., a Delaware corporation, together with its affiliate, Computershare Trust Company, N.A., a federally chartered trust company, is the warrant agent for the Creditor Warrants.

Anti-Takeover and Other Provisions Contained in our Certificate and Bylaws

Our Certificate and Bylaws contain a number of provisions that could make the acquisition of Helix by means of a tender or exchange offer, a proxy contest or otherwise more difficult.

Classified Board; Removal of Directors

Helix’s directors, other than those who may be elected by the holders of any series of Preferred Stock, are divided into three classes, as nearly equal in number as possible, designated Class I, Class II and Class III. The term of office of the initial Class II directors shall expire at the first annual meeting of stockholders following the Effective Date, the term of office of the initial Class I directors shall expire at the second annual meeting of stockholders after the Effective Date and the term of office of the initial Class III directors shall expire at the third annual meeting of the stockholders after the Effective Date.

At each annual meeting of stockholders, directors elected to replace those of a class whose terms expire at such annual meeting shall be elected to hold office until the third succeeding annual meeting after their election and until their respective successors shall have been duly elected and qualified.

Our Certificate provides that, subject to the rights granted pursuant to the Securityholders Agreement (as defined in our Certificate), any or all of Helix's directors may be removed at any time with or without cause, but only by the affirmative vote of stockholders representing at least 68% of the voting power of all then-outstanding shares of our stock entitled to vote thereon, voting as a single class.

Advance Notice of Stockholder Business Proposals and Nominations

Our Bylaws provide an advance notice requirement with respect to stockholder proposals of business at annual meetings and stockholder nominations of candidates for election as directors at annual or special meetings of the stockholders.

Amendment of Certain Provisions of the Certificate and Bylaws

Our Certificate provides that the Board is expressly authorized to make, repeal, alter, amend and rescind, in whole or in part, our Bylaws without the assent or vote of the stockholders in any manner not inconsistent with the laws of the State of Delaware or our Certificate. Helix's stockholders may only alter, amend, repeal or rescind, in whole or in part, any provision of our Bylaws or adopt any provision inconsistent therewith with the affirmative vote of the holders of at least 66 2/3% in voting power of all the then-outstanding shares of stock entitled to vote thereon, voting together as a single class.

In addition, the following provisions of our Certificate, including any relevant definitions, may be amended, altered, repealed or rescinded, in whole or in part, or any provision inconsistent therewith may be adopted, only by the affirmative vote of the holders of at least 66 2/3% in voting power of all the then-outstanding shares of stock entitled to vote thereon, voting together as a single class:

- Article VI (Management);
 - Article VII (Liability of Directors and Officers);
 - Article IX (Corporate Opportunities);
 - Article X (Meetings of Stockholders);
 - Article XI (Business Combinations);
 - Article XII (Amendment);
 - Article XIV (Submission to Jurisdiction); and
 - Article XV (Jones Act Compliance).
-

CREDITOR WARRANT AGREEMENT

Between

Hornbeck Offshore Services, Inc.,

AS ISSUER,

And

Computershare, Inc. and

Computershare Trust Company, N.A.,

collectively, AS WARRANT AGENT

September 4, 2020

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This CREDITOR WARRANT AGREEMENT (this “Agreement”) is dated as of September 4, 2020, between Hornbeck Offshore Services, Inc., a Delaware corporation, as issuer (the “Company”), and Computershare, Inc., a Delaware corporation, and its wholly owned subsidiary, Computershare Trust Company, N.A., a federally chartered trust company (collectively, including any successors thereto, the “Warrant Agent”).

WITNESSETH

WHEREAS, in connection with the financial restructuring of the Company and certain of its subsidiaries (collectively, the “Debtors”) pursuant to the Debtors’ Joint Prepackaged Chapter 11 Plan of Reorganization (the “Plan”) under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§101 *et. seq.*, the Company has agreed to issue to certain creditors of the Company as of immediately prior to the consummation of the restructuring contemplated by the Plan warrants which are exercisable or convertible to purchase (i) shares of the Company’s common stock, par value \$0.00001 per share (“Common Stock”), or (ii) Warrants (as defined in the Jones Act Warrant Agreement), as determined herein, subject to adjustment as provided herein (the “Warrants”);

WHEREAS, the Company desires to engage the Warrant Agent to act on behalf of the Company in connection with the issuance, registration, transfer, exchange, replacement, exercise, conversion and cancellation of the Warrants;

WHEREAS, the Warrant Agent, at the request of the Company, has agreed to act as the agent of the Company in connection with the issuance, transfer, exchange, replacement, exercise and conversion of the Warrants as provided herein; and

WHEREAS, the Company desires to enter into this Agreement to set forth the terms and conditions of the Warrants and the rights of the Holders thereof.

NOW, THEREFORE, in consideration of the premises and mutual agreements herein set forth, the parties hereto agree as follows:

SECTION 1. Certain Defined Terms. Whenever used in this Agreement, the following words and phrases, unless the context otherwise requires, shall have the meanings specified in this Section 1. Capitalized terms used but not defined herein shall have the meaning ascribed to such terms in the Securityholders Agreement (as defined below).

“Act of Bankruptcy” means, with respect to any Person, the occurrence of any of the following events, conditions or circumstances: (a) such Person files a voluntary petition in bankruptcy or files any petition or consent seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief for itself under the Bankruptcy Code or any present or future applicable federal, state or other statute or law relating to bankruptcy, insolvency, reorganization or other relief for debtors, or seeks or consents to, or acquiesces in, the appointment of any trustee, receiver, conservator or liquidator of such Person or of all or any substantial part of its properties (the term “acquiesce,” as used in this definition, includes the failure to file a petition or motion to vacate or discharge any order, judgment or decree within twenty (20) days, after entry of such order, judgment or decree); or (b) such Person makes a general assignment for the benefit of creditors or take any other similar action for the protection or benefit of creditors.

“Affected Holder” has the meaning specified in Section 16 hereof.

“Affiliate” means, with respect to any Person, any Person who, directly or indirectly, Controls, is Controlled by or is under common Control with that Person; *provided, however*, that for the avoidance of doubt no Holder shall be deemed an affiliate of any other Holder solely on account of ownership of Equity Securities of the Company or being party to the Securityholders Agreement, and no Holder shall be deemed an affiliate of the Company solely on account of being party to the Securityholders Agreement.

“Agreement” has the meaning specified in the preamble hereof.

“Applicable Law” means all applicable provisions of (i) constitutions, treaties, statutes, laws (including the common law), rules, regulations, decrees, ordinances, codes, proclamations, declarations or orders of any Governmental Authority, including the Jones Act; (ii) any consents or approvals of any Governmental Authority; and (iii) any orders, decisions, advisory or interpretative opinions, injunctions, judgments, awards, decrees of, or agreements with, any Governmental Authority.

“Appropriate Officer” has the meaning specified in Section 3(c) hereof.

“Bankruptcy Code” means title 11 of the United States Code, 11 U.S.C. §§ § 101 et seq.

“Board” means the board of directors (or other applicable governing body) of the Company.

“Business Day” means any day that is not a Saturday, Sunday, or other day on which state or federally chartered banking institutions in New York City, New York are not required to be opened.

“Cash Closing” has the meaning specified in Section 6(g) hereof.

“Cash Sale” means any merger, consolidation or other similar transaction to which the Company is a party and in which holders of Common Stock as of immediately prior to the consummation of such transaction (other than with respect to treasury shares and any shares of Common Stock held by the purchasing party(ies) in such transaction) are entitled to receive consideration consisting solely of cash upon cancellation of such Common Stock in such transaction.

“Cashless Conversion” has the meaning specified in Section 5(c)(ii) hereof.

“Charter” means, with respect to any Person, such Person’s certificate or articles of incorporation, certificate of formation, articles of association or similar organizational document, in each case as may be amended from time to time.

“Commission” means the United States Securities and Exchange Commission.

“Common Stock” has the meaning specified in the recitals hereof.

“Company Liquidation Event” means any liquidation, dissolution or winding-up of the affairs of the Company, the termination of the legal existence of the Company or any Act of Bankruptcy or any other similar event or proceeding with respect to the Company, whether voluntary or involuntary, pursuant to which the holders of Common Stock are (subject to the liquidation preferences set forth in the Company’s Charter) entitled to receive consideration consisting solely of cash.

“Control” means, with respect to any Person, the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through ownership of voting securities, by contract (including proxy) or otherwise. The terms “Controlled”, “Controlled by” or “under common Control with” shall have correlative meanings.

“Convertible Securities” means any securities (directly or indirectly) convertible into or exchangeable or exercisable for Common Stock, but excluding Options.

“Definitive Warrants” has the meaning specified in Section 4(h)(i) hereof.

“Depository” has the meaning specified in Section 3(b) hereof.

“Direct Registration Warrant” has the meaning specified in Section 3(a) hereof.

“Effective Date” means September 4, 2020.

“Excess Shares” has the meaning specified in the Company’s Charter.

“Exchange Act” has the meaning specified in Section 4(h)(i) hereof.

“Exercise Price” means the initial exercise price for the Warrants as set forth in Section 5(b) hereof, as it may be adjusted from time to time as provided herein.

“Expiration Date” has the meaning specified in Section 5(a) hereof.

“Fair Market Value” shall mean (i) with respect to Common Stock, at any time the Common Stock is listed or quoted for trading on the New York Stock Exchange, the NYSE MKT, the NASDAQ Global Select Market, the NASDAQ Global Market, the NASDAQ Capital Market, OTC Bulletin Board or any other national securities exchange, the arithmetic average of the daily VWAP of a share of Common Stock for the ten (10) consecutive trading days on which shares of Common Stock traded immediately preceding the date of measurement; or (ii) otherwise, the value of an asset as reasonably determined in good faith by the Board assuming such asset was sold in an arm’s-length transaction between a willing buyer and a willing seller occurring on the date of valuation, taking into account all relevant factors determinative of value (and giving effect to any transfer taxes payable in connection with such sale). For all purposes hereunder, the determination of the Fair Market Value by the Board (or compensation committee or similar committee of the Board) shall be deemed conclusive, final and binding (and shall not be subject to collateral attack for any reason).

“Fully Diluted Basis” means the aggregate number of issued and outstanding shares of Common Stock after giving effect to a hypothetical conversion, or exercise, as applicable, of all of the issued and outstanding Warrants (as defined in the Jones Act Warrant Agreement) (and not, for the avoidance of doubt, the Warrants) into shares of Common Stock, without regard to whether such Warrants (as defined in the Jones Act Warrant Agreement) are then convertible or exercisable in accordance with their terms or the terms of the Company’s Charter (but disregarding and without giving effect to the issuance, conversion or exercise, as applicable, of any Common Stock, Common Stock Equivalent or other Equity Security of the Company issued or issuable pursuant to the MIP).

“Funds” has the meaning specified in Section 12(q) hereof.

“Global Warrant Certificate” has the meaning specified in Section 3(b) hereof.

“Governmental Authority” means any federal, state, local or foreign government or political subdivision thereof, or any agency or instrumentality of such government or political subdivision, including the U.S. Coast Guard, or any self-regulated organization or other non-governmental regulatory authority or quasi-governmental authority (to the extent that the rules, regulations or orders of such organization or authority have the force of law), or any arbitrator, court or tribunal of competent jurisdiction.

“Holder” means the beneficial or registered holder or holders of Warrants, unless the context otherwise requires.

“Individual Warrant Certificate” has the meaning specified in Section 3(b) hereof.

“Jones Act” shall mean, collectively, the U.S. citizenship and cabotage laws principally contained in 46 U.S.C. § 50501(a), (b) and (d), and 46 U.S.C. Chapters 121 and 551 and any successor statutes thereto, together with the rules and regulations promulgated thereunder by the U.S. Coast Guard and the U.S. Maritime Administration and their practices enforcing, administering and interpreting such laws, statutes, rules and regulations, in each case as amended or supplemented from time to time, relating to the ownership and operation of U.S.-flag vessels in the U.S. Coastwise Trade.

“Jones Act Warrant Agreement” means that certain Jones Act Warrant Agreement, dated as of September 4, 2020, by and between the Company and the Warrant Agent, as may be amended from time to time.

“MIP” has the meaning specified in the Securityholders Agreement.

“Non-U.S. Citizen” means any Person who is not a U.S. Citizen.

“Options” means any warrants or other rights or options to subscribe for or purchase Common Stock or Convertible Securities.

“Person” means any individual, corporation, general partnership, limited partnership, limited liability partnership, joint venture, association, joint-stock company, trust, limited liability company, unincorporated organization or government or any agency or political subdivision thereof.

“Plan” has the meaning specified in the recitals hereof.

“Reference Date” has the meaning specified in Section 6(f) hereof.

“Securities Act” means the Securities Act of 1933, as amended, and the rules and regulations promulgated by the Commission thereunder.

“Securityholders Agreement” means that certain Securityholders Agreement, dated as of September 4, 2020, by and between the Company and the holders of Common Stock, Warrants and/or Warrants (as defined in the Jones Act Warrant Agreement) party thereto from time to time, as may be amended from time to time.

“Settlement Date” means the date that is the third Business Day after a Warrant Exercise Notice is delivered.

“Signature Guarantee” has the meaning specified in Section 4(c)(ii).

“U.S. Citizen” shall mean a citizen of the United States within the meaning of the Jones Act, eligible and qualified to own and operate U.S.-flag vessels in the U.S. Coastwise Trade.

“U.S. Coastwise Trade” shall mean the carriage or transport of merchandise or passengers in the coastwise trade of the United States of America within the meaning of 46 U.S.C. Chapter 551 and any successor statutes thereto, as amended or supplemented from time to time.

“U.S. Maritime Laws” has the meaning specified in the Company’s Charter.

“VWAP” means, for any trading day, the price for shares of Common Stock determined by the daily volume weighted average price per share of Common Stock for such trading day on the New York Stock Exchange, the NYSE MKT, the NASDAQ Global Select Market, the NASDAQ Global Market or the NASDAQ Capital Market, as the case may be, in each case, for the regular trading session (including any extensions thereof, without regard to pre-open or after hours trading outside of such regular trading session), or if shares of Common Stock are not listed or quoted on the New York Stock Exchange, the NYSE MKT, the NASDAQ Global Select Market, the NASDAQ Global Market or the NASDAQ Capital Market, as reported by the principal U.S. national or regional securities exchange on which shares of Common Stock are then listed or quoted, whichever is applicable, as published by Bloomberg at 4:15 P.M., New York City time (or 15 minutes following the end of any extension of the regular trading session), on such trading day.

“Warrant Agent” has the meaning specified in the preamble hereof.

“Warrant Agent Office” has the meaning specified in Section 4(g)(iv) hereof.

“Warrant Certificate” has the meaning specified in Section 3(b) hereof.

“Warrant Exercise Notice” has the meaning specified in Section 5(c)(i) hereof.

“Warrant Register” has the meaning specified in Section 3(d) hereof.

“Warrant Shares” has the meaning specified in Section 3(a) hereof.

“Warrant Spread” has the meaning specified in Section 6(g) hereof.

“Warrant Statement” has the meaning specified in Section 3(b) hereof.

“Warrant Summary” has the meaning specified in Section 3(b) hereof.

“Warrants” has the meaning specified in the recitals hereof.

SECTION 2. Appointment of Warrant Agent. The Company hereby appoints the Warrant Agent to act as agent for the Company in accordance with the express terms and conditions set forth in this Agreement (and no implied terms and conditions), and the Warrant Agent hereby accepts such appointment and agrees to perform the same in accordance with the express terms and conditions set forth in this Agreement.

SECTION 3. Issuance of Warrants; Form, Execution and Delivery.

(a) Issuance of Warrants. On the Effective Date, the Warrants shall be issued by the Company in the amounts and to the recipients specified in the Warrant Allocation Schedule attached hereto as Exhibit A. In accordance with Section 4 hereof and the Plan, the Company shall initially cause the Warrants to be issued in the form of Individual Warrant Certificates or by book-entry registration on the books and records of the Warrant Agent (“Direct Registration Warrants”). Thereafter, at the Company’s option, the Company may, in its sole discretion, cause to be issued to the Depository one or more Global Warrant Certificates evidencing the Warrants and, in such event, the Company shall cause to be issued to the applicable registered Holders Warrants in the form of Global Warrant Certificates through the facilities of the Depository. Each Direct Registration Warrant and each Warrant evidenced by a Global Warrant Certificate or Individual Warrant Certificate shall entitle the Holder, upon proper exercise and payment or conversion of such Warrant, to receive from the Company, as adjusted as provided herein and subject to the Jones Act limitations on ownership of shares of Common Stock by Non-U.S. Citizens set forth in Section 5(m) hereof, if applicable, (i) one share of Common Stock or (ii) a number of Warrants (as defined in the Jones Act Warrant Agreement) exercisable or convertible into one share of Common Stock, as determined herein. The shares of Common Stock or Warrants (as defined in the Jones Act Warrant Agreement), as determined herein (as adjusted pursuant to Section 6 hereof), deliverable upon proper exercise or conversion of the Warrants are referred to herein as “Warrant Shares”.

(b) Form of Warrant. Subject to Section 4 of this Agreement, each of the Warrants shall be issued (i) in certificated form in the form of one or more individual certificates (the “Individual Warrant Certificates”) in substantially the form of Exhibit B-2 attached hereto, with the form of assignment to be printed on the reverse thereof, in substantially the form set forth in Exhibit C attached hereto, and/or (ii) in the form of Direct Registration Warrants reflected on statements issued by the Warrant Agent from time to time to the Holders thereof reflecting such book-entry position (the “Warrant Statements”); *provided*, that following the Effective Date, the Company may, in its sole discretion, issue, and allow the Warrants to be exchanged for, beneficial interests in one or more global certificates (the “Global Warrant Certificates”) in substantially the form of Exhibit B-1 attached hereto, with the form of assignment to be printed on the reverse thereof, in substantially the form set forth in Exhibit C attached hereto. Upon the issuance of the Global Warrant Certificates, any Individual Warrant Certificates or Direct Registration Warrants that are not subject to any transfer restrictions under applicable securities laws may be exchanged at any time for Global Warrant Certificates representing a corresponding number of Warrants, in accordance with Section 4(d) and the applicable procedures of the Depository and the Warrant Agent. The Warrant Statements representing Warrants shall include as an attachment thereto the “Warrant Summary” as set forth in Exhibit D attached hereto. The Global Warrant Certificates and Individual Warrant Certificates (collectively, the “Warrant Certificates”) and Warrant Statements may bear such appropriate insertions, omissions, substitutions and other variations as are required or permitted by this Agreement, and may have such letters, numbers or other marks of identification and such legends or endorsements placed thereon as may be required to comply with the rules and regulations of The Depository Trust Company or any successor thereof (the “Depository”) in the case of the Global Warrant Certificates, with any law or with any rules made pursuant thereto or with any rules of any securities exchange or as may be determined, consistently herewith and reasonably acceptable to the Warrant Agent and provided, in each case, that they do not affect the rights, duties, obligations, responsibilities, liabilities or indemnities of the Warrant Agent, by (i) in the case of Warrant Certificates, the Appropriate Officers executing such Warrant Certificates, as evidenced by their execution of the Warrant Certificates and (ii) in the case of Warrant Statements, any Appropriate Officer. The Global Warrant Certificates shall be deposited as and when appropriate with the Warrant Agent and registered in the name of Cede & Co. or any successor thereof, as the Depository’s nominee. Each Warrant Certificate shall represent such number of the outstanding Warrants as specified therein, and each shall provide that it shall represent the aggregate amount of outstanding Warrants from time to time endorsed thereon and that the aggregate amount of outstanding Warrants represented thereby may from time to time be reduced or increased, as appropriate, in accordance with the terms of this Agreement.

(c) Execution of Warrants. Warrant Certificates shall be signed on behalf of the Company by its Chief Executive Officer, its President, its Chief Financial Officer, its General Counsel, its Treasurer or any Executive or Senior Vice President of the Company (each, an “Appropriate Officer”), and by the Corporate Secretary or any Assistant Corporate Secretary of the Company. Each such signature upon the Warrant Certificates may be in the form of an electronic signature of any such Appropriate Officer, Corporate Secretary or Assistant Corporate Secretary and may be imprinted or otherwise reproduced on the Warrant Certificates and for that purpose the Company may adopt and use the electronic signature of any Appropriate Officer, the Corporate Secretary or any Assistant Corporate Secretary who shall have been serving as an Appropriate Officer, the Corporate Secretary, or an Assistant Corporate Secretary at the time of entering into this Agreement or issuing such Warrant Certificate. If any Appropriate Officer, the Corporate Secretary or any Assistant Corporate Secretary who shall have signed any of the Warrant Certificates shall cease to be such Appropriate Officer, the Corporate Secretary or an Assistant Corporate Secretary before the Warrant Certificates so signed shall have been countersigned by the Warrant Agent or disposed of by the Company, such Warrant Certificates nevertheless may be countersigned and delivered or disposed of as though such Appropriate Officer, Corporate Secretary or Assistant Corporate Secretary had not ceased to be such Appropriate Officer, Corporate Secretary or Assistant Corporate Secretary, and any Warrant Certificate may be signed on behalf of the Company by any person who, at the actual date of the execution of such Warrant Certificate, shall be a proper Appropriate Officer, Corporate Secretary or Assistant Corporate Secretary, although at the date of the execution of this Agreement any such person was not such Appropriate Officer, Corporate Secretary or Assistant Corporate Secretary. Warrant Certificates shall be dated the date of countersignature by the Warrant Agent and shall represent one or more whole Warrants.

(d) Countersignature. Upon receipt of a written order of the Company signed by an Appropriate Officer instructing the Warrant Agent to countersign and accompanied by Warrant Certificates duly executed on behalf of the Company, the Warrant Agent shall countersign (in manual, facsimile or electronic form) one or more Warrant Certificates evidencing the Warrants and shall deliver such Warrant Certificates to or upon such written order of the Company. Such written order of the Company shall specifically state the number of Warrants that are to be represented by such Warrant Certificate and the Warrant Agent may rely conclusively on such order. Each Warrant shall be, and shall remain, subject to the provisions of this Agreement until such time as all of the Warrants evidenced thereby shall have been duly exercised or converted or shall have expired or been canceled in accordance with the terms hereof. Each Holder shall be bound by all of the terms and provisions of this Agreement (a copy of which is available on request to the Corporate Secretary of the Company) and any amendments thereto as fully and effectively as if such Holder had signed the same. No Warrant Certificate shall be valid for any purpose, and no Warrant evidenced thereby shall be exercisable or convertible, until such Warrant Certificate has been countersigned by the manual, facsimile or electronic signature of the Warrant Agent. Such signature by the Warrant Agent upon any Warrant Certificate executed by the Company shall be conclusive evidence that such Warrant Certificate so countersigned has been duly issued hereunder. The Warrant Agent shall keep, at an office designated for such purpose, books (the "Warrant Register") in which, subject to such reasonable regulations as it may prescribe, it shall register any Warrant Certificates or Direct Registration Warrants and exchanges and transfers of outstanding Warrants in accordance with the procedures set forth in Section 4 of this Agreement, all in form satisfactory to the Company and the Warrant Agent. The Company or the Warrant Agent may require payment of a sum sufficient to cover any stamp or other tax or other governmental charge that may be imposed on the Holder in connection with any such exchange or registration of transfer. The Warrant Agent shall have no obligation to effect an exchange or register a transfer unless and until any payments required by the immediately preceding sentence have been made. Prior to due presentment for registration of transfer or exchange of any Warrant in accordance with the procedures set forth in this Agreement, the Warrant Agent and the Company may deem and treat the Person in whose name any Warrant is registered as the absolute owner of such Warrant (notwithstanding any notation of ownership or other writing made in a Warrant Certificate by anyone), for the purpose of any exercise or conversion thereof, any distribution to the Holder thereof and for all other purposes.

SECTION 4. Transfer or Exchange.

(a) Transfer and Exchange of Global Warrant Certificates or Beneficial Interests Therein. The transfer and exchange of Global Warrant Certificates or beneficial interests therein shall be effected through the Depository, in accordance with the terms of this Agreement and the Warrant Certificates and the procedures of the Depository.

(b) Exchange of a Beneficial Interest in a Global Warrant Certificate for an Individual Warrant Certificate or Direct Registration Warrant.

(i) Any Holder of a beneficial interest represented by a Global Warrant Certificate may, upon request, exchange such beneficial interest for a Direct Registration Warrant or a Warrant represented by an Individual Warrant Certificate. A transferor of a beneficial interest represented by a Global Warrant Certificate (or the Depository or its nominee on behalf of such transferor) shall, but only to the extent required by the procedures of the Depository and the Warrant Agent in connection with such transfer or exchange, deliver to the Warrant Agent (I) written instructions or such other form of instructions as is customary for the Depository on behalf of any Person having a beneficial interest in a Global Warrant Certificate, and all other reasonably necessary information, and (II) an instruction of transfer in form reasonably satisfactory to the Warrant Agent which, with respect to a transfer of a Global Warrant Certificate only, shall be properly completed, duly authorized in writing and duly executed by the Holder thereof or by such Holder's attorney. Upon satisfaction of the conditions in this Section 4(b)(i), the Warrant Agent shall cause, in accordance with the standing instructions and procedures existing between the Depository and the Warrant Agent, the number of Warrants represented by the Global Warrant Certificate to be reduced by the number of Warrants to be represented by an Individual Warrant Certificate or Direct Registration Warrant, as the case may be, to be issued in exchange for the beneficial interest of such Person in the Global Warrant Certificate and, following such reduction, (A) in the case of an exchange for an Individual Warrant Certificate (x) the Company shall issue and the Warrant Agent shall either manually, facsimile or electronically countersign an Individual Warrant Certificate representing the appropriate number of Warrants and (y) the Warrant Agent shall deliver such Individual Warrant Certificate to the registered Holder thereof, or (B) in the case of an exchange for a Direct Registration Warrant, the Warrant Agent shall register such Direct Registration Warrants in accordance with such written instructions from the Depository and deliver to such Holder a Warrant Statement.

(ii) Warrants represented by an Individual Warrant Certificate issued in exchange for a beneficial interest in a Global Warrant Certificate pursuant to this Section 4(b) shall be issued in such names as the Depository, pursuant to instructions from its direct or indirect participants or otherwise, shall instruct the Warrant Agent. The Warrant Agent shall deliver Individual Warrant Certificates evidencing such issuance to the Persons in whose names such Individual Warrant Certificates are so issued. Direct Registration Warrants issued in exchange for a beneficial interest in a Global Warrant Certificate pursuant to this Section 4(b) shall be registered in such names as the Depository, pursuant to instructions from its direct or indirect participants or otherwise, shall instruct the Warrant Agent.

(c) Transfer and Exchange of Individual Warrant Certificates or Direct Registration Warrants. When the registered Holder of an Individual Warrant Certificate or Direct Registration Warrant has presented to the Warrant Agent a written request:

- (i) to register the transfer of any Individual Warrant Certificate or Direct Registration Warrant; or

(ii) to exchange any Individual Warrant Certificate or Direct Registration Warrant for a Direct Registration Warrant or an Individual Warrant Certificate, respectively, representing an equal number of Warrants of authorized denominations, the Warrant Agent shall register the transfer or make the exchange as requested if (x) its customary requirements for such transactions are met and (y) such transfer or exchange otherwise satisfies the provisions of this Agreement; *provided, however*, that the Warrant Agent has received a written instruction of transfer or exchange, as applicable, in form reasonably satisfactory to the Warrant Agent, properly completed and duly executed by the Holder thereof or by his attorney, accompanied by a signature guarantee (“Signature Guarantee”) from an eligible guarantor institution participating in a signature guarantee program approved by the Securities Transfer Association, duly authorized in writing and a written order of the Company signed by an Appropriate Officer authorizing such exchange. A party requesting transfer of Warrants must provide any evidence of authority that may be reasonably required by the Warrant Agent.

(d) Restrictions on Transfer and Exchange of Individual Warrant Certificates or Direct Registration Warrants for a Beneficial Interest in a Global Warrant Certificate. Neither an Individual Warrant Certificate nor a Direct Registration Warrant may be exchanged for a beneficial interest in a Global Warrant Certificate pursuant to this Agreement except, following the issuance of a Global Warrant Certificate by the Company, upon satisfaction of the requirements set forth below. Upon receipt by the Warrant Agent of the Company’s written approval and appropriate instruments of transfer, accompanied by a Signature Guarantee, with respect to an Individual Warrant Certificate or Direct Registration Warrant that is not subject to transfer restrictions under applicable securities laws, in form reasonably satisfactory to the Warrant Agent, together with written instructions directing the Warrant Agent to make, or to direct the Depository to make, an endorsement on the applicable Global Warrant Certificate to reflect an increase in the number of Warrants represented by such Global Warrant Certificate equal to the number of Warrants represented by such Individual Warrant Certificate or Direct Registration Warrant, and all other necessary information, then the Warrant Agent shall cancel such Individual Warrant Certificate or Direct Registration Warrant on the Warrant Register and cause, or direct the Depository to cause, in accordance with the standing instructions and procedures existing between the Depository and the Warrant Agent, the number of Warrants represented by such Global Warrant Certificate to be increased accordingly. Any such transfer shall be subject to the Company’s prior written approval.

(e) Restrictions on Transfer and Exchange of Global Warrant Certificates. Notwithstanding any other provisions of this Agreement (other than the provision set forth in Section 4(f)), a Global Warrant Certificate may not be transferred as a whole except by the Depository to a nominee of the Depository or by a nominee of the Depository to the Depository or another nominee of the Depository or by the Depository or any such nominee to a successor Depository or a nominee of such successor Depository.

(f) Cancellation of Warrant Certificate.

(i) At such time as all beneficial interests in Warrant Certificates and Direct Registration Warrants have been exchanged for Warrant Shares in accordance herewith, redeemed, repurchased or cancelled, all Warrant Certificates shall be returned to, or cancelled and retained pursuant to Applicable Law by, the Warrant Agent, upon written instructions from the Company reasonably satisfactory to the Warrant Agent.

(ii) If at any time the Depository for the Global Warrant Certificates notifies the Company that the Depository is unwilling or unable to continue as Depository for the Global Warrant Certificates and a successor Depository for the Global Warrant Certificates is not appointed by the Company within ninety (90) days after delivery of such notice, then the Warrant Agent, upon written instructions signed by an Appropriate Officer of the Company, shall register Individual Warrants Certificates and Direct Registration Warrants, in an aggregate number equal to the number of Warrants represented by the Global Warrant Certificates, in exchange for such Global Warrant Certificates.

(g) Obligations with Respect to Transfers and Exchanges of Warrants.

(i) To permit registrations of transfers and exchanges, the Company shall execute and the Warrant Agent is hereby authorized to countersign, either by manual, facsimile or electronic signature, in accordance with the provisions of this Section 4, Warrant Certificates, as required pursuant to the provisions of this Section 4.

(ii) All Warrant Certificates or Direct Registration Warrants issued upon any registration of transfer or exchange shall be the valid obligations of the Company, entitled to the same benefits under this Agreement as the Warrant Certificates or Direct Registration Warrants surrendered upon such registration of transfer or exchange.

(iii) So long as the Depository, or its nominee, is the registered owner of a Global Warrant Certificate, the Depository or such nominee, as the case may be, will be considered the sole owner or Holder represented by such Global Warrant Certificate for all purposes under this Agreement, including, without limitation, for the purposes of (a) giving notices with respect to such Warrants and (b) registering transfers with respect to such Warrants. Neither the Company nor the Warrant Agent, in its capacity as registrar for such Warrants, will have any responsibility or liability for any aspect of the records relating to beneficial interests in a Global Warrant Certificate or for maintaining, supervising or reviewing any records relating to such beneficial interests.

(iv) The Warrant Agent shall register the transfer of any outstanding Warrants in the Warrant Register at the Warrant Agent office designated for such purpose (the "Warrant Agent Office") upon (a) receipt of all information required to be delivered hereunder, (b) if applicable, surrender of duly endorsed Warrant Certificates representing such Warrants, and (c) receipt of a completed form of assignment duly authorized in writing substantially in the form attached as Exhibit C hereto, as the case may be, duly signed by the Holder thereof or by the duly appointed legal representative thereof or by such Holder's attorney, accompanied by a Signature Guarantee. Upon any such registration of transfer, a new Warrant Certificate or Warrant Statement, as the case may be, shall be issued to the transferee.

(v) The Warrant Agent shall not undertake the duties and obligations of a stock transfer agent under this Agreement, or otherwise, including, without limitation, the duty to receive, issue or transfer Warrant Shares.

(h) Definitive Warrants.

(i) Beneficial interests represented by a Global Warrant Certificate deposited with the Depository or with the Warrant Agent pursuant to Section 3(b) shall be transferred to each beneficial owner thereof in the form of Warrant Certificates in a definitive form that is not deposited with the Depository or with the Warrant Agent as custodian for the Depository ("Definitive Warrants") evidencing a number of Warrants equivalent to such owner's beneficial interest in such Global Warrant Certificate, in exchange for such Global Warrant Certificate, only if such transfer complies with Section 4(a) and (i) the Depository notifies the Company in writing that it is unwilling or unable to continue as Depository for such beneficial interests represented by such Global Warrant Certificate or if at any time the Depository ceases to be a "clearing agency" registered under the Securities and Exchange Act of 1934, as amended, or the rules promulgated thereunder (the "Exchange Act"), and, in each such case, a successor Depository is not appointed by the Company within ninety (90) days of such notice or (ii) upon the request of any Holder or beneficial owner, if the Company shall be adjudged bankrupt or insolvent or makes an assignment for the benefit of its creditors or institutes proceedings to be adjudicated bankrupt or shall consent to the filing of a bankruptcy proceeding against it, or shall file a petition or answer or consent seeking reorganization under federal bankruptcy laws or any other similar applicable federal or state law, or shall consent to the filing of any such petition, or shall consent to the appointment of a receiver or custodian of all or any substantial part of its property, or shall admit in writing its inability to pay or meet its debts as they mature, or if a receiver or custodian of it or all or any substantial part of its property shall be appointed, or if a public officer shall have taken charge or control of the Company or of its property or affairs, for the purpose of rehabilitation, conservation or liquidation.

(ii) Any beneficial interests represented by a Global Warrant Certificate that are transferable to the beneficial owners thereof in the form of Definitive Warrants pursuant to this Section 4(h) shall be surrendered by the Depository to the Warrant Agent, to be so transferred, in whole or from time to time in part, without charge, and the Warrant Agent shall if directed by an Appropriate Officer of the Company countersign, by either manual, facsimile or electronic signature, and deliver to each beneficial owner in the name of such beneficial owner, upon such transfer of each portion of such beneficial interests represented by a Global Warrant Certificate, Definitive Warrants evidencing a number of Warrants equivalent to such beneficial owner's beneficial interest in the Global Warrant Certificate. The Warrant Agent shall register such transfer in the Warrant Register, and upon such transfer the surrendered Global Warrant Certificate shall be cancelled by the Warrant Agent.

(iii) All Definitive Warrants issued upon registration of transfer pursuant to this Section 4(h) shall be valid obligations of the Company, evidencing the same obligations of the Company and entitled to the same benefits under this Agreement and the Global Warrant Certificate surrendered for registration of such transfer.

(iv) Subject to the provisions of Section 4(h)(ii), the registered Holder of a Global Warrant Certificate may grant proxies and otherwise authorize any Person to take any action that such Holder is entitled to take under this Agreement or the Warrants.

(v) In the event of the occurrence of any of the events specified in Section 4(h)(i), the Company will promptly make available to the Warrant Agent a reasonable supply of Definitive Warrants necessary to comply with this Agreement in definitive, fully registered form.

(vi) Neither the Company nor the Warrant Agent shall be liable or responsible for any registration or transfer of any Warrants that are registered or to be registered in the name of a fiduciary or the nominee of a fiduciary.

(i) Securityholders Agreement. Notwithstanding anything herein to the contrary, no Person may Transfer any Warrant except in compliance with the provisions of the Securityholders Agreement, if the Securityholders Agreement is then in effect.

SECTION 5. Duration and Exercise of Warrants.

(a) Expiration Date. The Warrants may be exercised only during the period commencing on the Effective Date and expiring on the date that is the seventh (7th) anniversary of the Effective Date (the "Expiration Date"). After 5:00 p.m. New York City time on the Expiration Date, the Warrants will become void and without further legal effect, and all rights thereunder and all rights in respect thereof under this Agreement shall cease as of such time.

(b) Exercise Price. The Exercise Price for the Warrants shall be \$27.83 per Warrant Share (subject to adjustment as provided herein).

(c) Manner of Exercise.

(i) Cash Payment. Subject to the provisions of this Agreement, including the Jones Act limitations on ownership and control of capital stock of the Company by Non-U.S. Citizens, including those set forth in Section 5(m) hereof and the adjustments contained in Section 6 hereof, each Warrant shall entitle the Holder thereof to purchase from the Company one fully paid and nonassessable (if applicable) Warrant Share at the Exercise Price. All or any of the Warrants represented by a Warrant Certificate or in the form of Direct Registration Warrants may be exercised by the registered Holder thereof during normal business hours on any Business Day, by delivering (A) written notice of such election (a "Warrant Exercise Notice") to exercise Warrants to the Company (at the address set forth in Section 15 hereof) and the Warrant Agent at the Warrant Agent Office, no later than 5:00 p.m., New York City time, on the Expiration Date, which Warrant Exercise Notice shall be (i) substantially in the "Form of Election" set forth in Exhibit B-1, in the case of Warrants represented by a Global Warrant Certificate or otherwise in accordance with applicable procedures of the Depository, (ii) substantially in the "Form of Election" set forth in Exhibit B-2, in the case of Warrants represented by Individual Warrant Certificates and (iii) substantially in the form set forth in Exhibit B-3, in the case of Direct Registration Warrants; and (B) by no later than 5:00 p.m., New York City time, on the Business Day immediately prior to the Settlement Date, such Warrants to the Warrant Agent (by book-entry transfer through the facilities of the Depository, if such Warrants are represented by a Global Warrant Certificate), accompanied by a Signature Guarantee and payment in full in respect of each Warrant that is exercised (which shall be made by delivery of a certified or official bank or bank cashier's check payable to the order of the Company, or by wire transfer to an account specified in writing by the Company or the Warrant Agent in immediately available funds or, in respect of any Global Warrant Certificate, otherwise in accordance with applicable procedures of the Depository). Such payment shall be in an amount equal to the product of the number of Warrant Shares designated in such Warrant Exercise Notice multiplied by the Exercise Price for the Warrants being exercised, in each case as adjusted herein. Upon such surrender and payment, such Holder shall thereupon be entitled to receive the number of duly authorized, validly issued, and (if applicable) fully paid and nonassessable, Warrant Shares as set forth in Section 5(d), Section 5(h) and Section 5(i).

(ii) Cashless Conversion. Subject to the provisions of this Agreement, the Holder shall have the right, in lieu of paying the Exercise Price of Warrants in cash, to instruct the Company in writing to reduce the number of Warrant Shares issuable pursuant to the conversion of such Warrants (the “Cashless Conversion”) in accordance with the following formula:

$$X = (Y \times (A - B)) \div A$$

Where:

X = the number of Warrant Shares to be issued to the Holder upon conversion of the Warrants

Y = the total number of Warrant Shares for which the Holder has elected to exercise the applicable Warrants as of the day the Warrant Exercise Notice is delivered to the Warrant Agent

A = the Fair Market Value of one Warrant Share determined as of the day the Warrant Exercise Notice is delivered to the Warrant Agent

B = the exercise price which would otherwise be payable in cash for one Warrant Share determined as of the day the Warrant Exercise Notice is delivered to the Warrant Agent

If the Exercise Price of the aggregate number of Warrants being converted exceeds the Fair Market Value at the time of such conversion of the aggregate number of Warrant Shares issuable upon such conversion, then no Warrant Shares will be issuable pursuant to the Cashless Conversion. The Holder shall effect a Cashless Conversion by indicating on a duly executed Warrant Exercise Notice that the Holder wishes to effect a Cashless Conversion. Upon receipt of such election to effect a Cashless Conversion, the Warrant Agent will promptly request the Company to confirm the number of Warrant Shares issuable in connection with the Cashless Conversion. The Company shall calculate and transmit to the Warrant Agent in a written notice the number of Warrant Shares issuable in connection with any Cashless Conversion.

(d) The number of Warrant Shares to be issued on such exercise or conversion will be determined by the Company (with written notice thereof to the Warrant Agent) in accordance with Section 5(c). The Warrant Agent shall have no duty or obligation to investigate or confirm whether the Company’s determination of the number of Warrant Shares to be issued on such exercise or conversion is accurate or correct, nor shall the Warrant Agent have any duty or obligation to take any action with regard to such Warrant exercise or conversion prior to being notified by the Company of the relevant number of Warrant Shares to be issued.

(e) Except as otherwise provided herein, any exercise or conversion of a Warrant pursuant to the terms of this Agreement shall be irrevocable and shall constitute a binding agreement between the Holder and the Company, enforceable in accordance with its terms.

(f) Upon receipt of a Warrant Exercise Notice pursuant to Section 5(c), the Warrant Agent shall:

(i) examine such Warrant Exercise Notice and all other documents delivered to it by or on behalf of the Holder as contemplated hereunder to ascertain whether, on their face, such Warrant Exercise Notice and any such other documents have been executed and completed in accordance with their terms;

(ii) endeavor to inform the Company of and cooperate with and assist the Company in resolving any inconsistencies between the Warrant Exercise Notice received and delivery of Warrants to the Warrant Agent's account;

(iii) advise the Company, no later than the Business Day after receipt of such Warrant Exercise Notice, of (a) the receipt of such Warrant Exercise Notice and, subject to Company's approval, the number of Warrants to be exercised or converted in accordance with the terms of this Agreement, (b) the instructions with respect to delivery of the Warrant Shares deliverable upon such exercise or conversion, subject to the timely receipt from the Depository of the necessary information, and (c) such other information as the Company shall reasonably require;

(iv) in the case of Warrants represented by a Global Warrant Certificate, liaise with the Depository and effect such delivery to the relevant accounts at the Depository in accordance with its requirements, if requested by the Company with the delivery of the Warrant Shares and all other necessary information by or on behalf of the Company for delivery to the Depository; and

(v) notify the Company each month of the amount of any funds received by the Warrant Agent for payment of the aggregate Exercise Price in a given month and forward all such funds by the fifth (5th) Business Day of the following month by wire transfer to an account designated by the Company, provided that the Company shall pay wire transfer fees to the Warrant Agent for each such wire pursuant to the mutually agreed upon fee schedule referenced in Section 12(g).

(g) All questions as to the validity, form and sufficiency (including time of receipt) of a Warrant exercise or conversion shall be determined by the Company in its sole discretion in good faith, which determination shall be final and binding. The Company reserves the right to reject any and all Warrant Exercise Notices that it determines are not in proper form or for which any corresponding agreement by the Company to exchange would, in the opinion of the Company, be unlawful or in violation of the Jones Act Restriction as determined in good faith. Such determination by the Company shall be final and binding on the Holders absent manifest error. Moreover, the Company reserves the absolute right to waive any of the conditions to the exercise or conversion of Warrants or defects in Warrant Exercise Notices with regard to any particular exercise or conversion of Warrants. Neither the Company nor the Warrant Agent shall be under any duty to give notice to the Holders of any irregularities in any exercise or conversion of Warrants, nor shall they incur any liability for the failure to give such notice.

(h) As soon as reasonably practicable after the exercise or conversion of any Warrant (and in any event not later than five (5) Business Days thereafter), the Company shall issue, or otherwise deliver, in authorized denominations to or upon the order of the Holder, either: (A) if such Holder holds the Warrants being exercised or converted through the Depository's book-entry transfer facilities, by same-day or next-day credit to the Depository for the account of such Holder or for the account of a participant in the Depository the number of Warrant Shares to which such Holder is entitled, in each case registered in such name and delivered to such account as directed in the Warrant Exercise Notice by such Holder or by the direct participant in the Depository through which such Holder is acting (or, if the Common Stock may not then be held in book-entry form through the facilities of the Depository, as set forth in clause (B)); (B) if such Holder holds the Warrants being exercised or converted in the form of Individual Warrant Certificates, a book-entry interest in the number of Warrant Shares to which such Holder is entitled on the books of the Company's transfer agent or, at the Company's option, by delivery to the address designated by such Holder in its Warrant Exercise Notice of a physical certificate or certificates representing the number of Warrant Shares to which such Holder is entitled, in fully registered form, registered in such name or names as may be directed by such Holder (or, if Common Stock at the time of such exercise is held through the facilities of the Depository, as set forth in the foregoing clause (A)); or (C) if such Holder holds the Warrants being exercised or converted in the form of Direct Registration Warrants, a book-entry interest in the number of Warrant Shares to which such Holder is entitled on the books and records of the Company's transfer agent (or, if Common Stock at the time of such exercise is held through the facilities of the Depository, as set forth in the foregoing clause (A)).

If fewer than all of the Warrants evidenced by a Global Warrant Certificate surrendered upon the exercise or conversion of Warrants are exercised or converted at any time prior to the Expiration Date, the Warrant Agent shall cause a notation to be made to the records maintained by the Depository. Subject to Section 5(g), the Person in whose name any certificate or certificates, or any Warrant Exercise Notice, for the Warrant Shares are to be issued (or such Warrant Shares are to be registered, in the case of a book-entry transfer) upon exercise or conversion of a Warrant shall be deemed to have become the Holder of record of such Warrant Shares on the date such Warrant Exercise Notice is delivered.

(i) No fractional Warrant Shares or scrip representing fractional Warrant Shares shall be issued upon any exercise or conversion of Warrants. In lieu of any fractional Warrant Share to which a Holder would otherwise be entitled upon an exercise of Warrants, such Holder shall be entitled to receive a cash payment equal to the value of such fractional Warrant Share based on the Fair Market Value of the Common Stock as of the applicable date of delivery of a Warrant Exercise Notice. The number of full Warrant Shares that shall be issuable upon an exercise of Warrants by a Holder at any time shall be computed on the basis of the aggregate number of Warrant Shares which may be issuable pursuant to the Warrants being exercised by that Holder at that time. The beneficial owners of the Warrants and the Holders, by their acceptance hereof, expressly agree to receive cash in lieu of any fractional Warrant Share in accordance with this Section 5(i) and hereby waive their right to receive a physical certificate representing such fractional Warrant Share upon exercise of any Warrant. Whenever a payment for fractional Warrant Shares is to be made by the Warrant Agent under any section of this Agreement, the Company shall (1) provide to the Warrant Agent in reasonable detail the facts related to such payments and the prices and/or formulas utilized in calculating such payments, and (2) provide sufficient monies to the Warrant Agent in the form of fully collected funds to make such payments. The Warrant Agent shall be fully protected in relying upon such a certificate and shall have no duty with respect to, and shall not be deemed to have knowledge of, any payment for fractional Warrant Shares or fractional shares under any section of this Agreement relating to the payment of fractional Warrant Shares or fractional shares unless and until the Warrant Agent shall have received such a certificate and sufficient monies.

(j) If all of the Warrants evidenced by a Warrant Certificate have been exercised or converted, such Warrant Certificate shall be cancelled by the Warrant Agent. Such cancelled Warrant Certificate shall then be disposed of by or at the direction of the Company in accordance with Applicable Law. The Warrant Agent shall confirm such information to the Company in writing as promptly as practicable.

(k) The Company shall pay all expenses in connection with, and all transfer taxes and similar governmental charges that may be imposed with respect to, the issuance or delivery of Warrant Shares upon exercise or conversion of Warrants. The Warrant Agent shall not have any duty or obligation to take any action under any section of this Agreement that requires the payment of taxes and/or charges unless and until it is satisfied that all such payments have been made.

(l) The Warrant Agent shall keep copies of this Agreement and any notices given or received hereunder for a period beginning on the date of this Agreement and ending no earlier than the first (1st) anniversary of the Expiration Date.

(m) Jones Act Limitations on Issuance of Common Stock. Notwithstanding any of the other provisions of this Agreement, in order to facilitate the Company's compliance with the Jones Act and the Jones Act Restriction concerning the ownership and control of the capital stock of the Company by Non-U.S. Citizens with regard to its continuing ability to operate its vessels in the coastwise trade of the United States and to comply with obligations of the Company under contracts that it may enter into from time to time with United States Governmental Authorities, the following provisions shall apply to any proposed exercise or conversion of any Warrant:

(i) At the time of exercise or conversion of any Warrant, its Holder shall advise the Company whether or not it (or, if not the Holder, the Person that the Holder has designated to receive the Warrant Shares issuable upon exercise or conversion of such Warrant) is a U.S. Citizen. The Company may require a Holder (or, if not the Holder, the Person that the Holder has designated to receive the Warrant Shares issuable upon exercise or conversion of such Warrant) to provide it with such documents and other information as it may request as reasonable to confirm that the Holder (or, if not the Holder, the Person that the Holder has designated to receive the Warrant Shares issuable upon exercise or conversion of such Warrant) is a U.S. Citizen.

(ii) Any Holder that cannot establish to the Company's reasonable satisfaction that it (or, if not the Holder, the Person that the Holder has designated to receive the Warrant Shares issuable upon exercise or conversion of any Warrant) is a U.S. Citizen may exercise or convert any Warrant; *provided*, that to the extent all or any portion of the Warrant Shares deliverable upon exercise or conversion of such Warrant would constitute Excess Shares if they were issued, which shall be determined by the Company in its sole discretion at the time of any proposed exercise or conversion of such Warrant, the Company will instead issue to such Holder Warrants (as defined in the Jones Act Warrant Agreement) pursuant to the Jones Act Warrant Agreement in respect of such Excess Shares.

(iii) Notwithstanding anything herein to the contrary, in the event that either (A) the Jones Act and other applicable laws are repealed or amended so that the ownership and control of the Common Stock by Non-U.S. Citizens is no longer restricted in any way or (B) the Company's Charter is amended so that the ownership and control of the Common Stock by Non-U.S. Citizens is no longer restricted in any way, the provisions of this Section 5(m) shall no longer apply to any Holder or Warrant.

(n) Cost Basis Information.

(i) In the event of a cash exercise of Warrants, the Company hereby instructs the Warrant Agent to record cost basis for newly issued Warrant Shares as reasonably determined by the Company prior to processing.

(ii) In the event of a Cashless Conversion of Warrants, the Company shall provide the cost basis for Warrant Shares issued pursuant to such Cashless Conversion at the time the Company confirms the number of Warrant Shares issuable in connection with such Cashless Conversion to the Warrant Agent pursuant to Section 5 hereof.

(o) Securityholders Agreement. Each (i) Holder and (ii) Person that acquires any Warrants after the date hereof in accordance with the terms of this Agreement and the Securityholders Agreement, in each case, that is not already a party to the Securityholders Agreement, shall become a party to the Securityholders Agreement, if the Securityholders Agreement is then in effect. Notwithstanding anything herein to the contrary, no Person shall receive any Warrant Shares upon exercise or conversion of any Warrant unless such Person is or becomes a party to the Securityholders Agreement by executing a joinder thereto, if the Securityholders Agreement is then in effect.

SECTION 6. Adjustment of Number of Shares Purchasable or Number of Warrants.

(a) Below Market Issuances.

(i) If the Company at any time or from time to time after the date hereof shall grant, issue or sell (whether directly or by assumption in a merger or otherwise) any additional shares of Common Stock, Options or Convertible Securities or shall fix a record date for the determination of holders of any Equity Securities to receive any additional shares of Common Stock, Options or Convertible Securities, then the maximum number of shares of Common Stock (as set forth in the instrument relating thereto, assuming the satisfaction of any conditions to exercisability, convertibility or exchangeability but without regard to any provision contained therein for a subsequent adjustment of such number) issuable upon such event, including upon the exercise of such Options or, in the case of Convertible Securities, the conversion or exchange of such Convertible Securities, shall be deemed to be additional Common Stock issued as of the time of such issue or, in case such a record date shall have been fixed, as of 5:00 PM (New York City time) on such record date; provided, that additional Common Stock shall not be deemed to have been issued unless the consideration per share of such additional Common Stock would be less than the Fair Market Value of each such share of Common Stock as of such date and immediately prior to such issuance, or such record date, as the case may be; provided, further, that, in any such case in which additional Common Stock is deemed to be issued, no further adjustments shall be made upon the subsequent issue of Convertible Securities or Common Stock upon the exercise of Options or the conversion or exchange of Convertible Securities.

(ii) If the terms of any Option or Convertible Security, the issuance of which resulted in an adjustment pursuant to the terms of this Section 6(a), are revised (either automatically, pursuant to the provisions contained therein, or as a result of an amendment to such terms) to provide for either (i) any increase or decrease in the number of shares of Common Stock issuable upon the exercise, conversion or exchange of any such Option or Convertible Security or (ii) any increase or decrease in the consideration payable to the Company upon such exercise, conversion or exchange, then, effective upon such increase or decrease becoming effective, the number of Warrant Shares issuable upon exercise or conversion of any Warrant computed upon the original issue of such Option or Convertible Security (or upon the occurrence of a record date with respect thereto) shall be readjusted to such number of Warrant Shares issuable upon exercise or conversion of any Warrant as would have been obtained had such revised terms been in effect upon the original date of issuance of such Option or Convertible Security.

(iii) If the terms of any Option or Convertible Security, the issuance of which did not result in an adjustment to the number of Warrant Shares issuable upon exercise or conversion of any Warrant pursuant to the terms of this Section 6(a) (either because the consideration per additional Common Stock subject thereto was equal to or greater than the then Fair Market Value of each such share of Common Stock), are revised after the date hereof (either automatically, pursuant to the provisions contained therein, or as a result of an amendment to such terms) to provide for either (i) any increase or decrease in the number of shares of Common Stock issuable upon the exercise, conversion or exchange of any such Option or Convertible Security or (ii) any increase or decrease in the consideration payable to the Company upon such exercise, conversion or exchange, then such Option or Convertible Security, as so amended, and the additional Common Stock subject thereto shall be deemed to have been issued effective upon such increase or decrease becoming effective.

(iv) Upon the expiration or termination of any unexercised Option or unconverted or unexchanged Convertible Security which resulted (either upon its original issuance or upon a revision of its terms) in an adjustment to the number of Warrant Shares issuable upon exercise or conversion of any Warrant pursuant to the terms of this Section 6(a), the number of Warrant Shares issuable upon exercise or conversion of any Warrant shall be readjusted to such number of Warrant Shares issuable upon exercise or conversion of any Warrant as would have been obtained had such Option or Convertible Security never been issued.

(v) Except as provided in Section 6(a)(vii) and except in the case of any event described in Section 6(b), Section 6(c), Section 6(d) or Section 6(e), in the event the Company shall at any time after the date hereof grant, sell or issue additional Common Stock (including additional Common Stock deemed to be issued pursuant to Section 6(a)(i)) without consideration or for consideration per share of Common Stock less than the Fair Market Value of each such share of Common Stock, then the number of Warrant Shares issuable upon exercise or conversion of any Warrant shall be increased pursuant to the formula below:

$$U_a = U_b \times \frac{O_a}{O_b + Y}$$

Where:

U_b = The number of Warrant Shares issuable for each Warrant before the adjustment

U_a = The number of Warrant Shares issuable for each Warrant after the adjustment

O_a = Number of shares of Common Stock outstanding immediately after the transaction in question on a Fully Diluted Basis

O_b = Number of shares of Common Stock outstanding immediately before the transaction in question on a Fully Diluted Basis

Y = Number of shares of Common Stock equal to the aggregate offering price of the shares of Common Stock being issued, *divided by* the Fair Market Value of one share of Common Stock as of the earlier of (a) the announcement date of the issuance of such Common Stock and (b) the date of issuance of such Common Stock

(vi) In the event of an adjustment to the number of Warrant Shares pursuant to Section 6(a)(v), the Exercise Price shall be adjusted, effective as of the same time as such adjustment to the number of Warrant Shares, so that the Exercise Price immediately after such adjustment shall be equal to (A) the Exercise Price immediately prior to such adjustment, multiplied by (B) a fraction, (1) the numerator of which is the number of Warrant Shares issuable upon exercise of the Warrants immediately prior to such adjustment, and (2) the denominator of which is the number of Warrant Shares issuable upon exercise of the Warrants immediately after such adjustment.

(vii) Notwithstanding anything in this Section 6 to the contrary, none of the grant, sale or issuance of (A) any Common Stock, Common Stock Equivalent or other Equity Security of the Company (including the grant, sale or issuance of any Common Stock, other Equity Security of the Company or Common Stock Equivalent upon conversion, exchange or exercise thereof) pursuant to the MIP, (B) the Warrants issued pursuant to this Agreement (including the grant, sale or issuance of any Warrant Shares, other Equity Security of the Company or Common Stock Equivalent upon the exercise thereof), (C) the Warrants (as defined in and issued pursuant to the Jones Act Warrant Agreement) (including the grant, sale or issuance of any Common Stock, other Equity Security of the Company or Common Stock Equivalent upon the exercise thereof), (D) shares of Common Stock or Convertible Securities actually issued upon the exercise of Options or shares of Common Stock actually issued upon the conversion or exchange of Convertible Securities, in each case provided such issuance is pursuant to the terms of such Option or Convertible Security and such issuance has already resulted in an adjustment in accordance with this Section 6, or (E) shares of Common Stock in an offering for cash for the account of the Company that is underwritten on a firm commitment basis and is registered under the Securities Act, shall be deemed to be a grant, sale or issuance of additional Common Stock for purposes of this Section 6.

(b) Stock Dividends, Subdivisions and Combinations of Shares. If after the date hereof the number of outstanding shares of Common Stock is increased by a share dividend or share distribution to all holders of Common Stock, in each case payable in shares of Common Stock, or a split, subdivision or combination of shares of Common Stock occurs, then, in any such event, the number of Warrant Shares issuable for each Warrant will be adjusted as follows: the number of Warrant Shares issuable pursuant to a valid exercise or conversion of Warrants immediately prior to such event shall be adjusted so that each Holder shall be entitled to receive upon the exercise or conversion of its Warrant the number of Warrant Shares that such Holder would have owned or would have been entitled to receive upon or by reason of such event had such Warrant been exercised or converted immediately prior to the occurrence of such event (without taking into account any limitations or restrictions on the exercisability of the Warrants). In the event of an adjustment to the number of Warrant Shares pursuant to this Section 6(b), the Exercise Price shall be adjusted so that the Exercise Price immediately after such adjustment shall be equal to (A) the Exercise Price immediately prior to such adjustment, multiplied by (B) a fraction, (1) the numerator of which is the number of Warrant Shares issuable upon exercise of the Warrants immediately prior to such adjustment, and (2) the denominator of which is the number of Warrant Shares issuable upon exercise of the Warrants immediately after such adjustment. Any adjustment made pursuant to this Section 6(b) shall become effective (i) in the case of any such dividend or distribution, at the close of business on the record date for the determination of holders of shares of Common Stock entitled to receive such dividend or distribution or (ii) in the case of any such split, subdivision or combination, at the open of business on the date on which such corporate action becomes effective.

(c) Distributions of Certain Rights, Options and Warrants. If after the date hereof the Company distributes to holders of the Common Stock any Options or Convertible Securities entitling them to subscribe for or purchase shares of Common Stock at a price per share that is less than the Fair Market Value of one share of Common Stock as of the announcement date of such issuance, the number of Warrant Shares issuable for each Warrant will be increased pursuant to the formula below. In the event of an adjustment to the number of Warrant Shares pursuant to this Section 6(c), the Exercise Price shall be adjusted so that the Exercise Price immediately after such adjustment shall be equal to (A) the Exercise Price immediately prior to such adjustment, multiplied by (B) a fraction, (1) the numerator of which is the number of Warrant Shares issuable upon exercise of the Warrants immediately prior to such adjustment, and (2) the denominator of which is the number of Warrant Shares issuable upon exercise of the Warrants immediately after such adjustment. Such adjustments shall be made successively whenever any such Options or Convertible Securities are distributed and shall become effective at the close of business on the record date for such distribution. To the extent that shares of Common Stock are not delivered at or prior to the expiration of such Options or Convertible Securities, (i) the number of Warrant Shares issuable for each Warrant shall be readjusted to be the number of Warrant Shares issuable for each Warrant that would then be in effect had the adjustment with respect to the issuance of such Options or Convertible Securities been made on the basis of delivery of only the number of Warrant Shares actually delivered and (ii) the Exercise Price shall be readjusted accordingly. In the event that such Options or Convertible Securities are not so issued, (x) the number of Warrant Shares issuable for each Warrant shall be readjusted to be the number of Warrant Shares issuable for each Warrant that would then be in effect if such record date had not occurred and (y) the Exercise Price shall be readjusted accordingly. For purposes of this Section 6(c), in determining whether any Options or Convertible Securities entitle the Holders to subscribe for or purchase shares of Common Stock at less than such Fair Market Value of one share of Common Stock as of the announcement date of such issuance, and in determining the aggregate offering price of such shares of Common Stock, there shall be taken into account any consideration received by the Company for such Options or Convertible Securities and any amount payable on exercise or conversion thereof, the value of such consideration, if other than cash, to be determined by the Board.

$$U_a = U_b \times \frac{O_b + X}{O_b + Y}$$

Where:

U_b = The number of Warrant Shares issuable for each Warrant before the adjustment

U_a = The number of Warrant Shares issuable for each Warrant after the adjustment

O_b = Number of Warrant Shares outstanding immediately before the transaction in question on a Fully Diluted Basis

X = Number of shares of Common Stock issuable pursuant to such Options or Convertible Securities

Y = Number of shares of Common Stock equal to the aggregate offering price of the shares of Common Stock issuable pursuant to such Options or Convertible Securities, *divided by* the Fair Market Value of one share of Common Stock as of earlier of (a) the announcement date of the issuance of such Options or Convertible Securities and (b) the date of issuance of such Options or Convertible Securities

(d) Certain Other Dividends and Distributions. If after the date hereof the Company shall dividend or distribute to all holders of its shares of Common Stock any of its securities, evidences of its indebtedness, other assets or property of the Company (excluding cash) or rights, options or warrants to acquire any of its securities (including any such distribution made in connection with a merger or consolidation in which the Company is the resulting or surviving Person and shares of Common Stock are not changed or exchanged, but excluding any dividend or other distribution payable for which adjustment is made under Section 6(a), Section 6(b) or Section 6(c)), then in each such case the Exercise Price shall be decreased, effective on the date immediately after the record date for the determination of stockholders entitled to receive such dividend or distribution, by the Fair Market Value of the dividend or distribution made per share of Common Stock as of such record date (determined for such purpose on the basis of the aggregate property distributed with respect to one share of Common Stock).

(e) Reorganization; Reclassification; Merger. Subject to Section 6(g), in the event of any (i) capital reorganization of the Company, (ii) reclassification of the stock of the Company (other than a change in par value or from par value to no par value or from no par value to par value or as a result of any event described in Section 6(b)), (iii) consolidation or merger of the Company with or into another Person, (iv) sale of all or substantially all of the Company's assets to another Person or (v) other similar transaction, in each case which entitles the holders of Common Stock to receive (either directly or upon subsequent liquidation) stock, securities or assets with respect to or in exchange for Common Stock, each Warrant shall, immediately after such reorganization, reclassification, consolidation, merger, sale or similar transaction, remain outstanding and shall thereafter, in lieu of or in addition to (as the case may be) the number of Warrant Shares then issuable upon exercise or conversion of any Warrant, be exercisable for the kind and number of shares of stock or other securities or assets of the Company or of the successor Person resulting from such transaction to which the Holder would have been entitled upon such reorganization, reclassification, consolidation, merger, sale or similar transaction if the Holder had exercised or converted such Warrant in full immediately prior to the time of such reorganization, reclassification, consolidation, merger, sale or similar transaction and acquired the applicable number of Warrant Shares then issuable hereunder as a result of such exercise or conversion (without taking into account any limitations or restrictions on the exercisability of the Warrants); and, in such case, appropriate adjustment (as determined in good faith by the Board) shall be made with respect to the Holders' rights under the Warrants to insure that the provisions of this Section 6 shall thereafter be applicable, as nearly as possible, to the Warrants in relation to any shares of stock, securities or assets thereafter acquirable upon exercise of the Warrants. The provisions of this Section 6(e) shall similarly apply to successive reorganizations, reclassifications, consolidations, mergers, sales or similar transactions. The Company shall not effect any such reorganization, reclassification, consolidation, merger, sale or similar transaction unless, prior to the consummation thereof, the successor Person (if other than the Company) resulting from such reorganization, reclassification, consolidation, merger, sale or similar transaction, shall assume, by written instrument substantially similar in form and substance to the Warrants, the obligation to deliver to any Holder such shares of stock, securities or assets which, in accordance with the foregoing provisions, such Holder shall be entitled to receive upon exercise or conversion of any Warrants.

(f) Above Market Repurchases. If a repurchase of the Common Stock shall be consummated (whether by tender offer, exchange offer or otherwise), to the extent that the aggregate Fair Market Value of all consideration included in the payment per share of Common Stock exceeds the Fair Market Value of one share of Common Stock as of the Business Day immediately prior to the earliest of (i) the date of such repurchase, (ii) the commencement of an offer to repurchase or (iii) public announcement of such repurchase or offer (the “Reference Date”), then the number of shares of Common Stock issuable for each Warrant shall be adjusted pursuant to the formula below; *provided* that the number of shares of Common Stock issuable for each Warrant shall not be decreased as a result of this Section 6(f). Such increase shall be determined as of the Reference Date, but shall become effective as of the date on which such repurchase is consummated. In the event of an adjustment to the number of Warrant Shares pursuant to this Section 6(f), the Exercise Price shall be adjusted, effective as of the same time as such adjustment to the number of Warrant Shares, so that the Exercise Price immediately after such adjustment shall be equal to (A) the Exercise Price immediately prior to such adjustment, multiplied by (B) a fraction, (1) the numerator of which is the number of Warrant Shares issuable upon exercise of the Warrants immediately prior to such adjustment, and (2) the denominator of which is the number of Warrant Shares issuable upon exercise of the Warrants immediately after such adjustment.

$$U_a = U_b \times \frac{(O_a \times M) + E}{O_b \times M}$$

Where:

U_b = The number of Warrant Shares issuable for each Warrant before the adjustment

U_a = The number of Warrant Shares issuable for each Warrant after the adjustment

M = The Fair Market Value of one share of Common Stock as of the Reference Date.

E = The aggregate Fair Market Value of any consideration paid or payable for shares of Common Stock purchased in such repurchase.

O_b = The number of shares of Common Stock outstanding on a Fully Diluted Basis as of the Reference Date.

O_a = The number of shares of Common Stock outstanding on a Fully Diluted Basis immediately after the repurchase is consummated.

(g) Cash Sales and Liquidations. Notwithstanding anything in this Agreement to the contrary, in the event of a Cash Sale or a Company Liquidation Event, the Company shall pay (or cause to be paid) to the Holders, with respect to each unexercised or unconverted Warrant outstanding immediately prior to the consummation of such Cash Sale or a Company Liquidation Event (the “Cash Closing”), cash in the amount equal to (x) the number of Warrant Shares underlying such Warrant immediately prior to the Cash Closing multiplied by (y) the excess, if any, of the cash consideration being paid for each share of Common Stock in such Cash Sale or a Company Liquidation Event minus the Exercise Price (such product, the “Warrant Spread”); provided, however, that no Holder shall be entitled to any payment hereunder with respect to any portion of such consideration that is contingent, deferred or escrowed unless and until such amounts are actually paid to the holders of the Common Stock. Upon the occurrence of a Cash Closing, all unexercised or unconverted Warrants outstanding immediately prior to the Cash Sale or a Company Liquidation Event shall automatically be terminated and cancelled and the Company shall thereupon cease to have any further obligations or liability with respect to the Warrants except as to the requirement to pay the Warrant Spread (subject to the limitations described in the prior sentence). For the avoidance of doubt, the Holders shall not be entitled to any payment with respect to any Cash Sale or a Company Liquidation Event in which the Exercise Price is greater than the consideration payable with respect to each share of Common Stock. Notwithstanding anything to the contrary in the foregoing, if the Company engages in a reclassification in which the Common Stock is reclassified into a combination of Common Stock and any other security, such reclassification will be treated as a reclassification subject to Section 6(g) with respect to the Common Stock portion thereof and a distribution subject to Section 6(e) or 6(d), as applicable, with respect to the other security portion thereof.

(h) Other Changes. If, at any time or from time to time after the issuance of the Warrants but prior to the exercise or conversion in full thereof, the Company shall take any action which (i) affects the Common Stock and (ii) is similar to, or has an effect similar to, any of the actions described in any of Sections 6(a) through (g) (but not including any action described in any such Section) then, and in each such case, (x) with respect to actions similar to Sections 6(a) through (f), the number of Warrant Shares issuable upon exercise or conversion of each Warrant or the Exercise Price, as applicable, shall be adjusted, and (y) with respect to actions similar to Section 6(g), payment of the Warrant Spread shall be made to each Holder based on the amount that such holders of Common Stock are entitled to receive under the Organizational Documents, which adjustment pursuant to clause (x) or payment pursuant to clause (y) shall be made in such manner and at such time and on such terms as the Board determines would be equitable under such circumstances such that the economic benefits of such action that would accrue to the holders of Common Stock of the Company would as nearly as practicable also accrue to the Holders, which determination shall be evidenced in a resolution of the Board, a copy of which shall be mailed by the Warrant Agent (upon the written instruction of the Company) to each of the relevant Holders.

(i) Notice of Adjustment. Whenever the Warrant Shares issuable, the Exercise Price or the rights of the Holder shall be adjusted or proposed to be adjusted as provided in this Section 6, the Company shall forthwith file with the Warrant Agent a statement, signed by an Appropriate Officer, stating in detail the facts requiring such adjustment, the impact of such adjustment on the price, number and kind of securities issuable upon exercise or conversion of the Warrants, the record date with respect to any such action, if applicable, and the approximate date on which such action is to take place. In the case of any action which would require the fixing of a record date, such notice shall be given at least 10 days prior to the date so fixed, and in case of all other action, such notice shall be given at least 20 days prior to the taking of such proposed action. Until such notices or statements are received by the Warrant Agent, the Warrant Agent may presume conclusively for all purposes that no such adjustment has occurred. The Company shall also cause a notice setting forth the same information as set forth above to be sent by mail, first class, postage prepaid, to each registered Holder at its address appearing on the Warrant Register. The Company shall, within five (5) days following the event requiring any such adjustment, deliver to the Warrant Agent a certificate, signed by an Appropriate Officer, which (a) sets forth in reasonable detail (i) the event requiring such adjustment and (ii) the method by which such adjustment was calculated and (b) specifies any adjustments to the Warrants in effect following such event. The Warrant Agent shall be fully protected in relying on any such certificate and on any adjustment or statement therein contained and shall have no duty or liability with respect to, and shall not be deemed to have knowledge of any such adjustment or any such event unless and until it shall have received such certificate.

(j) No Change in Warrant Terms on Adjustment. Irrespective of any adjustments in the Exercise Price or the number of Warrant Shares issuable upon exercise or conversion, Warrants theretofore or thereafter issued may continue to express the same prices and number of Warrant Shares as are stated in the similar Warrants issuable initially, or at some subsequent time, pursuant to this Agreement, and the Exercise Price and the number of Warrant Shares issuable upon exercise or conversion specified thereon shall be deemed to have been so adjusted.

(k) Treasury Shares. Shares of Common Stock at any time owned by the Company shall not be deemed to be outstanding for the purposes of any computation under this Section 6.

(l) Exclusion of Certain Adjustments. No adjustment need be made for a change in the par value of the shares of Common Stock, *provided*, that the Exercise Price shall remain at least equal to the par value of the shares of Common Stock. All calculations under this Section 6 shall be made to the nearest one one-thousandth (1/1,000) of a share.

(m) Proceedings Prior to Any Action Requiring Adjustment. As a condition precedent to the taking of any action which would require an adjustment pursuant to this Section 6, the Company shall promptly take (and shall be permitted by the Holders to take) any action which may be necessary, including obtaining any stockholder approvals or exemptions, in order that the Company may thereafter validly and legally issue as fully paid and nonassessable all Warrant Shares that a Holder is entitled to receive upon exercise of a Warrant pursuant to this Section 6.

SECTION 7. Cancellation of Warrants. The Warrant Agent shall cancel all Warrant Certificates surrendered for exercise, conversion, exchange, substitution or transfer in whole or in part. Such cancelled Warrant Certificates shall thereafter be disposed of by the Warrant Agent upon written instructions from the Company reasonably satisfactory to the Warrant Agent and such Direct Registration Warrants shall be canceled by appropriate notation on the Warrant Register.

SECTION 8. Mutilated or Missing Warrant Certificates. Upon receipt by the Company and the Warrant Agent from any Holder of evidence reasonably satisfactory to them of the ownership of and the loss, theft, destruction or mutilation of such Holder's Warrant Certificate and a surety bond or indemnity reasonably satisfactory to them and holding the Warrant Agent and Company harmless, and in case of mutilation upon surrender and cancellation thereof, and absent notice to Warrant Agent that such Warrant Certificates have been acquired by a bona fide purchaser, the Company will execute and the Warrant Agent will countersign and deliver in lieu thereof a new Warrant Certificate of like tenor and representing an equal number of Warrants to such Holder; *provided*, that in the case of mutilation, no bond or indemnity shall be required if such Warrant Certificate in identifiable form is surrendered to the Company or the Warrant Agent for cancellation. Upon the issuance of any new Warrant Certificate under this Section 8, the Company may require the payment of a sum sufficient to cover any stamp tax or other governmental charge that may be imposed in relation thereto and any other expenses (including the reasonable fees and expenses of the Warrant Agent) in connection therewith. Every new Warrant Certificate executed and delivered pursuant to this Section 8 in lieu of any lost, stolen, destroyed or mutilated Warrant Certificate shall be entitled to the same benefits of this Agreement equally and proportionately with any and all other Warrant Certificates, whether or not the allegedly lost, stolen or destroyed Warrant Certificate shall be at any time enforceable by anyone. The provisions of this Section 8 are exclusive and shall preclude (to the extent lawful) all other rights or remedies with respect to the replacement of lost, stolen, destroyed or mutilated Warrant Certificates.

SECTION 9. Reservation of Shares. The Company shall at all times reserve and keep available, free from preemptive rights, out of its authorized but unissued Common Stock, solely for issuance and delivery upon exercise or conversion of Warrants, the full number of Warrant Shares from time to time issuable upon the exercise or conversion of all Warrants and any other outstanding warrants, options or similar rights, from time to time outstanding. All Warrant Shares shall be duly authorized and, when issued upon such exercise or conversion of the Warrants, shall be duly and validly issued, and (if applicable) fully paid and nonassessable, free from all taxes, liens, charges, security interests, encumbrances and other restrictions created by or through the Company and issued without violation (i) of any preemptive or similar rights of any stockholder of the Company and (ii) by the Company of any Applicable Law or governmental regulation.

SECTION 10. Legends. The Warrants are issued in reliance upon the exemption from the registration requirements of Section 5 of the Securities Act provided by section 1145 of the Bankruptcy Code for so long as the Securityholders Agreement remains in effect, Warrant Certificates shall be stamped or otherwise imprinted with a legend, and the Warrant Statements shall include a restrictive notation with respect to such Warrants, in substantially the following form:

“THE WARRANTS REPRESENTED BY THIS CERTIFICATE (AND THE SHARES ISSUABLE PURSUANT THERETO) ARE SUBJECT TO A SECURITYHOLDERS AGREEMENT AMONG HORNBECK OFFSHORE SERVICES, INC. AND THE HOLDERS PARTY THERETO, A COPY OF WHICH IS ON FILE WITH THE CORPORATE SECRETARY OF HORNBECK OFFSHORE SERVICES, INC. THE SECURITYHOLDERS AGREEMENT CONTAINS, AMONG OTHER THINGS, CERTAIN PROVISIONS RELATING TO THE TRANSFER OF THE WARRANTS AND THE SHARES ISSUABLE PURSUANT THERETO, INCLUDING RESTRICTIONS ON TRANSFER TO AND OWNERSHIP BY PERSONS WHO ARE NOT U.S. CITIZENS AS DEFINED IN 46 U.S.C. SECTION 50501 QUALIFIED TO OWN AND OPERATE VESSELS ENGAGED IN THE UNITED STATES COASTWISE TRADE, AS IN EFFECT ON THE DATE IN QUESTION, OR ANY SUCCESSOR STATUTE OR REGULATION, AS INTERPRETED BY THE U.S. COAST GUARD IN APPLICABLE PRECEDENT. NO TRANSFER, SALE, ASSIGNMENT, PLEDGE, HYPOTHECATION OR OTHER DISPOSITION OF THE WARRANTS REPRESENTED BY THIS CERTIFICATE (OR THE SHARES ISSUABLE PURSUANT THERETO) MAY, DIRECTLY OR INDIRECTLY, BE MADE EXCEPT IN ACCORDANCE WITH THE PROVISIONS OF SUCH SECURITYHOLDERS AGREEMENT. THE HOLDER OF THIS CERTIFICATE, BY ACCEPTANCE OF THIS CERTIFICATE, AGREES TO BE BOUND BY ALL OF THE PROVISIONS OF SUCH SECURITYHOLDERS AGREEMENT.”

Any legend or restrictive notation referenced in this Section 10 shall be removed from the Warrant Certificates or Warrant Statements at any time after the restrictions described in such legend or restrictive notation cease to be applicable; provided that the Company may request from any Holder opinions, certificates or other evidence that such restrictions have ceased to be applicable before removing such legend or restrictive notation.

SECTION 11. Notification of Certain Events; Corporate Action.

(a) In the event of:

(i) any taking by the Company of a record of the holders of any class of securities for the purpose of determining the holders thereof who are entitled to receive any dividend or other distribution of any kind, or any right to subscribe for, purchase or otherwise acquire any shares of stock of any class, any other securities or any property, or to receive any other right or interest of any kind, or any other event referred to in Sections 6(a) through (g); or

(ii) (A) any reclassification of the capital stock of the Company (other than a change in par value or from par value to no par value or from no par value to par value or as a result of a subdivision or combination), (B) the consolidation or merger of the Company with or into any other Person (other than a consolidation or merger in which the Company is the continuing Person and which does not result in any change in the shares of Common Stock), (C) the sale or transfer of the properties and assets of the Company as, or substantially as, an entirety to another Person, or (D) a tender or exchange offer for Common Stock; or

(iii) the voluntary or involuntary dissolution, liquidation, or winding up of the Company;

the Company shall cause to be filed with the Warrant Agent and delivered to each Holder a notice specifying (x) the date or expected date on which any such record is to be taken for the purpose of such dividend, distribution or right, and the amount and character of any such dividend, distribution or right, or if a record is not to be taken, the date as of which the holders of Common Stock of record to be entitled to such dividend, distribution, or right are to be determined, and the amount and character of such dividend, distribution or right, or (y) the date or expected date on which any such reorganization, reclassification, consolidation, merger, sale, transfer, exchange offer, dissolution, liquidation or winding up is expected to become effective, and the time, if any such time is to be fixed, as of which holders of record of Common Stock shall be entitled to exchange their shares of Common Stock for the securities or other property deliverable upon such reorganization, reclassification, consolidation, merger, sale, transfer, exchange offer, dissolution, liquidation or winding up. Such notice shall be delivered not less than ten (10) calendar days prior to such date therein specified, in the case of any such date referred to in clause (x) of the preceding sentence, and not less than twenty (20) calendar days prior to such date therein specified, in the case of any such date referred to in clause (y) of the preceding sentence.

(b) Failure to give the notice contemplated by Section 11(a) hereof within the time provided or any defect therein shall not affect the legality or validity of any such action.

(c) The Company agrees that, for so long as any Warrants are outstanding, it shall not increase the par value of the Common Stock or amend or modify its Charter or by-laws in a manner that would prevent the Company from issuing the Warrant Shares issuable upon exercise of the Warrants. The Company shall not, and shall not permit or cause any of its subsidiaries to, take any action to avoid or seek to avoid the observance or performance of any of the terms to be observed or performed hereunder by the Company, including through any amendment of its Charter and by-laws (and any equivalent organizational documents of its subsidiaries) or any reorganization, transfer of assets, consolidation, merger, dissolution, issue or sale of securities.

SECTION 12. Warrant Agent. The Warrant Agent undertakes the duties and obligations expressly imposed by this Agreement upon the terms and conditions set forth in this Section 12.

(a) **Limitation on Liability.** The Warrant Agent shall not by countersigning Warrant Certificates or by any other act hereunder be accountable with respect to or be deemed to make any representations as to the validity or authorization of the Warrants or the Warrant Certificates (except as to its countersignature thereon), as to the validity, authorization or value (or kind or amount) of any Warrant Shares or other property delivered or deliverable upon exercise or conversion of any Warrant, or as to the purchase price of such Warrant Shares or other property. The Warrant Agent shall not (i) be liable for any recital or statement of fact contained herein or in the Warrant Certificates or for any action taken, suffered or omitted by the Warrant Agent in the belief that any Warrant Certificate or any other document or any signature is genuine or properly authorized unless such action or omission was taken or omitted to be taken in bad faith, gross negligence or willful misconduct (which bad faith, gross negligence or willful misconduct must be determined by a final, non-appealable judgment of a court of competent jurisdiction), (ii) be responsible for determining (x) compliance by any Person with the provisions set forth in Section 5(m) or (y) whether any facts exist that may require any adjustment of the number of Warrant Shares, or with respect to the nature or extent of any such adjustments when made, or with respect to the method of adjustment employed, (iii) be responsible for any failure on the part of the Company to issue, transfer or deliver any Warrant Shares or property upon the surrender of any Warrant for the purpose of exercise or conversion or to comply with any other of the Company's covenants and obligations contained in this Agreement or in the Warrant Certificates or (iv) be liable for any action taken, suffered or omitted to be taken in connection with this Agreement, except for its own bad faith, gross negligence or willful misconduct (which bad faith, gross negligence or willful misconduct must be determined by a final, non-appealable judgment of a court of competent jurisdiction) for which the Warrant Agent shall be liable. Notwithstanding anything in this Agreement to the contrary, in no event shall the Warrant Agent be liable for special, indirect, punitive, incidental or consequential loss or damage of any kind whatsoever (including but not limited to lost profits), even if the Warrant Agent has been advised of the likelihood of the loss or damage and regardless of the form of the action. Notwithstanding anything to the contrary stated herein, any liability of the Warrant Agent under this Agreement shall be limited to the lesser of (i) amount of fees, but not including reimbursable expenses, paid by the Company to the Warrant Agent during the twelve (12) months immediately preceding the event for which recovery from the Warrant Agent is being sought, and (ii) \$50,000.

(b) Instructions. The Warrant Agent is hereby authorized to accept advice or instructions with respect to the performance of its duties hereunder from an Appropriate Officer and to apply to any such officer for advice or instructions. The Warrant Agent shall be fully protected and authorized in relying upon the most recent advice or instructions received by any such officer. The Warrant Agent shall not be liable for any action taken, suffered or omitted by it in accordance with the advice or instructions of any such officer.

(c) Agents. The Warrant Agent may execute and exercise any of the rights and powers hereby vested in it or perform any duty hereunder either itself or by or through its attorneys, agents or employees, and the Warrant Agent shall not be answerable or accountable for any act, default, neglect or misconduct of any such attorneys, agents or employees or for any loss to the Company resulting from such neglect or misconduct, *provided* that the Warrant Agent acts without gross negligence, willful misconduct or bad faith (each as determined by a final judgment of a court of competent jurisdiction) in the selection and continued employment thereof. The Warrant Agent shall not be under any obligation or duty to institute, appear in, or defend any action, suit or legal proceeding in respect hereof, but this provision shall not affect the power of the Warrant Agent to take such action as the Warrant Agent may consider necessary in the performance of its duties hereunder. The Warrant Agent shall promptly notify the Company in writing of any claim made or action, suit or proceeding instituted against the Warrant Agent arising out of or in connection with this Agreement.

(d) Cooperation. The Company will perform, execute, acknowledge and deliver or cause to be performed, executed, acknowledged and delivered all such further acts, instruments and assurances as may reasonably be required by the Warrant Agent in order to enable the Warrant Agent to carry out or perform its duties under this Agreement.

(e) Agent Only. The Warrant Agent shall act solely as agent for the Company in accordance with the terms and conditions hereof and does not assume any obligation or relationship of agency or trust with any Holders. The Warrant Agent shall not be liable except for the performance of such duties as are expressly set forth herein, and no implied covenants or obligations shall be read into this Agreement against the Warrant Agent, whose duties and obligations shall be determined solely by the express provisions hereof.

(f) Right to Counsel. The Warrant Agent may at any time consult with legal counsel satisfactory to it (who may be legal counsel for the Company), and the Warrant Agent shall incur no liability or responsibility to the Company or to any Holder for any action taken, suffered or omitted by the Warrant Agent in the absence of bad faith in accordance with the opinion or advice of such counsel.

(g) Compensation. The Company agrees to pay the Warrant Agent reasonable compensation for all services rendered by it hereunder in accordance with a mutually agreed upon fee schedule and to reimburse the Warrant Agent for its reasonable expenses incurred by the Warrant Agent hereunder (including reasonable counsel fees and expenses) in connection with the acceptance, negotiation, preparation, delivery, administration, execution, modification, waiver, delivery, enforcement or amendment of the Agreement and the exercise and performance of its duties hereunder.

(h) Accounting and Payment. The Warrant Agent shall account to the Company with respect to Warrants exercised or converted and pay to the Company all moneys received by the Warrant Agent on behalf of the Company on the purchase of Warrant Shares through the exercise of Warrants pursuant to the procedures set forth in Section 5(f)(v). The Warrant Agent shall advise the Company by electronic transmission at the end of each day the number of Warrant Exercise Notices received, and, if known, the identity of the Holder(s) of the Warrant(s) exercised or converted.

(i) No Conflict. Subject to Applicable Law, the Warrant Agent and any stockholder, affiliate, director, officer or employee of the Warrant Agent may buy, sell or deal in any of the Warrants or other securities (including, for the avoidance of doubt, bonds, notes and warrants) of the Company or become pecuniarily interested in any transaction in which the Company may be interested, or contract with or lend money to the Company or otherwise act as fully and freely as though it were not Warrant Agent under this Agreement. Subject to Applicable Law, nothing herein shall preclude the Warrant Agent from acting in any other capacity for the Company or for any other Person including, without limitation, acting as trustee under an indenture.

(j) Resignation; Termination. The Warrant Agent may resign its duties and be discharged from all further duties and liabilities hereunder (except liabilities arising prior to resignation as a result of the Warrant Agent's bad faith, gross negligence or willful misconduct (which bad faith, gross negligence or willful misconduct must be determined by a final, non-appealable judgment of a court of competent jurisdiction)) after giving thirty (30) calendar days' prior written notice to the Company. In the event the transfer agency relationship in effect between the Company and Warrant Agent terminates, the Warrant Agent shall be deemed to have resigned automatically and be discharged from its duties under this Agreement as of the effective date of such termination. The Company may remove the Warrant Agent upon thirty (30) calendar days' written notice, and the Warrant Agent shall thereupon in like manner be discharged from all further duties and liabilities hereunder, except as have been caused by the Warrant Agent's bad faith, gross negligence or willful misconduct (which bad faith, gross negligence or willful misconduct must be determined by a final, non-appealable judgment of a court of competent jurisdiction) prior to its removal. The Company shall cause to be mailed promptly (by first class mail, postage prepaid) to each registered Holder at such Holder's last address as shown on the register of the Company, at the Company's expense, a copy of such notice of resignation or notice of removal, as the case may be. Upon such resignation or removal the Company shall promptly appoint in writing a new warrant agent. If the Company shall fail to make such appointment within a period of thirty (30) calendar days after it has been notified in writing of such resignation by the resigning Warrant Agent or after such removal, then the Holder of any Warrant may apply to any court of competent jurisdiction for the appointment of a new warrant agent. Pending appointment of a successor to the Warrant Agent, either by the Company or by such a court, the duties of the Warrant Agent shall be carried out by the Company. Any successor warrant agent, whether appointed by the Company or by such a court, shall be a Person, formed under the laws of the United States or of any state thereof and authorized under such laws to conduct a shareholder services business, be subject to supervision and examination by a federal or state authority, and have a combined capital and surplus of not less than \$50,000,000 as set forth in its most recent published annual report of condition; or in the case of such capital and surplus requirement, a controlled affiliate of such a Person meeting such capital and surplus requirement. After acceptance in writing of such appointment by the new Warrant Agent, such successor Warrant Agent shall be vested with the same powers, rights, duties and responsibilities under this Agreement as if it had been originally named herein as the Warrant Agent, without any further assurance, conveyance, act or deed; but if for any reason it shall be necessary or expedient to execute and deliver any further assurance, conveyance, act or deed, the same shall be done at the expense of the Company and shall be legally and validly executed and delivered by the resigning or removed Warrant Agent. Not later than the effective date of any such appointment, the Company shall send notice thereof to the resigning or removed Warrant Agent and shall forthwith cause a copy of such notice to be mailed (by first class, postage prepaid) to each registered Holder at such Holder's last address as shown on the register of the Company. Failure to give any notice provided for in this Section 12(j), or any defect in any such notice, shall not affect the legality or validity of the resignation of the Warrant Agent or the appointment of a successor Warrant Agent, as the case may be.

(k) Merger, Consolidation or Change of Name of Warrant Agent. Any Person into which the Warrant Agent may be merged or converted or with which it may be consolidated, or any Person resulting from any merger, conversion or consolidation to which the Warrant Agent shall be a party, or any Person succeeding to all or substantially all of the agency business of the Warrant Agent shall be the successor to the Warrant Agent hereunder without the execution or filing of any document or any further act on the part of any of the parties hereto, *provided* that such Person would be eligible for appointment as a successor Warrant Agent under the provisions of Section 12(j). If at the time such successor to the Warrant Agent shall succeed under this Agreement, any of the Warrant Certificates shall have been countersigned but not delivered, any such successor to the Warrant Agent may adopt the countersignature of the original Warrant Agent; and if at that time any of the Warrant Certificates shall not have been countersigned, any successor to the Warrant Agent may countersign such Warrant Certificates either in the name of the predecessor Warrant Agent or in the name of the successor Warrant Agent; and in all such cases such Warrant Certificates shall have the full force and effect provided in the Warrant Certificates and in this Agreement. If at any time the name of the Warrant Agent shall be changed and at such time any of the Warrants shall have been countersigned but not delivered, the Warrant Agent whose name has changed may adopt the countersignature under its prior name; and if at that time any of the Warrants shall not have been countersigned, the Warrant Agent may countersign such Warrants either in its prior name or in its changed name; and in all such cases such Warrants shall have the full force and effect provided in the Warrants and in this Agreement.

(l) Indemnity. The Company agrees to indemnify the Warrant Agent, and to hold it harmless against, any and all losses, damages, claims, liabilities, penalties, judgments, settlements, actions, suits, proceedings, litigation, investigations, costs or expenses (including reasonable counsel fees and expenses) incurred without the bad faith, gross negligence or willful misconduct on the part of the Warrant Agent (which bad faith, gross negligence or willful misconduct must be determined by a final, non-appealable order, judgment, decree or ruling of a court of competent jurisdiction), for any action taken, suffered or omitted by the Warrant Agent in connection with the preparation, delivery, acceptance, administration, execution and amendment of this Agreement and the exercise and performance of its duties hereunder, including the costs and expenses of defending against any claim of liability arising therefrom, directly or indirectly. The Warrant Agent shall not be obligated to expend or risk its own funds to take any action which it believes would expose it to expense or liability or to a risk of incurring expense of liability, unless it has been furnished with assurance of repayment or indemnity reasonably satisfactory to it.

(m) Exclusions. The Warrant Agent shall have no responsibility with respect to the validity of this Agreement or with respect to the validity or execution of any Warrant (except its countersignature thereof); nor shall it be responsible for any breach by the Company of any covenant or condition contained in this Agreement or in any Warrant; nor shall it be responsible or have any duty to make any calculation or adjustment, or to determine when any calculation or adjustment required under the provisions hereof should be made, how it should be made or what it should be, or have any responsibility or liability for the manner, method or amount of any such calculation or adjustment or the ascertaining of the existence of facts that would require any such calculation or adjustment; nor shall it by any act hereunder be deemed to make any representation or warranty as to the authorization or reservation of any Warrant to be issued pursuant to this Agreement or as to whether any Warrant Shares will, when issued, be valid and (if applicable) fully paid and nonassessable.

(n) No Liability for Interest. The Warrant Agent shall not be under any liability for interest on any monies at any time received by it pursuant to any of the provisions of this Agreement.

(o) No Implied Obligations. The Warrant Agent shall be obligated to perform such duties as are explicitly set forth herein and no implied duties or obligations shall be read into this Agreement against the Warrant Agent. The Warrant Agent shall not be under any obligation to take any action hereunder that may involve it in any expense or liability, the payment of which within a reasonable time is not, in its reasonable opinion, assured to it. The Warrant Agent shall not be accountable or under any duty or responsibility for the use by the Company of any Warrant Certificate authenticated by the Warrant Agent and delivered by it to the Company pursuant to this Agreement or for the application by the Company of the proceeds of the issuance and sale, or exercise or conversion, of the Warrants or Warrant Shares. The Warrant Agent shall have no duty or responsibility in case of any default by the Company in the performance of its covenants or agreements contained herein or in any Warrant Certificate or in the case of the receipt of any written demand from a Holder with respect to such default, including, without limiting the generality of the foregoing, any duty or responsibility to initiate or attempt to initiate any proceedings at law or otherwise or, to make any demand upon the Company.

(p) Force Majeure. In no event shall the Warrant Agent be responsible or liable for any failure or delay in the performance of its obligations under this Agreement arising out of or caused by, directly or indirectly, forces beyond its reasonable control, including, without limitation, strikes, pandemics, epidemics, work stoppages, accidents, acts of war or terrorism, civil or military disturbances, nuclear or natural catastrophes or acts of God, and interruptions, loss or malfunctions of utilities, communications or computer (software or hardware) services.

(q) Bank Accounts. All funds received by the Warrant Agent under this Agreement that are to be distributed or applied by the Warrant Agent in the performance of services (the “Funds”) shall be held by Computershare as agent for the Company and deposited in one or more bank accounts to be maintained by Computershare in its name as agent for the Company. Until paid pursuant to the terms of this Agreement, Computershare will hold the Funds through such accounts in: deposit accounts of commercial banks with Tier 1 capital exceeding \$1 billion or with an average rating above investment grade by S&P (LT Local Issuer Credit Rating), Moody’s (Long Term Rating) and Fitch Ratings, Inc. (LT Issuer Default Rating) (each as reported by Bloomberg Finance L.P.). The Warrant Agent shall have no responsibility or liability for any diminution of the Funds that may result from any deposit made by the Warrant Agent in accordance with this paragraph, including any losses resulting from a default by any bank, financial institution or other third party. The Warrant Agent may from time to time receive interest, dividends or other earnings in connection with such deposits. The Warrant Agent shall not be obligated to pay such interest, dividends or earnings to the Company, any Holder or any other party.

(r) Notice. The Warrant Agent shall not be required to take notice or be deemed to have notice of any event or condition hereunder unless the Warrant Agent shall be specifically notified in writing of such event or condition by the Company, and all notices or other instruments required by this Agreement to be delivered to the Warrant Agent must, in order to be effective, be received by the Warrant Agent as specified in Section 15, and in the absence of such notice so delivered, the Warrant Agent may conclusively assume no such event or condition exists.

(s) Signature Guarantee. The Warrant Agent may rely on and be fully authorized and protected in acting or failing to act upon (i) any Signature Guarantee or other comparable "signature guarantee program" or insurance program in addition to, or in substitution for, such Signature Guarantee; or (ii) related applicable law, act, regulation or any interpretation of the same.

(t) Survival. The provisions under this Section 12 shall survive the expiration of the Warrants, and the termination of this Agreement and the resignation, replacement or removal of the Warrant Agent. The costs and expenses incurred in enforcing this right of indemnification shall be paid by the Company.

SECTION 13. Severability. In the event that any one or more of the provisions contained herein or in the Warrants, or the application thereof in any circumstances, is held invalid, illegal or unenforceable (including as a result of applicable statutes and the related regulations issued by the U.S. Coast Guard or the Maritime Administration), the validity, legality and enforceability of any such provisions in every other respect and of the remaining provisions contained herein and therein shall not be affected or impaired thereby; *provided*, that if any such excluded term, provision, covenant or restriction shall materially adversely affect the rights, immunities, duties or obligations of the Warrant Agent, the Warrant Agent shall be entitled to resign immediately. Furthermore, subject to the preceding sentence, in lieu of any such invalid, illegal or unenforceable provision, the parties hereto intend that there shall be added as a part of this Agreement a provision as similar in terms and commercial effect to such invalid, illegal or unenforceable provision as may be possible and be valid and enforceable which a reasonable person in the position of the Company, acting in good faith, would make, always keeping in mind the intent and purposes of this Agreement and the Warrants issued pursuant thereto by the Persons party hereto as of the date hereof.

SECTION 14. Holder Not Deemed a Stockholder. Prior to the exercise or conversion of any Warrants, no Holder thereof, as such, shall be entitled hereunder to any rights of a stockholder of the Company whether by the issuance of this Warrant, including, but not limited to, the right to vote, to receive dividends or other distributions, to exercise any preemptive right or, to receive notice as stockholders in respect of the meetings of stockholders or for the election of directors of the Company or any other matter and a Warrant shall not constitute a right to receive dividends or give rise to a fiduciary obligation on the part of the Company to pay dividends.

SECTION 15. Notices to Company and Warrant Agent. All notices, requests or demands authorized by this Agreement to be given or made by the Warrant Agent or by any registered Holder of any Warrant to or on the Company to be effective shall be in writing (including by e-mail), and shall be deemed to have been duly given or made when delivered by hand or e-mail, or one (1) Business Day if sent by overnight courier service (with next day delivery specified), or two (2) Business Days after being delivered to a recognized courier (whose stated terms of delivery are two (2) Business Days or less to the destination such notice), or five (5) Business Days after being deposited in the mail, or, in the case of email notice, when received, addressed (until another address is filed in writing by the Company with the Warrant Agent) as follows:

Hornbeck Offshore Services, Inc.

103 Northpark Blvd., Suite 300

Covington, LA 70433

Attention: James O. Harp, Jr., Executive Vice President and Chief Financial Officer
Samuel A. Giberga, Executive Vice President, General Counsel and Chief Compliance Officer

Email: james.harp@hornbeckoffshore.com
samuel.giberga @hornbeckoffshore.com

Any notice pursuant to this Agreement to be given by the Company or by any registered Holder of any Warrant to the Warrant Agent shall be sufficiently given if sent by overnight courier service or first-class mail, postage prepaid, addressed (until another address is filed in writing by the Warrant Agent with the Company), as follows:

Computershare, Inc.

Computershare Trust Company, N.A.

150 Royall Street

Canton, MA 02021

Attention: Client Services

Unless the Warrant is represented by a Global Warrant Certificate, any notice or communication mailed to a Holder shall be mailed to the Holder at the Holder's address as it appears on the Warrant Register and shall be sufficiently given if so mailed within the time prescribed. Any notice to the owners of a beneficial interest in a Warrant represented by a Global Warrant Certificate shall be distributed through the Depository in accordance with the procedures of the Depository. Communications to such Holder shall be deemed to be effective at the time of dispatch to the Depository. Failure to provide a notice or communication to a Holder or any defect in it shall not affect its sufficiency with respect to other Holders.

SECTION 16. Supplements and Amendments. The Company and the Warrant Agent may from time to time supplement, amend, waive or otherwise modify this Agreement (a) without the approval of any Holders to implement any changes required in order for the Company to comply with the limitations imposed by the Jones Act or other applicable law on ownership and control of the Common Stock of the Company by Non-U.S. Citizens (*provided* that to the extent the Company makes any changes pursuant to this clause (a), the Company shall make only such changes which a reasonable person in the position of the Company, acting in good faith, would determine are necessary in order to implement such written requirements, always keeping in mind the intent and purposes of this Agreement and the Warrants issued pursuant thereto by the Persons party hereto as of the date hereof), or (b) with the prior written consent of (i) Holders that hold Warrants representing at least seventy-five percent (75%) of the outstanding Warrants, which must include each of Ares and Whitebox, but only for so long as such Person (together with its respective Affiliates that hold Warrants) holds at least fifty percent (50%) of the Warrants issued to such Person (together with its respective Affiliates) on the date hereof, and (ii) if any such amendment or supplement is disproportionately and materially adverse to any Holder(s) (each, an “Affected Holder”), Affected Holders that hold Warrants representing a majority of the outstanding Warrants held by the Affected Holders; *provided*, that the Warrant Agent shall not be required to execute any amendment, supplement, waiver or other modification to this Agreement that the Warrant Agent has determined would adversely affect its own rights, duties, obligations or immunities under this Agreement. As a condition precedent to the Warrant Agent’s execution of any amendment, supplement, waiver or other modification to this Agreement, the Company shall deliver to the Warrant Agent a certificate from an Appropriate Officer that states that the proposed amendment, supplement, waiver or other modification is in compliance with the terms of this Section 16. No supplement, modification, amendment or waiver to this Agreement shall be effective unless duly executed by the Warrant Agent. Upon execution and delivery of any supplement, amendment, waiver or other modification pursuant to this Section 16, such amendment, supplement, waiver or other modification shall be considered a part of this Agreement for all purposes and every Holder of a Warrant Certificate theretofore or thereafter countersigned and delivered hereunder shall be bound thereby.

SECTION 17. Termination. This Agreement shall terminate on the Expiration Date or, if later, upon settlement of all Warrants (i) validly exercised or converted prior to the Expiration Date and, (ii) if exercised or converted pursuant to Section 5(c)(i) hereof, for which the Exercise Price was timely paid. Notwithstanding the foregoing, this Agreement will terminate on any earlier date when all Warrants have been exercised, converted, or cancelled; *provided, however*, that the provisions of Sections 12, 13, 14, 15, 16, 17, 18, 19, 20 and 23 shall survive such termination.

SECTION 18. Governing Law and Consent to Forum. This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware applicable to contracts made and to be performed within the State of Delaware. Each of the Company and the Warrant Agent hereby irrevocably submits to the jurisdiction of the Delaware Chancery Court; *provided* that if such court does not have jurisdiction, then the United States District Court for the District of Delaware, with respect to any suit, action or proceeding arising out of or relating to this Agreement, and each irrevocably accepts for itself and in respect of its property, generally and unconditionally, the jurisdiction of the aforesaid courts. Nothing herein shall affect the right of any Person to serve process in any manner permitted by law or to commence legal proceedings or otherwise proceed against the Company in any other jurisdiction.

SECTION 19. Waiver of Jury Trial. Each of the parties to this Agreement hereby agrees to waive its respective rights to a jury trial of any claim or cause of action based upon or arising out of this Agreement. The scope of this waiver is intended to be all-encompassing of any and all disputes that may be filed in any court and that relate to the subject matter of this Agreement, including contract claims, tort claims and all other common law and statutory claims. Each party hereto acknowledges that this waiver is a material inducement to enter into this Agreement, that each has already relied on this waiver in entering into this Agreement and that each will continue to rely on this waiver in their related future dealings. Each party hereto further warrants and represents that it has reviewed this waiver with its legal counsel and that it knowingly and voluntarily waives its jury trial rights following consultation with legal counsel. THIS WAIVER IS IRREVOCABLE, MEANING THAT IT MAY NOT BE MODIFIED EITHER ORALLY OR IN WRITING (OTHER THAN BY A MUTUAL WRITTEN WAIVER SPECIFICALLY REFERRING TO THIS SECTION 19 AND EXECUTED BY EACH OF THE PARTIES HERETO), AND THIS WAIVER SHALL APPLY TO ANY SUBSEQUENT AMENDMENTS, RENEWALS, SUPPLEMENTS OR MODIFICATIONS TO THIS AGREEMENT. In the event of litigation, this Agreement may be filed as a written consent to a trial by the court.

SECTION 20. Benefits of this Agreement. Nothing in this Agreement shall be construed to give to any Person other than the Company, the Warrant Agent and the registered Holders and beneficial owners (who are express third party beneficiaries of this Agreement) any legal or equitable right, remedy or claim under this Agreement, and this Agreement shall be for the sole and exclusive benefit of the Company, the Warrant Agent and the registered Holders and beneficial owners.

SECTION 21. Counterparts. This Agreement may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original, and such counterparts shall together constitute but one and the same instrument.

SECTION 22. Headings. The headings of sections of this Agreement have been inserted for convenience of reference only, are not to be considered a part hereof and in no way modify or restrict any of the terms or provisions hereof.

SECTION 23. Confidentiality. The Warrant Agent and the Company agree that all books, records, information and data pertaining to the business of the other party, including inter alia, personal, non-public warrant holder information, which are exchanged or received pursuant to the negotiation or the carrying out of this Agreement including the fees for services of the Warrant Agent shall remain confidential, and shall not be voluntarily disclosed to any other person, except as may be required by applicable law, rule or regulation, including, without limitation, pursuant to subpoenas from state or federal government authorities (e.g., in divorce and criminal actions). Each party may disclose relevant aspects of the other party's confidential information to its officers, affiliates, agents, subcontractors and employees to the extent reasonably necessary to perform its duties and obligations under this Agreement and such disclosure is not prohibited by applicable law; *provided* that such disclosing party shall (a) direct such officers, affiliates, agents, subcontractors and employees to treat such information confidentially and (b) be responsible for any breach of this Section 23 by such officers, affiliates, agents, subcontractors and employees who receive such information.

SECTION 24. Representations. Each party hereto (other than the Warrant Agent) represents and warrants that such party has been duly organized and is validly existing under the laws of the jurisdiction of its incorporation, and that this Agreement has been duly authorized, executed and delivered by such party and is enforceable against such party in accordance with its terms, except as may be limited by bankruptcy, insolvency, moratorium, reorganization and other similar laws affecting the enforcement of creditors' rights generally.

SECTION 25. Entire Agreement. This Agreement, the Warrants and the Securityholders Agreement and any other agreements referenced herein or therein constitute the entire agreement with respect to the subject matter of this Agreement, and supersedes all prior agreements and understandings, both written and oral, between the parties with respect to the subject matter hereof.

SECTION 26. No Suspension. The right to exercise any Warrants shall not be suspended during any period.

SECTION 27. Withholding; Adjustments Relating to Withholding.

(a) Withholding. Notwithstanding any provision in this Agreement to the contrary, and subject to Section 26(b), the Company is authorized to take any actions that may be necessary to comply with all applicable tax withholding and reporting requirements imposed by any governmental authority, including in connection with all distributions, deemed distributions or other situations requiring withholding under applicable law, which may include (i) applying a portion of any cash distribution to be made under the Warrants to pay applicable withholding taxes, (ii) liquidating a portion of any non-cash distribution to be made under the Warrants to generate sufficient funds to pay applicable withholding taxes and (iii) requiring reimbursement from any Holder to the extent any withholding is required in the absence of any distribution. The Company is authorized to require Holders to submit appropriate tax and withholding certifications (such as IRS Forms W-9 and the appropriate IRS Forms W-8, as applicable) that are necessary to enable compliance with this Section 27.

(b) Adjustments Related to Withholding. Notwithstanding any adjustments provided for in this Agreement, the number of Warrant Shares issuable on exchange and/or exercise of any Warrant shall be decreased in the event any withholding or deduction with respect to taxes would be required under applicable law in connection with any adjustment described under Section 6 with respect to such Warrant; provided, that the holder of such Warrant shall be entitled to fund any such withholding tax in cash in lieu of such adjustment being made. The dollar value of any such decrease in the number of Warrant Shares issuable on exchange and/or exercise of such Warrant (based on the distribution to which the adjustment under Section 6 related) or the cash paid by the holder of such Warrant to fund the withholding tax, as applicable shall be remitted in cash to the appropriate taxing authority or authorities in accordance with applicable law.

[Signature pages follow]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed and delivered as of the day and year first above written.

Hornbeck Offshore Services, Inc.

By: /s/ James O. Harp Jr.

Name: James O. Harp Jr.

Title: Executive Vice President and Chief Financial Officer

[Signature Page to Creditor Warrant Agreement]

Computershare, Inc. and
Computershare Trust Company, N.A.

collectively, as Warrant Agent

By: /s/ Collin Ekeogu

Name: Collin Ekeogu

Title: Manager, Corporate Actions

[Signature Page to Creditor Warrant Agreement]

EXHIBIT A
WARRANT ALLOCATION SCHEDULE

A-1

EXHIBIT B-1
FORM OF FACE OF GLOBAL CREDITOR WARRANT CERTIFICATE

This Global Warrant Certificate is deposited with or on behalf of The Depository Trust Company (the “Depository”) or its nominee in custody for the benefit of the beneficial owners hereof, and is not transferable to any person under any circumstances except that (i) this Global Warrant Certificate may be delivered to the Warrant Agent for cancellation pursuant to Section 4(f) of the Warrant Agreement and (ii) this Global Warrant Certificate may be transferred pursuant to Section 4(e) of the Warrant Agreement and as set forth below.

UNLESS THIS GLOBAL WARRANT CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TO THE COMPANY OR THE WARRANT AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY (AND ANY PAYMENT HEREON IS MADE TO CEDE & CO. OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO. OR SUCH OTHER ENTITY, HAS AN INTEREST HEREIN.

TRANSFERS OF THIS GLOBAL WARRANT CERTIFICATE SHALL BE LIMITED TO TRANSFERS IN WHOLE, BUT NOT IN PART, TO NOMINEES OF THE DEPOSITORY OR TO A SUCCESSOR THEREOF OR SUCH SUCCESSOR’S NOMINEE OR AS OTHERWISE PERMITTED IN THE WARRANT AGREEMENT, AND TRANSFERS OF BENEFICIAL INTERESTS IN THIS GLOBAL WARRANT CERTIFICATE SHALL BE LIMITED TO TRANSFERS MADE IN ACCORDANCE WITH THE RESTRICTIONS SET FORTH IN THE WARRANT AGREEMENT.

NO AFFILIATE OF HORNBECK OFFSHORE SERVICES, INC. THAT OWNS THIS SECURITY (OR ANY INTEREST HEREIN) MAY SELL THIS SECURITY (OR ANY INTEREST HEREIN) IF UPON SUCH RESALE THIS SECURITY (OR SUCH INTEREST) WOULD CONSTITUTE A “RESTRICTED SECURITY” WITHIN THE MEANING OF RULE 144 UNDER THE SECURITIES ACT OF 1933, AS AMENDED.

No registration or transfer of the securities issuable pursuant to the exercise or conversion of the Warrant will be recorded on the books of the Company until such provisions have been complied with.

To the extent that any provision hereof conflicts with any provision of the Warrant Agreement, the provision in the Warrant Agreement shall control.

HORNBECK OFFSHORE SERVICES, INC.

GLOBAL WARRANT TO PURCHASE WARRANT SHARES

VOID AFTER 5:00 P.M., New York City Time, September 4, 2027

This Global Warrant Certificate (“Warrant Certificate”) certifies that Cede & Co., or its registered assigns is the registered holder of warrants (the “Warrants”) of Hornbeck Offshore Services, Inc., a Delaware corporation (the “Company”), to purchase (i) the number of shares of Common Stock, par value \$0.00001 per share (the “Common Stock”), of the Company or (ii) Warrants (as defined in the Jones Act Warrant Agreement), as determined in accordance with the Warrant Agreement, set forth above. The Warrants expire at 5:00 p.m., New York City time, on the date that is the seventh (7th) anniversary of the Effective Date (such date, the “Expiration Date”), and each Warrant entitles the holder to purchase from the Company (i) one fully paid and non-assessable share of Common Stock or (ii) a number of Warrants (as defined in the Jones Act Warrant Agreement) exercisable or convertible into one share of Common Stock, as determined in accordance with the Warrant Agreement, at the exercise price per share (the “Exercise Price”), payable, unless the holder has elected a Cashless Conversion, to the Company either by certified or official bank or bank cashier’s check payable to the order of the Company, or by wire transfer in immediately available funds of the aggregate Exercise Price to an account of the Warrant Agent specified in writing by the Warrant Agent for such purpose, no later than 5:00 p.m., New York City time, on the business day immediately prior to the settlement date, which settlement date is three Business Days after a Warrant Exercise Notice is delivered (the “Settlement Date”). The initial Exercise Price shall be \$27.83 (subject to adjustment as provided in the Warrant Agreement).

The Warrants are subject to exercise and conversion, in whole or in part, as and to the extent provided in the Warrant Agreement.

The number of Warrant Shares purchasable upon exercise or conversion of the Warrants are subject to adjustment upon the occurrence of certain events as set forth in the Warrant Agreement.

To the extent that any provision hereof conflicts with any provision of the Warrant Agreement, the provision in the Warrant Agreement shall control.

No Warrant may be exercised or converted prior to the date of the Warrant Agreement or after the Expiration Date.

Holder Not Deemed a Stockholder. Prior to the exercise or conversion of any Warrant, no holder thereof, as such, shall be entitled to any rights of a stockholder of the Company, including, but not limited to, the right to vote, to receive dividends or other distributions, to exercise any preemptive right or to receive notice as stockholders in respect of the meetings of stockholders or for the election of directors of the Company or any other matter (provided that, for the avoidance of doubt, nothing herein shall limit the rights of the Holders under the Charter, the Securityholders Agreement or any other agreement).

Jones Act Limitations on Warrant Exercise. The issuance of Warrant Shares upon exercise or conversion of Warrants is subject to the limitations on ownership and control of the Common Stock by Non-U.S. Citizens set forth in the Warrant Agreement.

REFERENCE IS HEREBY MADE TO THE FURTHER PROVISIONS OF THIS WARRANT CERTIFICATE SET FORTH ON THE REVERSE HEREOF. SUCH FURTHER PROVISIONS SHALL FOR ALL PURPOSES HAVE THE SAME EFFECT AS THOUGH FULLY SET FORTH AT THIS PLACE.

This Warrant Certificate shall not be valid unless countersigned by the Warrant Agent.

[signature page follows]

IN WITNESS WHEREOF, the Company has caused this Warrant Certificate to be executed by its duly authorized officer.

Dated: _____, 2020

Hornbeck Offshore Services, Inc.

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

Computershare, Inc. and
Computershare Trust Company, N.A.

collectively, as Warrant Agent

By: _____
Name: _____
Title: _____

FORM OF REVERSE OF GLOBAL WARRANT CERTIFICATE
HORNBECK OFFSHORE SERVICES, INC.

The Warrants evidenced by this Warrant Certificate are a part of a duly authorized issue of Warrants to purchase Warrant Shares issued pursuant to that certain Creditor Warrant Agreement, dated as of September 4, 2020 (the “Warrant Agreement”), duly executed and delivered by the Company and Computershare, Inc. and its wholly owned subsidiary, Computershare Trust Company, N.A. (collectively, the “Warrant Agent”). The Warrant Agreement hereby is incorporated by reference in and made a part of this instrument and is hereby referred to for a description of the rights, limitation of rights, obligations, duties and immunities thereunder of the Warrant Agent, the Company and the holders (the words “holders” or “holder” meaning the registered holders or registered holder) of the Warrants. A copy of the Warrant Agreement may be inspected at the Warrant Agent’s office designated for such purpose and is available upon written request addressed to the Company. All capitalized terms used in this Warrant Certificate but not defined herein and are defined in the Warrant Agreement shall have the meanings assigned to them therein.

Warrants may be exercised or converted to purchase Warrant Shares from the Company from the date of the Warrant Agreement through 5:00 p.m., New York City time, on the Expiration Date, at the Exercise Price set forth on the face hereof, subject to adjustment as described in the Warrant Agreement. Subject to the terms and conditions set forth herein and in the Warrant Agreement, the holder of the Warrants evidenced by this Warrant Certificate may exercise such Warrants as set forth in the Warrant Agreement. The Warrants are also subject to conversion, in whole or in part, at the sole discretion of the Holder, as and to the extent provided in the Warrant Agreement.

In the event that upon any exercise or conversion of the Warrants evidenced hereby the number of Warrant Shares actually purchased shall be less than the total number of Warrant Shares purchasable upon exercise or conversion of the Warrants evidenced hereby, there shall be issued to the holder hereof, or such holder’s assignee, a new Warrant Certificate evidencing Warrants to purchase the Warrant Shares not so purchased or appropriate adjustment shall be made in the “Schedule of Increases or Decreases in Global Warrant Certificate” annexed hereto. After 5:00 p.m., New York City time on the Expiration Date, unexercised or unconverted Warrants shall become wholly void and of no value.

Warrant Certificates, when surrendered by book-entry delivery through the facilities of the Depository, may be exchanged, in the manner and subject to the limitations provided in the Warrant Agreement, but without payment of any service charge, for another Warrant Certificate or Warrant Certificates of like tenor evidencing Warrants to purchase in the aggregate a like number of Warrant Shares.

No Warrants may be sold, exchanged or otherwise transferred in violation of the Securities Act or state securities laws.

The Company and Warrant Agent may deem and treat the registered holder hereof as the absolute owner of this Warrant Certificate (notwithstanding any notation of ownership or other writing hereon made by anyone) for the purpose of any exercise or conversion hereof and for all other purposes.

SCHEDULE OF INCREASES OR DECREASES IN GLOBAL WARRANT CERTIFICATE

The following increases or decreases in this Global Warrant Certificate have been made:

Date	Amount of decrease in the number of Warrants represented by this Global Warrant Certificate	Amount of increase in number of Warrants represented by this Global Warrant Certificate	Number of Warrants represented by this Global Warrant Certificate following such decrease or increase	Signature of authorized officer of the Warrant Agent

FORM OF ELECTION TO EXERCISE WARRANT FOR
WARRANT HOLDERS HOLDING WARRANTS
THROUGH THE DEPOSITORY TRUST COMPANY

TO BE COMPLETED BY DIRECT PARTICIPANT
IN THE DEPOSITORY TRUST COMPANY

HORNBECK OFFSHORE SERVICES, INC.

_____ Warrants to Purchase _____ Warrant Shares

(TO BE EXECUTED UPON EXERCISE OF THE WARRANT)

The undersigned hereby irrevocably elects to exercise the right, represented by Warrants to purchase (i) shares of Common Stock of Hornbeck Offshore Services, Inc. (the “Company”) or (ii) Warrants (as defined in the Jones Act Warrant Agreement), as determined in accordance with the Warrant Agreement, held for its benefit through the book-entry facilities of The Depository Trust Company (the “Depository”), to exercise _____ Warrants for the purchase of _____ newly issued Warrant Shares at the Exercise Price of \$27.83 per share (as such Exercise Price may be adjusted pursuant to the Warrant Agreement).

The undersigned represents, warrants and promises that it has the full power and authority to exercise or convert and deliver the Warrants exercised or converted hereby. Unless the undersigned is making an election to convert the Warrants as set forth below, the undersigned represents, warrants and promises that it has delivered or will deliver in payment for such shares \$ _____ by certified or official bank or bank cashier’s check payable to the order of the Company, or by wire transfer in immediately available funds of the aggregate Exercise Price to an account of the Warrant Agent specified in writing by the Warrant Agent for such purpose, no later than 5:00 p.m., New York City time, on the Business Day immediately prior to the Settlement Date.

☐ Please check if the undersigned, in lieu of paying the Exercise Price as set forth in the preceding paragraph, elects a Cashless Conversion.

If the undersigned will be receiving the Warrant Shares issuable upon exercise or conversion of Warrants:

☐ Please check if the undersigned is a U.S. Citizen (additional information may be required by the Company to confirm that the undersigned is a U.S. Citizen)

☐ Please check if the undersigned is a Non-U.S. Citizen.

If the undersigned has designated another person (a “designee”) to receive the Warrant Shares issuable upon exercise or conversion of Warrants:

☐ Please check if such designee is a U.S. Citizen (additional information may be required by the Company to confirm that such designee is a U.S. Citizen)

☐ Please check if such designee is a Non-U.S. Citizen.

The undersigned requests that the Warrant Shares purchased hereby be in registered form in the authorized denominations, registered in such names and delivered, all as specified in accordance with the instructions set forth below, *provided* that if the Warrant Shares are evidenced by global securities, the Warrant Shares shall be registered in the name of the Depository or its nominee.

Dated: _____

NOTE: THIS EXERCISE NOTICE MUST BE DELIVERED TO THE WARRANT AGENT, PRIOR TO 5:00 P.M., NEW YORK CITY TIME, ON THE EXPIRATION DATE. THE WARRANT AGENT SHALL NOTIFY YOU (THROUGH THE CLEARING SYSTEM) OF (1) THE WARRANT AGENT'S ACCOUNT AT THE DEPOSITORY TO WHICH YOU MUST DELIVER YOUR WARRANTS ON THE EXERCISE DATE AND (2) THE ADDRESS, PHONE NUMBER AND ELECTRONIC MAILING ADDRESS WHERE YOU CAN CONTACT THE WARRANT AGENT AND TO WHICH WARRANT EXERCISE NOTICES ARE TO BE SUBMITTED.

NAME OF DIRECT PARTICIPANT IN THE
DEPOSITORY:

(PLEASE PRINT)

ADDRESS: _____

CONTACT NAME: _____

ADDRESS: _____

TELEPHONE (INCLUDING INTERNATIONAL CODE): _____

E-MAIL: _____

SOCIAL SECURITY OR OTHER TAXPAYER IDENTIFICATION NUMBER (IF APPLICABLE): _____

ACCOUNT FROM WHICH THE WARRANTS ARE BEING DELIVERED:

DEPOSITORY ACCOUNT NO.: _____

WARRANT EXERCISE NOTICES WILL ONLY BE VALID IF DELIVERED IN ACCORDANCE WITH THE INSTRUCTIONS SET FORTH IN THIS NOTIFICATION (OR AS OTHERWISE DIRECTED), MARKED TO THE ATTENTION OF "WARRANT EXERCISE".

WARRANT HOLDER EXERCISING THE WARRANTS, IF OTHER THAN THE DIRECT DTC PARTICIPANT DELIVERING THIS WARRANT EXERCISE NOTICE:

NAME: _____
(PLEASE PRINT)

CONTACT NAME: _____

TELEPHONE (INCLUDING INTERNATIONAL CODE): _____

E-MAIL: _____

SOCIAL SECURITY OR OTHER TAXPAYER IDENTIFICATION NUMBER (IF APPLICABLE):_____

ACCOUNT TO WHICH WARRANT SHARES ARE TO BE CREDITED:

DEPOSITORY ACCOUNT NO.: _____

FILL IN FOR DELIVERY OF THE WARRANT SHARES IF OTHER THAN TO THE PERSON DELIVERING THIS WARRANT EXERCISE NOTICE:
NAME: _____
(PLEASE PRINT)

ADDRESS: _____

CONTACT NAME: _____

TELEPHONE (INCLUDING INTERNATIONAL CODE): _____

E-MAIL: _____

SOCIAL SECURITY OR OTHER TAXPAYER IDENTIFICATION NUMBER (IF APPLICABLE):

NUMBER WARRANTS BEING EXERCISED: _____

NUMBER OF WARRANT SHARES FOR WHICH THE WARRANTS ARE BEING EXERCISED: _____

Signature: _____

Name: _____

Capacity in which signing: _____

Signature Guaranteed

BY: _____

Signatures must be guaranteed by a participant in a Medallion Signature Guarantee Program at a guarantee level acceptable to the Company’s transfer agent.

EXHIBIT B-2
FORM OF FACE OF INDIVIDUAL WARRANT CERTIFICATE

VOID AFTER 5:00 P.M., New York City Time, September 4, 2027

“THE SHARES OF COMMON STOCK OF THE COMPANY (THE “SHARES”) WHICH MAY BE PURCHASED PURSUANT TO THE EXERCISE OF THIS WARRANT ARE SUBJECT TO A SECURITYHOLDERS AGREEMENT AMONG HORNBECK OFFSHORE SERVICES, INC. AND THE HOLDERS PARTY THERETO, A COPY OF WHICH IS ON FILE WITH THE CORPORATE SECRETARY OF HORNBECK OFFSHORE SERVICES, INC. THE SECURITYHOLDERS AGREEMENT CONTAINS, AMONG OTHER THINGS, CERTAIN PROVISIONS RELATING TO THE TRANSFER OF THE WARRANTS AND THE SHARES ISSUABLE PURSUANT THERETO, INCLUDING RESTRICTIONS ON TRANSFER TO AND OWNERSHIP BY PERSONS WHO ARE NOT U.S. CITIZENS AS DEFINED IN 46 U.S.C. SECTION 50501 QUALIFIED TO OWN AND OPERATE VESSELS ENGAGED IN THE UNITED STATES COASTWISE TRADE, AS IN EFFECT ON THE DATE IN QUESTION, OR ANY SUCCESSOR STATUTE OR REGULATION, AS INTERPRETED BY THE U.S. COAST GUARD IN APPLICABLE PRECEDENT. NO TRANSFER, SALE, ASSIGNMENT, PLEDGE, HYPOTHECATION OR OTHER DISPOSITION OF THE WARRANTS REPRESENTED BY THIS CERTIFICATE (OR THE SHARES ISSUABLE PURSUANT THERETO) MAY, DIRECTLY OR INDIRECTLY, BE MADE EXCEPT IN ACCORDANCE WITH THE PROVISIONS OF SUCH SECURITYHOLDERS AGREEMENT. THE HOLDER OF THIS CERTIFICATE, BY ACCEPTANCE OF THIS CERTIFICATE, AGREES TO BE BOUND BY ALL OF THE PROVISIONS OF SUCH SECURITYHOLDERS AGREEMENT.”

HORNBECK OFFSHORE SERVICES, INC.

INDIVIDUAL WARRANT TO PURCHASE WARRANT SHARES

VOID AFTER 5:00 P.M., New York City Time, September 4, 2027

This Individual Warrant Certificate ("Warrant Certificate") certifies that Cede & Co., or its registered assigns is the registered holder of warrants (the "Warrants") of Hornbeck Offshore Services, Inc., a Delaware corporation (the "Company"), to purchase (i) the number of shares of Common Stock, par value \$0.00001 per share (the "Common Stock"), of the Company or (ii) Warrants (as defined in the Jones Act Warrant Agreement), as determined in accordance with the Warrant Agreement, set forth above. The Warrants expire at 5:00 p.m., New York City time, on the date that is the seventh (7th) anniversary of the Effective Date (such date, the "Expiration Date"), and each Warrant entitles the holder to purchase from the Company (i) one fully paid and non-assessable share of Common Stock or (ii) a number of Warrants (as defined in the Jones Act Warrant Agreement) exercisable or convertible into one share of Common Stock, as determined in accordance with the Warrant Agreement, at the exercise price per share (the "Exercise Price"), payable, unless the holder has elected a Cashless Conversion, to the Company either by certified or official bank or bank cashier's check payable to the order of the Company, or by wire transfer in immediately available funds of the aggregate Exercise Price to an account of the Warrant Agent specified in writing by the Warrant Agent for such purpose, no later than 5:00 p.m., New York City time, on the Business Day immediately prior to the settlement date, which settlement date is three Business Days after a Warrant Exercise Notice is delivered (the "Settlement Date"). The initial Exercise Price shall be \$27.83 (subject to adjustment as provided in the Warrant Agreement).

The Warrants are also subject to conversion, in whole or in part, at the sole discretion of the Company, as and to the extent provided in the Warrant Agreement.

The number of Warrant Shares purchasable upon exercise or conversion of the Warrants are subject to adjustment upon the occurrence of certain events as set forth in the Warrant Agreement.

To the extent that any provision hereof conflicts with any provision of the Warrant Agreement, the provision in the Warrant Agreement shall control.

No Warrant may be exercised or converted prior to the date of the Warrant Agreement or after the Expiration Date.

Holder Not Deemed a Stockholder. Prior to the exercise or conversion of any Warrant, no holder thereof, as such, shall be entitled to any rights of a stockholder of the Company, including, but not limited to, the right to vote, to receive dividends or other distributions, to exercise any preemptive right or to receive notice as stockholders in respect of the meetings of stockholders or for the election of directors of the Company or any other matter (provided that, for the avoidance of doubt, nothing herein shall limit the rights of the Holders under the Charter, the Securityholders Agreement or any other agreement).

Jones Act Limitations on Warrant Exercise. The right to exercise or convert Warrants is subject to the limitations on ownership and control of the Common Stock by Non-U.S. Citizens set forth in the Warrant Agreement.

REFERENCE IS HEREBY MADE TO THE FURTHER PROVISIONS OF THIS WARRANT CERTIFICATE SET FORTH ON THE REVERSE HEREOF. SUCH FURTHER PROVISIONS SHALL FOR ALL PURPOSES HAVE THE SAME EFFECT AS THOUGH FULLY SET FORTH AT THIS PLACE.

This Warrant Certificate shall not be valid unless countersigned by the Warrant Agent.

[signature page follows]

IN WITNESS WHEREOF, the Company has caused this Warrant Certificate to be executed by its duly authorized officer.

Dated: _____, 2020

Hornbeck Offshore Services, Inc.

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

Computershare, Inc. and
Computershare Trust Company, N.A.

collectively, as Warrant Agent

By: _____
Name: _____
Title: _____

FORM OF REVERSE OF INDIVIDUAL WARRANT CERTIFICATE
HORNBECK OFFSHORE SERVICES, INC.

The Warrants evidenced by this Warrant Certificate are a part of a duly authorized issue of Warrants to purchase Warrant Shares issued pursuant to that certain Creditor Warrant Agreement, dated as of September 4, 2020 (the “Warrant Agreement”), duly executed and delivered by the Company and Computershare, Inc. and its wholly owned subsidiary, Computershare Trust Company, N.A. (collectively, the “Warrant Agent”). The Warrant Agreement hereby is incorporated by reference in and made a part of this instrument and is hereby referred to for a description of the rights, limitation of rights, obligations, duties and immunities thereunder of the Warrant Agent, the Company and the holders (the words “holders” or “holder” meaning the registered holders or registered holder) of the Warrants. A copy of the Warrant Agreement may be inspected at the Warrant Agent’s office designated for such purpose and is available upon written request addressed to the Company. All capitalized terms used in this Warrant Certificate but not defined herein and are defined in the Warrant Agreement shall have the meanings assigned to them therein.

Warrants may be exercised or converted to purchase Warrant Shares from the Company from the date of the Warrant Agreement through 5:00 p.m., New York City time, on the Expiration Date, at the Exercise Price set forth on the face hereof, subject to adjustment as described in the Warrant Agreement. Subject to the terms and conditions set forth herein and in the Warrant Agreement, the holder of the Warrants evidenced by this Warrant Certificate may exercise such Warrants as set forth in the Warrant Agreement.

The Warrants are also subject to conversion, in whole or in part, at the sole discretion of the Holder, as and to the extent provided in the Warrant Agreement.

In the event that upon any exercise or conversion of the Warrants evidenced hereby the number of Warrant Shares actually purchased shall be less than the total number of Warrant Shares purchasable upon exercise or conversion of the Warrants evidenced hereby, there shall be issued to the holder hereof, or such holder’s assignee, a new Warrant Certificate evidencing Warrants to purchase the Warrant Shares not so purchased. After 5:00 p.m., New York City time on the Expiration Date, unexercised or unconverted Warrants shall become wholly void and of no value.

Warrant Certificates, when surrendered to the Company, may be exchanged, in the manner and subject to the limitations provided in the Warrant Agreement, but without payment of any service charge, for another Warrant Certificate or Warrant Certificates of like tenor evidencing Warrants to purchase in the aggregate a like number of Warrant Shares.

No Warrants may be sold, exchanged or otherwise transferred in violation of the Securities Act or state securities laws.

The Company and Warrant Agent may deem and treat the registered holder hereof as the absolute owner of this Warrant Certificate (notwithstanding any notation of ownership or other writing hereon made by anyone) for the purpose of any exercise or conversion hereof and for all other purposes.

FORM OF ELECTION TO EXERCISE WARRANT FOR
WARRANT HOLDERS HOLDING INDIVIDUAL WARRANT CERTIFICATES

TO BE COMPLETED BY REGISTERED HOLDER

HORNBECK OFFSHORE SERVICES, INC.

_____ Warrants to Purchase _____ Warrant Shares

(TO BE EXECUTED UPON EXERCISE OF THE WARRANT)

The undersigned hereby irrevocably elects to exercise the right, represented by Warrants to purchase (i) shares of Common Stock of Hornbeck Offshore Services, Inc. (the “Company”) or (ii) Warrants (as defined in the Jones Act Warrant Agreement), as determined in accordance with the Warrant Agreement, to purchase newly issued Warrant Shares at the Exercise Price of \$27.83 per share (as such Exercise Price may be adjusted pursuant to the Warrant Agreement).

The undersigned represents, warrants and promises that it has the full power and authority to exercise or convert and deliver the Warrants exercised or converted hereby. Unless the undersigned is making an election to convert the Warrants as set forth below, the undersigned represents, warrants and promises that it has delivered or will deliver in payment for such shares \$ _____ by certified or official bank or bank cashier’s check payable to the order of the Company, or by wire transfer in immediately available funds of the aggregate Exercise Price to an account of the Warrant Agent specified in writing by the Warrant Agent for such purpose, no later than 5:00 p.m., New York City time, on the Business Day immediately prior to the Settlement Date.

☐ Please check if the undersigned, in lieu of paying the Exercise Price as set forth in the preceding paragraph, elects a Cashless Conversion.

If the undersigned will be receiving the Warrant Shares issuable upon exercise or conversion of Warrants:

☐ Please check if the undersigned is a U.S. Citizen (additional information may be required by the Company to confirm that the undersigned is a U.S. Citizen)

☐ Please check if the undersigned is a Non-U.S. Citizen.

If the undersigned has designated another person (a “designee”) to receive the Warrant Shares issuable upon exercise or conversion of Warrants:

☐ Please check if such designee is a U.S. Citizen (additional information may be required by the Company to confirm that such designee is a U.S. Citizen)

☐ Please check if such designee is a Non-U.S. Citizen.

The undersigned requests that the Warrant Shares purchased hereby be in registered form in the authorized denominations, registered in such names and delivered, all as specified in accordance with the instructions set forth below, *provided* that if the Warrant Shares are evidenced by global securities, the Warrant Shares shall be registered in the name of the Depository or its nominee.

Dated: _____

NOTE: THIS EXERCISE NOTICE MUST BE DELIVERED TO THE WARRANT AGENT, PRIOR TO 5:00 P.M., NEW YORK CITY TIME, ON THE EXPIRATION DATE. THE WARRANT AGENT SHALL NOTIFY YOU OF THE ADDRESS, PHONE NUMBER AND ELECTRONIC MAILING ADDRESS WHERE YOU CAN CONTACT THE WARRANT AGENT AND TO WHICH WARRANT EXERCISE NOTICES ARE TO BE SUBMITTED.

NAME OF REGISTERED HOLDER: _____
(PLEASE PRINT)

ADDRESS: _____

DELIVERY ADDRESS (IF DIFFERENT): _____

ACCOUNT TO WHICH THE WARRANT SHARES ARE TO BE CREDITED: _____

FILL IN FOR DELIVERY OF THE WARRANT SHARES IF OTHER THAN TO THE PERSON DELIVERING THIS WARRANT EXERCISE NOTICE:

NAME: _____

ADDRESS: _____

CONTACT NAME: _____

TELEPHONE (INCLUDING INTERNATIONAL CODE): _____

E-MAIL: _____

SOCIAL SECURITY OR OTHER TAXPAYER IDENTIFICATION NUMBER (IF APPLICABLE): _____

NUMBER WARRANTS BEING EXERCISED: _____

NUMBER OF WARRANT SHARES FOR WHICH THE WARRANTS ARE BEING EXERCISED: _____

Signature: _____

Note: If the Warrant Shares are to be registered in a name other than that in which the Warrants represented by Individual Warrant Certificate(s) are registered, the signature of the holder hereof must be guaranteed.

Signature Guaranteed

BY: _____

Signatures must be guaranteed by a participant in a Medallion Signature Guarantee Program at a guarantee level acceptable to the Company’s transfer agent.

EXHIBIT B-3
FORM OF ELECTION TO EXERCISE WARRANT FOR
HOLDERS OF DIRECT REGISTRATION WARRANTS

TO BE COMPLETED BY REGISTERED HOLDER

HORNBECK OFFSHORE SERVICES, INC.

_____ Warrants to Purchase _____ Warrant Shares

(TO BE EXECUTED UPON EXERCISE OF THE WARRANT)

The undersigned hereby irrevocably elects to exercise the right, represented by Warrants to purchase (i) shares of Common Stock of Hornbeck Offshore Services, Inc. (the “Company”) or (ii) Warrants (as defined in the Jones Act Warrant Agreement), as determined in accordance with the Warrant Agreement, to purchase newly issued Warrant Shares at the Exercise Price of \$27.83 per share (as such Exercise Price may be adjusted pursuant to the Warrant Agreement).

The undersigned represents, warrants and promises that it has the full power and authority to exercise or convert and deliver the Warrants exercised or converted hereby. Unless the undersigned is making an election to convert the Warrants as set forth below, the undersigned represents, warrants and promises that it has delivered or will deliver in payment for such shares \$_____ by certified or official bank or bank cashier’s check payable to the order of the Company, or by wire transfer in immediately available funds of the aggregate Exercise Price to an account of the Warrant Agent specified in writing by the Warrant Agent for such purpose, no later than 5:00 p.m., New York City time, on the Business Day immediately prior to the Settlement Date.

☐ Please check if the undersigned, in lieu of paying the Exercise Price as set forth in the preceding paragraph, elects a Cashless Conversion.

If the undersigned will be receiving the Warrant Shares issuable upon exercise or conversion of Warrants:

☐ Please check if the undersigned is a U.S. Citizen (additional information may be required by the Company to confirm that the undersigned is a U.S. Citizen)

☐ Please check if the undersigned is a Non-U.S. Citizen.

If the undersigned has designated another person (a “designee”) to receive the Warrant Shares issuable upon exercise or conversion of Warrants:

☐ Please check if such designee is a U.S. Citizen (additional information may be required by the Company to confirm that such designee is a U.S. Citizen)

☐ Please check if such designee is a Non-U.S. Citizen.

The undersigned requests that the Warrant Shares purchased hereby be in registered form in the authorized denominations, registered in such names and delivered, all as specified in accordance with the instructions set forth below, *provided* that if the Warrant Shares are evidenced by global securities, the Warrant Shares shall be registered in the name of the Depository or its nominee.

Dated: _____

NOTE: THIS EXERCISE NOTICE MUST BE DELIVERED TO THE WARRANT AGENT, PRIOR TO 5:00 P.M., NEW YORK CITY TIME, ON THE EXPIRATION DATE. THE WARRANT AGENT SHALL NOTIFY YOU OF THE ADDRESS, PHONE NUMBER AND ELECTRONIC MAILING ADDRESS WHERE YOU CAN CONTACT THE WARRANT AGENT AND TO WHICH WARRANT EXERCISE NOTICES ARE TO BE SUBMITTED.

NAME OF REGISTERED HOLDER: _____
(PLEASE PRINT)

ADDRESS: _____

CONTACT NAME: _____

ADDRESS: _____

TELEPHONE (INCLUDING INTERNATIONAL CODE): _____

E-MAIL: _____

SOCIAL SECURITY OR OTHER TAXPAYER IDENTIFICATION NUMBER (IF APPLICABLE):

ACCOUNT FROM WHICH THE WARRANTS ARE BEING DELIVERED:

WARRANT EXERCISE NOTICES WILL ONLY BE VALID IF DELIVERED IN ACCORDANCE WITH THE INSTRUCTIONS SET FORTH IN THIS NOTIFICATION (OR AS OTHERWISE DIRECTED), MARKED TO THE ATTENTION OF “WARRANT EXERCISE”. WARRANT HOLDER DELIVERING THE WARRANTS:

ACCOUNT TO WHICH THE WARRANT SHARES ARE TO BE CREDITED:

DEPOSITORY ACCOUNT NO.: _____

FILL IN FOR DELIVERY OF THE WARRANT SHARES IF OTHER THAN TO THE PERSON DELIVERING THIS WARRANT EXERCISE NOTICE:

NAME: _____
(PLEASE PRINT)

ADDRESS: _____

CONTACT NAME: _____

TELEPHONE (INCLUDING INTERNATIONAL CODE): _____

E-MAIL: _____

SOCIAL SECURITY OR OTHER TAXPAYER IDENTIFICATION NUMBER (IF APPLICABLE): _____

NUMBER WARRANTS BEING EXERCISED: _____

NUMBER OF WARRANT SHARES FOR WHICH THE WARRANTS ARE BEING EXERCISED: _____

Signature: _____

Name: _____

Capacity in which signing: _____

Signature Guaranteed

BY: _____

Signatures must be guaranteed by a participant in a Medallion Signature Guarantee Program at a guarantee level acceptable to the Company’s transfer agent.

EXHIBIT C
FORM OF ASSIGNMENT

(TO BE EXECUTED BY THE REGISTERED HOLDER
IF SUCH HOLDER DESIRES TO TRANSFER A WARRANT)

FOR VALUE RECEIVED, the undersigned registered holder hereby sells, assigns and transfers unto

Name of Assignee

Address of Assignee

Warrants to purchase _____ Warrant Shares held by the undersigned, together with all right, title and interest therein, and does irrevocably constitute and appoint attorney, to transfer such Warrants on the books of the Warrant Agent, with full power of substitution.

Signature

Date

Social Security or Other Taxpayer Identification Number of Assignee

SIGNATURE GUARANTEED BY:

Signatures must be guaranteed by a participant in a Medallion Signature Guarantee Program at a guarantee level acceptable to the Company's transfer agent.

EXHIBIT D
WARRANT SUMMARY

NUMBER OF WARRANTS: Initially, 1,642,593 Warrants, subject to adjustment as described in the Creditor Warrant Agreement dated as of September 4, 2020 between Hornbeck Offshore Services, Inc. (the “Company”) and Computershare, Inc. and its wholly owned subsidiary, Computershare Trust Company, N.A. (collectively, the “Warrant Agent”) (as supplemented or amended, the “Warrant Agreement”), each of which is exercisable or convertible for (i) one share of Common Stock or (ii) a number of Warrants (as defined in the Jones Act Warrant Agreement) exercisable or convertible into one share of Common Stock, as determined in accordance with the Warrant Agreement. This summary is not complete and reference is made to the Warrant Agreement for the terms of the Warrants. In the event of any conflict, the terms of the Warrant Agreement shall control.

EXERCISE PRICE: \$27.83 per Warrant Share (subject to adjustment as provided in the Warrant Agreement).

HOLDER NOT DEEMED A STOCKHOLDER: Prior to the exercise or conversion of any Warrant, no holder thereof, as such, shall be entitled to any rights of a stockholder of the Company.

JONES ACT AND U.S. MARITIME LAWS LIMITATIONS ON EXERCISE OR CONVERSION: The right to exercise or convert Warrants is subject to the limitations on ownership and control of the Common Stock by Non-U.S. Citizens set forth in the Warrant Agreement.

FORM OF SETTLEMENT:

Full Settlement: If full physical settlement is elected, the Company shall deliver, against payment of the Exercise Price, a number of Warrant Shares equal to the number of Warrants exercised or converted, as such number may be adjusted pursuant to the terms of the Warrant Agreement.

Cashless Conversion: If Cashless Conversion is elected, the Company will withhold from issuance a number of Warrant Shares as provided in the Warrant Agreement.

DATES OF EXERCISE OR CONVERSION: At any time, and from time to time, prior to the close of business on the Expiration Date.

EXPIRATION DATE: The seventh (7th) anniversary of the Effective Date.

AMENDMENT NO. 1

CREDITOR WARRANT AGREEMENT

Between

Hornbeck Offshore Services, Inc.

AS ISSUER

and

Computershare Inc. and

Computershare Trust Company, N.A.,

AS WARRANT AGENT

and

Certain Holders Signatory Hereto

AS CONSENTING HOLDERS

December 10, 2024

AMENDMENT NO. 1 (this “**Amendment**”) dated as of December 10, 2024 to the Creditor Warrant Agreement dated as of September 4, 2020 (“**Creditor Warrant Agreement**”), among Hornbeck Offshore Services, Inc. (the “**Issuer**”), Computershare Inc. and Computershare Trust Company, N.A., as warrant agent (the “**Warrant Agent**”) and the Holders signatory hereto (the “**Consenting Holders**”).

WHEREAS, the Issuer has requested that the Creditor Warrant Agreement be amended on the terms set forth herein;

WHEREAS, the Creditor Warrant Agreement may be amended if Holders of at least seventy-five percent (75%) of the New Creditor Warrants, inclusive of the Ares and Whitebox Holders provide written consent to the Warrant Agent of the amendment;

WHEREAS, the Consenting Holders party hereto constitute, collectively, in excess of seventy-five percent (75%) of all Holders, inclusive of the Ares and Whitebox Holders;

WHEREAS, the Warrant Agent has received from an Appropriate Officer of the Issuer the certificate, which is attached hereto and made a part hereof as Exhibit A hereto;

Accordingly, in consideration of the foregoing and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

ARTICLE I DEFINITIONS

Section 1.01 **Definitions**. Capitalized terms used and not otherwise defined herein have the meanings assigned to them in the Creditor Warrant Agreement as amended by this Amendment.

ARTICLE II AMENDMENTS TO THE CREDITOR WARRANT AGREEMENT

Section 2.01 **Amendments to Creditor Warrant Agreement**. Each of the parties hereto agrees and provides its written consent that, effective on the Amendment Effective Date, the Creditor Warrant Agreement shall be amended to delete the stricken text (indicated textually in the same manner as the following example: ~~stricken text~~) and to add the double-underlined text (indicated textually in the same manner as the following example: double-underlined text) as set forth in the pages of the Creditor Warrant Agreement attached as Exhibit B hereto.

ARTICLE III REPRESENTATIONS AND WARRANTIES

Section 3.01 **Representations and Warranties of the Issuer**. The Issuer represents and warrants to the Warrant Agent that, on and as of the Amendment Effective Date:

(a) The execution, delivery and performance by the Issuer of this Amendment have been duly authorized by all necessary corporate and, if required shareholder action, and do not and will not violate the Organizational Documents of the Issuer.

(b) This Amendment has been duly executed and delivered by the Issuer and constitutes a legal, valid and binding obligation of the Issuer enforceable in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights generally and subject to general principles of equity, regardless of whether considered in a proceeding in equity or at law.

Section 3.02 **Representations and Warranties of the Consenting Holders.** Each of the Consenting Holders represents and warrants to the Warrant Agent that, on and as of the Amendment Effective Date:

(a) The execution, delivery and performance by the Issuer of this Amendment have been duly authorized by all necessary limited liability company or corporate and, if required, member, or shareholder action, and do not and will not violate the Organizational Documents of each such Consenting Holder.

(b) This Amendment has been duly executed and delivered by each Consenting Holder and constitutes a legal, valid and binding obligation of each such Consenting Holder and is enforceable in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights generally and subject to general principles of equity, regardless of whether considered in a proceeding in equity or at law.

ARTICLE IV CONDITIONS TO EFFECTIVENESS

Section 4.01 **Amendment Effective Date.** This Amendment shall become effective as of the first date (the "**Amendment Effective Date**") on which each of the following conditions shall have been satisfied:

(a) **Execution and Delivery of this Amendment.** The Warrant Agent shall have received a counterpart signature page of this Amendment duly executed by the Issuer and by each Consenting Holder sufficient to constitute seventy-five percent of all Holders inclusive of the Ares and Whitebox Holders.

Section 4.02 **Effects of this Amendment.**

(a) Except as expressly set forth herein, this Amendment shall not by implication or otherwise limit, impair, constitute a waiver of or otherwise affect the rights and remedies of the Holders or the Warrant Agent under the existing Creditor Warrant Agreement and shall not alter, modify, amend or in any way affect any of the terms, conditions, obligations, covenants or agreements contained in the existing Creditor Warrant Agreement or any other provision of the existing Creditor Warrant Agreement, all of which are ratified and affirmed in all respects and shall continue in full force and effect. Except as expressly set forth herein, nothing herein shall be deemed to be a waiver, amendment, modification or other change of, any of the terms, conditions, obligations, covenants or agreements contained in the Creditor Warrant Agreement in similar or different circumstances.

(b) From and after the Amendment Effective Date, each reference in the Creditor Warrant Agreement to "this Agreement", "hereunder", "hereof", "herein", or words of like import, and each reference to the Creditor Warrant Agreement in any other document shall be deemed a reference to the Creditor Warrant Agreement as amended hereby.

ARTICLE V MISCELLANEOUS

Section 5.01 **Governing Law.** THIS AMENDMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF DELAWARE.

Section 5.02 **Expenses.** The Issuer agrees to reimburse the Warrant Agent and for all out-of-pocket fees, charges and disbursements of counsel in connection with this Amendment.

Section 5.03 **Counterparts**. This Amendment may be executed in counterparts (and by different parties hereto on different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. The exchange of copies of this Amendment and of signature pages by facsimile or PDF transmission shall constitute effective execution and delivery of this Amendment as to the parties hereto and may be used in lieu of the original Amendment and signature pages for all purposes.

Section 5.04 **Headings**. Section headings used herein are for convenience of reference only, are not part of this Amendment and shall not affect the construction of, or be taken into consideration in interpreting, this Amendment.

Section 5.05 **Direction to Warrant Agent**. Each of the Consenting Holders party hereto hereby (i) authorizes and directs the Warrant Agent to enter into this Amendment and (ii) confirms that it is a Holder under the Creditor Warrant Agreement as of the date hereof.

[Signature Pages Follow]

[Signature page to New Creditor Warrant Amendment No. 1]

CONSENTING HOLDER:

ASSF IV AIV B Holdings III, L.P.

By: ASSF Operating Manager IV, L.P., its manager

By: /s/ Aaron Rosen

Name: Aaron Rosen

Title: Authorized Signatory

[Signature page to Creditor Warrant Amendment No. 1]

CONSENTING HOLDER:

ASOF Holdings I, L.P.

By: ASOF Investment Management LLC., its manager

By: /s/ Aaron Rosen

Name: Aaron Rosen

Title: Authorized Signatory

[Signature page to Creditor Warrant Amendment No. 1]

CONSENTING HOLDER:

SA Real Assets 19 Limited

By: Ares Management LLC, its investment manager

By: /s/ Greg Margolies

Name: Greg Margolies

Title: Authorized Signatory

[Signature page to Creditor Warrant Amendment No. 1]

CONSENTING HOLDER:

Ares Credit Strategies Insurance Dedicated Fund Series Interest of the SALI
Multi-Series Fund, L.P.

By: Ares Management LLC, its investment manager

By: /s/ Greg Margolies

Name: Greg Margolies

Title: Authorized Signatory

[Signature page to Creditor Warrant Amendment No. 1]

CONSENTING HOLDER:

Whitebox Multi-Strategy Partners, L.P.

By: Whitebox Advisors LLC, its investment manager

By: /s/ Luke Harris

Name: Luke Harris

Title: General Counsel – Corporate Transactions & Litigation

[Signature page to Creditor Warrant Amendment No. 1]

CONSENTING HOLDER:

Pandora Select Partners, L.P.

By: Whitebox Advisors LLC, its investment manager

By: /s/ Luke Harris

Name: Luke Harris

Title: General Counsel – Corporate Transactions & Litigation

[Signature page to Creditor Warrant Amendment No. 1]

CONSENTING HOLDER:

Whitebox Relative Value Partners, L.P.

By: Whitebox Advisors LLC, its investment manager

By: /s/ Luke Harris

Name: Luke Harris

Title: General Counsel – Corporate Transactions & Litigation

[Signature page to Creditor Warrant Amendment No. 1]

CONSENTING HOLDER:

Whitebox Credit Partners, L.P.

By: Whitebox Advisors LLC, its investment manager

By: /s/ Luke Harris

Name: Luke Harris

Title: General Counsel – Corporate Transactions & Litigation

[Signature page to Creditor Warrant Amendment No. 1]

CONSENTING HOLDER:

Whitebox GT Fund, LP

By: Whitebox Advisors LLC, its investment manager

By: /s/ Luke Harris

Name: Luke Harris

Title: General Counsel – Corporate Transactions & Litigation

[Signature page to Creditor Warrant Amendment No. 1]

CONSENTING HOLDER:

Sola Ltd

By: Solus Alternative Asset Management LP, its Investment Advisor

By: /s/ Gordon J. Yeager

Name: Gordon J. Yeager

Title: Executive Vice President

[Signature page to Creditor Warrant Amendment No. 1]

CONSENTING HOLDER:

Solus Opportunities Fund 5 LP

By: Solus Alternative Asset Management LP, its Investment Advisor

By: /s/ Gordon J. Yeager

Name: Gordon J. Yeager

Title: Executive Vice President

[Signature page to Creditor Warrant Amendment No. 1]

CONSENTING HOLDER:

Solus Opportunities Fund 4 LP

By: Solus Alternative Asset Management LP, its Investment Advisor

By: /s/ Gordon J. Yeager

Name: Gordon J. Yeager

Title: Executive Vice President

[Signature page to Creditor Warrant Amendment No. 1]

CONSENTING HOLDER:

Solus Long-Term Opportunities Fund Master LP

By: Solus Alternative Asset Management LP, its Investment Advisor

By: /s/ Gordon J. Yeager

Name: Gordon J. Yeager

Title: Executive Vice President

[Signature page to Creditor Warrant Amendment No. 1]

CONSENTING HOLDER:

Ultra NB LLC

By: Solus Alternative Asset Management LP, its Investment Manager

By: /s/ Gordon J. Yeager

Name: Gordon J. Yeager

Title: Executive Vice President

[Signature page to Creditor Warrant Amendment No. 1]

CONSENTING HOLDER:

Valueworks Limited Partners, LP

By:

By: /s/ Charles Lemonides

Name: Charles Lemonides

Title: Managing Member

[Signature page to Creditor Warrant Amendment No. 1]

CONSENTING HOLDER:

Merced Partners Limited Partnership

By: /s/ Stuart Brown

Name: Stuart Brown

Title: Authorized Representative

[Signature page to Creditor Warrant Amendment No. 1]

CONSENTING HOLDER:

Merced Partners V, L.P.

By: /s/ Stuart Brown

Name: Stuart Brown

Title: Authorized Representative

[Signature page to Creditor Warrant Amendment No. 1]

CONSENTING HOLDER:

Athilon Capital Corp. LLC

By: /s/ Stuart Brown

Name: Stuart Brown

Title: Authorized Representative

[Signature page to Creditor Warrant Amendment No. 1]

CONSENTING HOLDER:

Morgan Stanley & Co, solely on behalf of its New York distressed trading desk,
and not on behalf of any of its other trading desks, business units, divisions or
affiliates

By: /s/ Brian McGowan

Name: Brian McGowan

Title: Authorized Signatory

[Signature page to Creditor Warrant Amendment No. 1]

EXHIBIT A

**CREDITOR WARRANT AGREEMENT
OFFICER'S CERTIFICATE**

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receive any Warrant Shares upon exercise or conversion of any Warrant unless such Person is or becomes a party to the Securityholders Agreement by executing a joinder thereto, if the Securityholders Agreement is then in effect.

SECTION 6. Adjustment of Number of Shares Purchasable or Number of Warrants.

(a) Below Market Issuances.

(i) If the Company at any time or from time to time after the date hereof shall grant, issue or sell (whether directly or by assumption in a merger or otherwise) any additional shares of Common Stock, Options or Convertible Securities or shall fix a record date for the determination of holders of any Equity Securities to receive any additional shares of Common Stock, Options or Convertible Securities, then the maximum number of shares of Common Stock (as set forth in the instrument relating thereto, assuming the satisfaction of any conditions to exercisability, convertibility or exchangeability but without regard to any provision contained therein for a subsequent adjustment of such number) issuable upon such event, including upon the exercise of such Options or, in the case of Convertible Securities, the conversion or exchange of such Convertible Securities, shall be deemed to be additional Common Stock issued as of the time of such issue or, in case such a record date shall have been fixed, as of 5:00 PM (New York City time) on such record date; provided, that additional Common Stock shall not be deemed to have been issued unless the consideration per share of such additional Common Stock would be less than the Fair Market Value of each such share of Common Stock as of such date and immediately prior to such issuance, or such record date, as the case may be; provided, further, that, in any such case in which additional Common Stock is deemed to be issued, no further adjustments shall be made upon the subsequent issue of Convertible Securities or Common Stock upon the exercise of Options or the conversion or exchange of Convertible Securities.

(ii) ~~If After the date hereof, the Company shall not revise~~ the terms of any Option or Convertible Security, ~~the issuance of which resulted in an adjustment pursuant to the terms of this Section 6(a), are revised (either automatically, pursuant to the provisions contained therein, or as a result of an amendment to such terms) to provide for either (i) any~~ whether now existing or issued subsequent to the date hereof, to (i) provide for an increase or decrease in the number of shares of Common Stock issuable upon the exercise, conversion or exchange of any such Option or Convertible Security or (ii) any decrease or increase ~~or decrease in~~ the consideration payable to the Company upon such exercise, conversion or exchange, ~~then, effective upon such increase or decrease becoming effective, the number of Warrant Shares issuable upon exercise or conversion of any Warrant computed upon the original issue of such Option or Convertible Security (or upon the occurrence of a record date with respect thereto) shall be readjusted to such number of Warrant Shares issuable upon exercise or conversion of any Warrant as would have been obtained had such revised terms been in effect upon the original date of issuance of~~ of any such Option or Convertible Security. Any action taken in violation of this Section 6(a)(ii) shall be null and void ab initio.

~~(iii) If the terms of any Option or Convertible Security, the issuance of which did not result in an adjustment to the number of Warrant Shares issuable upon exercise or conversion of any Warrant pursuant to the terms of this Section 6(a) (either because the consideration per additional Common Stock subject thereto was equal to or greater than the then Fair Market Value of each such share of Common Stock), are revised after the date hereof (either automatically, pursuant to the provisions contained therein, or as a result of an amendment to such terms) to provide for either (i) any increase or decrease in the number of shares of Common Stock issuable upon the exercise, conversion or exchange of any such Option or Convertible Security or (ii) any increase or decrease in the consideration payable to the Company upon such exercise, conversion or exchange, then such Option or Convertible Security, as so amended, and the additional Common Stock subject thereto shall be deemed to have been issued effective upon such increase or decrease becoming effective.~~

(iv) Upon the expiration or termination of any unexercised Option or unconverted or unexchanged Convertible Security which resulted (either upon its original issuance or upon a revision of its terms) in an adjustment to the number of Warrant Shares issuable upon exercise or conversion of any Warrant pursuant to the terms of this Section 6(a), the number of Warrant Shares issuable upon exercise or conversion of any Warrant shall be readjusted to such number of Warrant Shares issuable upon exercise or conversion of any Warrant as would have been obtained had such Option or Convertible Security never been issued.

(v) Except as provided in Section 6(a)(vii) and except in the case of any event described in Section 6(b), Section 6(c), Section 6(d) or Section 6(e), in the event the Company shall at any time after the date hereof grant, sell or issue additional Common Stock (including additional Common Stock deemed to be issued pursuant to Section 6(a)(i)) without consideration or for consideration per share of Common Stock less than the Fair Market Value of each such share of Common Stock, then the number of Warrant Shares issuable upon exercise or conversion of any Warrant shall be increased pursuant to the formula below:

$$U_a = U_b \times \frac{O_a}{O_b + Y}$$

Where:

U_b = The number of Warrant Shares issuable for each Warrant before the adjustment

U_a = The number of Warrant Shares issuable for each Warrant after the adjustment

O_a = Number of shares of Common Stock outstanding immediately after the transaction in question on a Fully Diluted Basis

O_b = Number of shares of Common Stock outstanding immediately before the transaction in question on a Fully Diluted Basis

Y = Number of shares of Common Stock equal to the aggregate offering price of the shares of Common Stock being issued, *divided by* the Fair Market Value of

AMENDMENT NO. 2

CREDITOR WARRANT AGREEMENT

Between

Hornbeck Offshore Services, Inc.

AS ISSUER

and

Computershare Inc. and

Computershare Trust Company, N.A.,

AS WARRANT AGENT

and

Certain Holders Signatory Hereto

AS CONSENTING HOLDERS

April 22, 2026

This AMENDMENT NO. 2 (this “**Amendment**”), dated as of April 22, 2026, is by and among Hornbeck Offshore Services, Inc. (the “**Issuer**”), Computershare Inc., a Delaware corporation, and its affiliate, Computershare Trust Company, N.A., a federally chartered trust company, collectively as warrant agent (the “**Warrant Agent**”), and the Holders signatory hereto (the “**Consenting Holders**”), and amends and supplements that certain Creditor Warrant Agreement, dated as of September 4, 2020, by and between the Issuer and the Warrant Agent, as amended by Amendment No. 1 thereto, dated as of December 10, 2024 (as so amended, the “**Creditor Warrant Agreement**”).

WHEREAS, the Issuer has requested that the Creditor Warrant Agreement be amended on the terms set forth herein;

WHEREAS, the Creditor Warrant Agreement may be amended if Holders of at least seventy-five percent (75%) of the Creditor Warrants, inclusive of the Ares and Whitebox Holders provide written consent to the Warrant Agent of the amendment;

WHEREAS, the Consenting Holders party hereto constitute, collectively, in excess of seventy-five percent (75%) of all Holders, inclusive of the Ares and Whitebox Holders;

WHEREAS, the Warrant Agent has received from an Appropriate Officer of the Issuer the certificate, which is attached hereto and made a part hereof as Exhibit A hereto;

WHEREAS, the conversion of the Creditor Warrants into the right to receive Converted Parent Common Stock (as defined in the Merger Agreement) pursuant to Section 2.01 of this Amendment is part of the same “plan of reorganization” (within the meaning of Section 368(a) of the Internal Revenue Code of 1986, as amended and U.S. Treasury Regulations Sections 1.368-2(g) and 1.368-3(a)) as the mergers contemplated by the Merger Agreement (as defined below);

NOWHEREFORE, the parties agree as follows:

ARTICLE I
DEFINITIONS

Section 1.01 **Definitions**. Capitalized terms used and not otherwise defined herein have the meanings assigned to them in the Creditor Warrant Agreement as amended by this Amendment.

ARTICLE II
AMENDMENT TO THE CREDITOR WARRANT AGREEMENT

Section 2.01 **Amendment to Creditor Warrant Agreement**. The Company and the Warrant Agent each hereby agree that, effective on the Amendment Effective Date (as defined below), the Creditor Warrant Agreement shall be amended to add a new Section 28, which shall read as follows:

“SECTION 28. Odyssey Merger. Reference is made to the Agreement and Plan of Merger, dated April 22, 2026 (the “Merger Agreement”), entered into by and among Helix Energy Solutions Group, Inc. (“Parent”) Odyssey Sub, Inc., Hercules Sub LLC and the Company. Capitalized terms used in this Section 28 and not otherwise defined in this Agreement shall have the meanings given to them in the Merger Agreement. Notwithstanding anything else in this Agreement to the contrary, including Section 6(e) (Reorganization; Reclassification; Merger) and Section 11 (Notification of Certain Events; Corporate Action), in the event of the consummation of the First Company Merger, each outstanding and unexercised Warrant as of immediately prior to the Effective Time, except as otherwise set forth in this Section 28, shall automatically, and without further action of the Company, the Agent or any Holder, be converted into the right to receive a number of shares of Converted Parent Common Stock (or, subject to the Jones Act limitations on ownership of shares of Converted Parent Common Stock as set forth in the Parent Certificate of Incorporation upon Conversion, Warrants (as defined in the A&R Jones Act Warrant Agreement) to acquire such Converted Parent Common Stock) in accordance with the following formula:

$$X = \frac{(Y * (A - B))}{A}$$

Where:

- X = the number of shares of Converted Parent Common Stock (or, subject to the Jones Act limitations on ownership of shares of Converted Parent Common Stock as set forth in the Parent Certificate of Incorporation upon Conversion, Warrants (as defined in the A&R Jones Act Warrant Agreement) to acquire such Converted Parent Common Stock) has the right to receive upon the occurrence of the Effective Time;
- Y = the total number of shares of Common Stock underlying the Warrant, multiplied by the Exchange Ratio;
- A = average closing price per share of Converted Parent Common Stock over the ten trading days immediately preceding the second business day prior to the Closing Date; and
- B = the exercise price which would have been payable in respect of one share of Common Stock upon conversion of the Warrant divided by the Exchange Ratio.

Notwithstanding the foregoing, (i) if B equals or exceeds A such that the formula above would render X to be equal to or less than zero, then no Warrant shall be converted as of immediately prior to the Effective Time of the First Company Merger without the prior written consent of the Holder thereof and (ii) if the Merger Agreement is: (x) modified, amended or restated after the Signing Date, to the extent any such proposed modification, amendment or restatement would uniquely and adversely affect the rights, obligations, or interests of the Consenting Holders; or (y) terminated in accordance with its terms, then, in the case of each of (x) and (y), this Section 28 shall be of no further force or effect.”

ARTICLE III REPRESENTATIONS AND WARRANTIES

Section 3.01 **Representations and Warranties of the Issuer.** The Issuer represents and warrants to the Warrant Agent that, on and as of the Amendment Effective Date:

- (a) The execution, delivery and performance by the Issuer of this Amendment have been duly authorized by all necessary corporate and, if required shareholder action, and do not and will not violate the Organizational Documents of the Issuer.
- (b) This Amendment has been duly executed and delivered by the Issuer and constitutes a legal, valid and binding obligation of the Issuer enforceable in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors’ rights generally and subject to general principles of equity, regardless of whether considered in a proceeding in equity or at law.

Section 3.02 **Representations and Warranties of the Consenting Holders.** Each of the Consenting Holders represents and warrants to the Warrant Agent, severally and not jointly, that, on and as of the Amendment Effective Date:

(a) The execution, delivery and performance by such Consenting Holder of this Amendment have been duly authorized by all necessary limited liability company or corporate and, if required, member, or shareholder action, and do not and will not violate the Organizational Documents of such Consenting Holder.

(b) This Amendment has been duly executed and delivered by such Consenting Holder and constitutes a legal, valid and binding obligation of such Consenting Holder and is enforceable in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights generally and subject to general principles of equity, regardless of whether considered in a proceeding in equity or at law.

ARTICLE IV CONDITIONS TO EFFECTIVENESS

Section 4.01 **Amendment Effective Date.** This Amendment shall become effective as of the first date (the "**Amendment Effective Date**") on which each of the following conditions shall have been satisfied:

(a) **Execution and Delivery of this Amendment.** The Warrant Agent shall have received a counterpart signature page of this Amendment duly executed by the Issuer and by each Consenting Holder sufficient to constitute seventy-five percent of all Holders inclusive of the Ares and Whitebox Holders.

Section 4.02 **Effects of this Amendment.**

(a) Except as expressly set forth herein, this Amendment shall not by implication or otherwise limit, impair, constitute a waiver of or otherwise affect the rights and remedies of the Holders or the Warrant Agent under the existing Creditor Warrant Agreement and shall not alter, modify, amend or in any way affect any of the terms, conditions, obligations, covenants or agreements contained in the existing Creditor Warrant Agreement or any other provision of the existing Creditor Warrant Agreement, all of which are ratified and affirmed in all respects and shall continue in full force and effect. Except as expressly set forth herein, nothing herein shall be deemed to be a waiver, amendment, modification or other change of, any of the terms, conditions, obligations, covenants or agreements contained in the Creditor Warrant Agreement in similar or different circumstances.

(b) From and after the Amendment Effective Date, each reference in the Creditor Warrant Agreement to "this Agreement", "hereunder", "hereof", "herein", or words of like import, and each reference to the Creditor Warrant Agreement in any other document shall be deemed a reference to the Creditor Warrant Agreement as amended hereby.

**ARTICLE V
MISCELLANEOUS**

Section 5.01 **Governing Law and Consent to Forum**. THIS AMENDMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF DELAWARE. EACH OF THE COMPANY AND THE WARRANT AGENT HEREBY IRREVOCABLY SUBMITS TO THE JURISDICTION OF THE DELAWARE CHANCERY COURT; PROVIDED THAT IF SUCH COURT DOES NOT HAVE JURISDICTION, THEN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF DELAWARE, WITH RESPECT TO ANY SUIT, ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AMENDMENT, AND EACH IRREVOCABLY ACCEPTS FOR ITSELF AND IN RESPECT OF ITS PROPERTY, GENERALLY AND UNCONDITIONALLY, THE JURISDICTION OF THE AFORESAID COURTS. NOTHING HEREIN SHALL AFFECT THE RIGHT OF ANY PERSON TO SERVE PROCESS IN ANY MANNER PERMITTED BY LAW OR TO COMMENCE LEGAL PROCEEDINGS OR OTHERWISE PROCEED AGAINST THE COMPANY IN ANY OTHER JURISDICTION.

Section 5.02 **Expenses**. The Issuer agrees to reimburse the Warrant Agent for all out-of-pocket fees, charges and disbursements of counsel in connection with this Amendment.

Section 5.03 **Counterparts**. This Amendment may be executed in counterparts (and by different parties hereto on different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. The exchange of copies of this Amendment and of signature pages by facsimile or PDF transmission shall constitute effective execution and delivery of this Amendment as to the parties hereto and may be used in lieu of the original Amendment and signature pages for all purposes.

Section 5.04 **Headings**. Section headings used herein are for convenience of reference only, are not part of this Amendment and shall not affect the construction of, or be taken into consideration in interpreting, this Amendment.

Section 5.05 **Authorization of Consenting Holders**. Each of the Consenting Holders party hereto: (i) hereby consents to this Amendment pursuant to Section 16 of the Creditor Warrant Agreement; and (ii) confirms that it is a Holder under the Creditor Warrant Agreement as of the date hereof.

[Signature Pages Follow]

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

ISSUER:

HORNBECK OFFSHORE SERVICES, INC.

By: /s/ Todd M. Hornbeck

Name: Todd M. Hornbeck

Title: President and Chief Executive Officer

WARRANT AGENT:

COMPUTERSHARE INC. AND
COMPUTERSHARE TRUST COMPANY,
N.A.,

By: /s/ Thomas Borbely

Name: Thomas Borbely

Title: Senior Manager, Corporate Actions

CONSENTING HOLDER:

Ares Credit Strategies Insurance Dedicated Fund Series Interests of the SALI
Multi-Series Fund, L.P.

By: Ares Management LLC, its investment manager

By: /s/ Greg Margolies

Name: Greg Margolies

Title: Authorized Signatory

[Signature page to Creditor Warrant Amendment No. 2]

CONSENTING HOLDER:

ASOF Holdings I, L.P.

By: ASOF Investment Management LLC, its manager

By: /s/ Aaron Rosen

Name: Aaron Rosen

Title: Authorized Signatory

[Signature page to Creditor Warrant Amendment No. 2]

CONSENTING HOLDER:

ASOF HOS AIV, 1 L.P.

By: ASOF Investment Management LLC, its manager

By: /s/ Aaron Rosen

Name: Aaron Rosen

Title: Authorized Signatory

[Signature page to Creditor Warrant Amendment No. 2]

CONSENTING HOLDER:

ASOF HOS AIV 2, L.P.

By: ASOF Investment Management LLC, its manager

By: /s/ Aaron Rosen

Name: Aaron Rosen

Title: Authorized Signatory

[Signature page to Creditor Warrant Amendment No. 2]

CONSENTING HOLDER:

ASOF II HOLDINGS I, L.P.

By: ASOF Investment Management LLC, its manager

By: /s/ Aaron Rosen

Name: Aaron Rosen

Title: Authorized Signatory

[Signature page to Creditor Warrant Amendment No. 2]

CONSENTING HOLDER:

ASOF II A (DE) HOLDINGS I, L.P.

By: ASOF Investment Management LLC, its manager

By: /s/ Aaron Rosen

Name: Aaron Rosen

Title: Authorized Signatory

[Signature page to Creditor Warrant Amendment No. 2]

CONSENTING HOLDER:

ASSF IV AIV B Holdings III, L.P.

By: ASSF Operating Manager IV, L.P., its manager

By: /s/ Aaron Rosen

Name: Aaron Rosen

Title: Authorized Signatory

[Signature page to Creditor Warrant Amendment No. 2]

CONSENTING HOLDER:

ASSF IV AIV B, L.P.

By: ASSF Operating Manager IV, L.P., its manager

By: /s/ Aaron Rosen

Name: Aaron Rosen

Title: Authorized Signatory

[Signature page to Creditor Warrant Amendment No. 2]

CONSENTING HOLDER:

ASSF IV HOS AIV 1, L.P.

By: ASSF Operating Manager IV, L.P., its manager

By: /s/ Aaron Rosen

Name: Aaron Rosen

Title: Authorized Signatory

[Signature page to Creditor Warrant Amendment No. 2]

CONSENTING HOLDER:

ASSF IV HOS AIV 2, L.P.

By: ASSF Operating Manager IV, L.P., its manager

By: /s/ Aaron Rosen

Name: Aaron Rosen

Title: Authorized Signatory

[Signature page to Creditor Warrant Amendment No. 2]

CONSENTING HOLDER:

SA Real Assets 19 Limited

By: Ares Management LLC, its manager

By: /s/ Greg Margolies

Name: Greg Margolies

Title: Authorized Signatory

[Signature page to Creditor Warrant Amendment No. 2]

CONSENTING HOLDER:

BofA Securities, Inc. *executes this Agreement and signature page solely on behalf of its U.S. Special Situations – Distressed Group (“SSG”) and its managed positions. This signature in no way binds any other line of business, division, group, activities or positions at BofA Securities, Inc. or any of its affiliates or subsidiaries. In the event the terms of this signature are not accepted, the signature shall be deemed null and void ab initio.*

By: /s/ Kevin Mulholland

Name: Kevin Mulholland

Title: Managing Director

[Signature page to Creditor Warrant Amendment No. 2]

CONSENTING HOLDER:

Citigroup Financial Products Inc.

By: /s/ David Quinn

Name: David Quinn

Title: Authorized Signatory

[Signature page to Creditor Warrant Amendment No. 2]

CONSENTING HOLDER:

Citigroup Global Markets Inc.

By: /s/ David Quinn

Name: David Quinn

Title: Authorized Signatory

[Signature page to Creditor Warrant Amendment No. 2]

CONSENTING HOLDER:

Athilon Capital Corp. LLC

By: /s/ Joseph McElroy

Name: Joseph McElroy

Title: Authorized Signatory

[Signature page to Creditor Warrant Amendment No. 2]

CONSENTING HOLDER:

Merced Partners Limited Partnership

By: /s/ Joseph McElroy

Name: Joseph McElroy

Title: Authorized Signatory

[Signature page to Creditor Warrant Amendment No. 2]

CONSENTING HOLDER:

Merced Partners V, L.P.

By: /s/ Joseph McElroy

Name: Joseph McElroy

Title: Authorized Signatory

[Signature page to Creditor Warrant Amendment No. 2]

Morgan Stanley & Co., LLC

By: /s/ Brian McGowan

Name: Brian McGowan

Title: Managing Director

[Signature page to Creditor Warrant Amendment No. 2]

CONSENTING HOLDER:

SOLA LTD

By: Solus Alternative Asset Management LP, its Investment Advisor

By: /s/ Christopher Pucillo

Name: Christopher Pucillo

Title: Chief Executive Officer

[Signature page to Creditor Warrant Amendment No. 2]

CONSENTING HOLDER:

SOLUS OPPORTUNITIES FUND 5 LP

By: Solus Alternative Asset Management LP, its Investment Advisor

By: /s/ Christopher Pucillo

Name: Christopher Pucillo

Title: Chief Executive Officer

[Signature page to Creditor Warrant Amendment No. 2]

CONSENTING HOLDER:

SOLUS OPPORTUNITIES FUND 4 LP

By: Solus Alternative Asset Management LP, its Investment Advisor

By: /s/ Christopher Pucillo

Name: Christopher Pucillo

Title: Chief Executive Officer

[Signature page to Creditor Warrant Amendment No. 2]

CONSENTING HOLDER:

SOLUS LONG-TERM OPPORTUNITIES FUND MASTER LP

By: Solus Alternative Asset Management LP, its Investment Advisor

By: /s/ Christopher Pucillo

Name: Christopher Pucillo

Title: Chief Executive Officer

[Signature page to Creditor Warrant Amendment No. 2]

CONSENTING HOLDER:

ULTRA NB LLC

By: Solus Alternative Asset Management LP, its Investment Advisor

By: /s/ Christopher Pucillo

Name: Christopher Pucillo

Title: Chief Executive Officer

[Signature page to Creditor Warrant Amendment No. 2]

CONSENTING HOLDER:

PANDORA SELECT PARTNERS LP

By: Whitebox Advisors LLC its investment manager

By: /s/ Andrew Thau

Name: Andrew Thau

Title: Managing Director

[Signature page to Creditor Warrant Amendment No. 2]

CONSENTING HOLDER:

WHITEBOX CAJA BLANCA FUND LP

By: Whitebox Advisors LLC its investment manager

By: /s/ Andrew Thau

Name: Andrew Thau

Title: Managing Director

[Signature page to Creditor Warrant Amendment No. 2]

CONSENTING HOLDER:

WHITEBOX CREDIT PARTNERS LP

By: Whitebox Advisors LLC its investment manager

By: /s/ Andrew Thau

Name: Andrew Thau

Title: Managing Director

[Signature page to Creditor Warrant Amendment No. 2]

CONSENTING HOLDER:

WHITEBOX GT FUND LP

By: Whitebox Advisors LLC its investment manager

By: /s/ Andrew Thau

Name: Andrew Thau

Title: Managing Director

[Signature page to Creditor Warrant Amendment No. 2]

CONSENTING HOLDER:

WHITEBOX MULTI-STRATEGY PARTNERS LP

By: Whitebox Advisors LLC its investment manager

By: /s/ Andrew Thau

Name: Andrew Thau

Title: Managing Director

[Signature page to Creditor Warrant Amendment No. 2]

CONSENTING HOLDER:

WHITEBOX RELATIVE VALUE PARTNERS LP

By: Whitebox Advisors LLC its investment manager

By: /s/ Andrew Thau

Name: Andrew Thau

Title: Managing Director

[Signature page to Creditor Warrant Amendment No. 2]

CONSENTING HOLDER:

WHITEBOX ASYMMETRIC PARTNERS LP

By: Whitebox Advisors LLC its investment manager

By: /s/ Andrew Thau

Name: Andrew Thau

Title: Managing Director

[Signature page to Creditor Warrant Amendment No. 2]

**CREDITOR WARRANT AGREEMENT
OFFICER'S CERTIFICATE**

The undersigned hereby certifies that he is the Executive Vice President and Chief Financial Officer of Hornbeck Offshore Services, Inc., a Delaware corporation (the "Issuer"), and that as such he is authorized to execute this certificate on behalf of the Issuer pursuant to Section 3(c) of the Creditor Warrant Agreement by and between Hornbeck Offshore Services, Inc. as Issuer and Computershare, Inc. and Computershare Trust Company, N.A., collectively as Warrant Agent, dated as of September 4, 2020, as amended by Amendment No. 1 thereto (as amended thereby, the "Creditor Warrant Agreement") (unless otherwise defined herein, each capitalized term used herein is defined in the Creditor Warrant Agreement or the Amendment (as defined below)). Furthermore, the undersigned represents and warrants, on behalf of the Issuer, as follows:

- (a) the Creditor Warrant Agreement may be amended if Holders of at least seventy-five percent (75%) of the Creditor Warrants, inclusive of the Ares and Whitebox Holders, provide written consent to the Warrant Agent of such amendment;
- (b) the Issuer and the Consenting Holders have executed Amendment No. 2 to the Creditor Warrant Agreement (the "Amendment");
- (c) the Consenting Holders constitute, collectively, in excess of seventy-five percent (75%) of all Holders, inclusive of the Ares and Whitebox Holders; and
- (d) the Amendment complies with the terms of Section 16 of the Creditor Warrant Agreement.

EXECUTED AND DELIVERED this 22nd day of April, 2026.

HORNBECK OFFSHORE SERVICES, INC.

By: /s/ James O. Harp, Jr.

Name: James O. Harp, Jr.

Title: Executive Vice President and Chief Financial Officer

BAKER BOTTS LLP910 LOUISIANA STREET
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RIYADH
SAN FRANCISCO
SINGAPORE
WASHINGTON

June 4, 2026

Helix Energy Solutions Group, Inc.
3505 West Sam Houston Parkway North, Suite 400
Houston, Texas 77043

Ladies and Gentlemen:

We have acted as counsel to Helix Energy Solutions Group, Inc., currently a Minnesota corporation ("Helix," and following the Conversion (as defined below), "Helix Delaware"), in connection with the registration by Helix pursuant to the Registration Statement on Form S-4 (the "Registration Statement") to be filed on the date hereof with the Securities and Exchange Commission (the "SEC") under the Securities Act of 1933, as amended (the "Securities Act"), relating to the issuance by Helix Delaware of up to 63,832,084 shares (the "Shares") of Converted Helix Common Stock (as defined below), pursuant to the terms and conditions of that certain Agreement and Plan of Merger (the "Merger Agreement"), dated as of April 22, 2026, by and among Helix, Odyssey Sub, Inc., a Delaware corporation and direct wholly owned subsidiary of Helix ("Odyssey Sub"), Hercules Sub LLC, a Delaware limited liability company and direct wholly owned subsidiary of Helix ("Hercules Sub"), and Hornbeck Offshore Services, Inc., a Delaware corporation ("Hornbeck"), excluding the shares of Converted Helix Common Stock issuable to the Hornbeck stockholders who delivered a written consent adopting the Merger Agreement and approving the transactions contemplated thereby shortly following execution of the Merger Agreement.

Pursuant to the Merger Agreement, (i) Odyssey Sub will merge with and into Hornbeck, with Hornbeck continuing as the surviving entity (the "First Merger") and the surviving entity, the "Surviving Corporation"), and (ii) immediately following the First Merger, the Surviving Corporation will merge with and into Hercules Sub, with Hercules Sub surviving the merger as a direct wholly owned subsidiary of the Combined Company (as defined below) (together with the First Merger, the "Mergers").

Under the terms of the Merger Agreement, immediately prior to the First Merger, Helix will convert from a Minnesota corporation to a Delaware corporation (the "Conversion") in accordance with the General Corporation Law of the State of Delaware, as amended (the "DGCL"), and the Minnesota Business Corporations Act, as amended (the "MBCA"), pursuant to a plan of conversion (the "Plan of Conversion") contemplated by the Merger Agreement. Pursuant to the Plan of Conversion, Helix will file (i) Articles of Conversion pursuant to Section 302A.686 of the MBCA with the Minnesota Secretary of State, (ii) a Certificate of Conversion pursuant to Sections 103 and 265 of the DGCL with the Delaware Secretary of State and (iii) a Certificate of Incorporation of the Combined Company (the "Certificate of Incorporation").

Pursuant to the Conversion, each issued and outstanding share of Helix common stock, without par value ("Helix Common Stock"), will be converted into one share of common stock, par value \$0.00001 per share, of Helix Delaware ("Converted Helix Common Stock"). Upon consummation of the Mergers and the other transactions contemplated by the Merger Agreement, Hornbeck will be a wholly owned subsidiary of Helix Delaware (Helix Delaware following the Mergers, the "Combined Company").

In our capacity as your counsel in connection with the matter referred to above and as a basis for the opinion hereinafter expressed, we have examined originals, or copies certified or otherwise identified, of (i) the form of the Certificate of Incorporation, filed as Exhibit 3.3 to the Registration Statement, (ii) the form of the Bylaws of the Combined Company, filed as Exhibit 3.4 to the Registration Statement, (iii) the Merger Agreement, (iv) originals, or copies certified or otherwise identified, of the corporate records of Helix, including certain resolutions of the board of directors of Helix, as furnished to us by Helix, (v) originals, or copies certified or otherwise identified, of certificates of public officials and of representatives of Helix and (vi) statutes and such other records, certificates, documents and instruments as we have deemed necessary or advisable as a basis for the opinion hereinafter expressed.

In connection with the opinion set forth herein, we have assumed that, prior to the issuance of any of the Shares (i) the Registration Statement and any amendments thereto (including any post-effective amendments), will have become effective under the Securities Act, (ii) the holders of shares of Helix Common Stock will have adopted the Merger Agreement and the transactions contemplated thereby, (iii) the other conditions to consummating the transactions contemplated by the Merger Agreement will have been satisfied or waived and such transactions, including the Conversion, will have been consummated and (iv) all of the Shares will be offered, issued and exchanged in compliance with applicable federal and state securities laws and in the manner stated in the Registration Statement and the Merger Agreement. In rendering this opinion, we have also assumed that an appropriate account statement evidencing the Shares credited to the recipient's account maintained by the Combined Company's transfer agent and registrar will be issued by such transfer agent and the issuance of the Shares will be properly recorded in the unit registry of the Combined Company.

In giving the opinion set forth herein, we have assumed, with your consent and without independent investigation or verification, the legal capacity and competency of all natural persons, that all signatures on documents examined by us are genuine, that all documents submitted to us as originals are authentic and complete, that all documents submitted to us as copies are true, correct and complete copies of the originals of such documents, and that all information submitted to us is accurate and complete. We have also assumed, as to factual matters, with your consent and without independent investigation or verification, the truth and accuracy of the representations and warranties in the Merger Agreement and other documents reviewed by us and the certificates, statements or other representations of officers or other representatives of Helix and of governmental and public officials.

On the basis of the foregoing, and subject to the exceptions, assumptions, qualifications and limitations set forth herein, we are of the opinion that upon the effectiveness of the Conversion, the Shares, when issued and delivered by Helix Delaware against payment of the consideration therefor in the manner contemplated by the Registration Statement and the Merger Agreement, will be validly issued, fully paid and nonassessable.

The opinion set forth above in this opinion letter is limited in all respects to matters of the DGCL in each case as published and in effect on the date hereof, and we express no opinion as to the law of any other jurisdiction.

We hereby consent to the filing of this opinion letter with the SEC as Exhibit 5.1 to the Registration Statement. We also consent to the reference to our Firm under the heading “Legal Matters” in the prospectus forming a part of the Registration Statement. In giving this consent, we do not hereby admit that we are in the category of persons whose consent is required under Section 7 of the Securities Act or the rules and regulations of the SEC thereunder.

Very truly yours,

/s/ Baker Botts L.L.P.

KIRKLAND & ELLIS LLP

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Houston, TX 77002
United States

+1 713 836 3600

www.kirkland.com

Facsimile:
+1 713 836 3601

[●], 2026

Hornbeck Offshore Services, Inc.
103 Northpark Boulevard, Suite 300
Covington, Louisiana 70433

Ladies and Gentlemen:

We have acted as counsel to Hornbeck Offshore Services, Inc., a Delaware corporation ("Hornbeck"), in connection with the Mergers, as defined in the Agreement and Plan of Merger (the "Merger Agreement"), dated as of April 22, 2026, by and among Hornbeck, Helix Energy Solutions Group, Inc., a Delaware corporation ("Helix"), Odyssey Sub, Inc., a Delaware corporation and direct, wholly owned subsidiary of Helix ("Parent Sub") and Hercules Sub LLC, a Delaware limited liability company and direct and wholly owned Subsidiary of Helix ("LLC Sub"). All capitalized terms used but not otherwise defined herein have the meaning ascribed to them in the Merger Agreement.

At your request, and in connection with the filing of the Form S-4 by Hornbeck with the Securities and Exchange Commission (File No. [●]) (the "Registration Statement"), including the joint proxy statement/prospectus forming a part thereof ("Proxy Statement/Prospectus"), we are rendering our opinion regarding certain U.S. federal income tax matters.

This opinion is based on various facts and assumptions and is conditioned upon certain representations made by Hornbeck and Helix through certificates of officers of both Hornbeck and Helix (each an "Officer's Certificate").

Additionally, in connection with this opinion, and with your consent, we have reviewed and relied upon the accuracy and completeness, without independent investigation or verification, of the following: (i) the Merger Agreement and the documents referenced therein; (ii) the Registration Statement, including the Proxy Statement/Prospectus; (iii) the Officer's Certificates, dated as of the date hereof and delivered to us for purposes of this opinion; and (iv) such other documents, information and materials as we have deemed necessary or appropriate.

KIRKLAND & ELLIS LLP

Hornbeck Offshore Services, Inc.

[•], 2026

Page 2

In rendering this opinion, we have assumed, with your permission, that: (1) all parties to the Merger Agreement, and to any other documents reviewed by us, have acted and will act in accordance with the terms of the Merger Agreement and such other documents; (2) the Mergers will be consummated pursuant to and in accordance with the terms and conditions set forth in the Merger Agreement and the documents referenced therein, without the waiver or modification of any such terms and conditions, and as described in the Registration Statement; (3) all facts, information, statements, covenants, representations, warranties and agreements made by or on behalf of Hornbeck, Helix, Parent Sub, and LLC Sub in the Merger Agreement and the documents referenced therein, the Registration Statement and the Officer's Certificates are and, at all times up to the effective time of the Second Company Merger, will continue to be true, complete and correct; (4) all facts, information, statements, covenants, representations, warranties and agreements made by or on behalf of Hornbeck, Helix, Parent Sub, and LLC Sub in the Merger Agreement and the documents referenced therein, the Registration Statement and the Officer's Certificates that are qualified by the knowledge, intention, expectation and/or belief of any person or entity are and, at all times up to the effective time of the Second Company Merger, will continue to be true, complete and correct as though not so qualified; (5) as to all matters as to which any person or entity represents that it is not a party to, does not have, or is not aware of any plan, intention, understanding or agreement, there is in fact no plan, intention, understanding or agreement and, at all times up to the effective time of the Second Company Merger, there will be no plan, intention, understanding or agreement; and (6) Hornbeck, Helix, Parent Sub, and LLC Sub will report the Mergers for all U.S. federal income tax reporting purposes in a manner consistent with this opinion. We also have assumed the authenticity of original documents, the accuracy of copies, the genuineness of signatures and the legal capacity of signatories. Moreover, we have assumed that all facts, information, statements and representations contained in the documents we have reviewed were true, complete and correct at the time made and will continue to be true, complete and correct at all times up to the effective time of the Second Company Merger, and that all such facts, information, statements and representations can be established to the Internal Revenue Service or courts, if necessary, by clear and convincing evidence. If any of the assumptions described above are untrue for any reason, or if the Mergers are consummated other than in accordance with the terms and conditions set forth in the Merger Agreement and the documents referenced therein, our opinion as expressed below may be adversely affected.

Our opinion is based on the Code, the Treasury Regulations, case law and published rulings and other pronouncements of the Internal Revenue Service, as in effect on the date hereof. No assurances can be given that such authorities will not be amended or otherwise changed at any time, possibly with retroactive effect. We assume no obligation to advise you of any such subsequent changes, or to update or supplement this opinion to reflect any change in facts, circumstances or law after the date hereof. Any change in the applicable law or regulations, or any new administrative or judicial interpretation of the applicable law or regulations, may affect the continuing validity of our opinion.

KIRKLAND & ELLIS LLP

Hornbeck Offshore Services, Inc.

[•], 2026

Page 3

Based upon the foregoing and subject to the assumptions, exceptions, limitations and qualifications set forth herein and in the Proxy Statement/Prospectus under the heading “*The Mergers—Material U.S. Federal Income Tax Consequences*,” we are of the opinion that the Mergers, taken together, will qualify as a “reorganization” within the meaning of Section 368(a) of the Code.

Our opinion relates solely to the specific matters set forth above, and no opinion is expressed, or should be inferred, as to any other U.S. federal, state, local or non-U.S. income, estate, gift, transfer, sales, use or other tax consequences that may result from the Mergers. Our opinion is limited to legal rather than factual matters and has no official status or binding effect of any kind. Accordingly, we cannot assure you that the Internal Revenue Service or a court will agree with our opinion.

The opinion expressed herein is being furnished in connection with the filing of the Registration Statement and may not be used or relied upon for any other purpose without our prior written consent. We hereby consent to the filing of this opinion with the Securities and Exchange Commission as Exhibit 8.1 to the Registration Statement and to the references to this opinion in the Registration Statement. In giving this consent, we do not admit that we are within the category of persons whose consent is required under Section 7 of the Securities Act of 1933, as amended, or the rules or regulations of the Securities and Exchange Commission promulgated thereunder.

KIRKLAND & ELLIS LLP

Very truly yours,

Kirkland & Ellis LLP

CREDIT AGREEMENT
dated as of August 13, 2024
by and among

HORNBECK OFFSHORE SERVICES, INC.,
as Borrower

DNB BANK ASA, NEW YORK BRANCH,
as Administrative Agent,

WILMINGTON TRUST, NATIONAL ASSOCIATION,
as Collateral Agent

and

THE LENDERS PARTY HERETO

DNB MARKETS, INC., JPMORGAN CHASE BANK, N.A AND BARCLAYS BANK PLC

as Lead Arrangers and Physical Bookrunners

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CREDIT AGREEMENT

This CREDIT AGREEMENT is entered into as of August 13, 2024, by and among HORNBECK OFFSHORE SERVICES, INC., a Delaware corporation (the “**Borrower**”), DNB BANK ASA, NEW YORK BRANCH (“**DNB**”), as administrative agent (in such capacity, including any successor thereto, the “**Administrative Agent**”), WILMINGTON TRUST, NATIONAL ASSOCIATION as collateral agent (in such capacity, including any successor thereto, the “**Collateral Agent**”), each Issuing Bank from time to time party hereto, DNB MARKETS, INC., JPMORGAN CHASE BANK, N.A. and BARCLAYS BANK PLC, as Lead Arrangers and Bookrunners (collectively, the “**Lead Arranger**” and “**Bookrunners**”), and each lender from time to time party hereto (collectively, the “**Lenders**” and, individually, a “**Lender**”).

PRELIMINARY STATEMENTS

The Borrower has requested that (a) substantially simultaneously with the satisfaction of the conditions precedent set forth in Article IV below, the Lenders extend credit to the Borrower in the form of \$75,000,000 of Commitments on the Closing Date as a secured credit facility and (b) from time to time, the Revolving Lenders make Revolving Loans and the Issuing Banks issue Letters of Credit, in each case, pursuant to the terms of this Agreement.

The proceeds of the Revolving Loans will be used from time to time for general corporate purposes, including (a) working capital, (b) acquisitions (including Permitted Investments) that are not prohibited by the terms of this Agreement and (c) standby letters of credit.

The applicable Lenders have indicated their willingness to lend, and each Issuing Bank has indicated its willingness to issue Letters of Credit, in each case on the terms and subject to the conditions set forth herein.

In consideration of the mutual covenants and agreements herein contained, the parties hereto covenant and agree as follows:

ARTICLE I

Definitions and Accounting Terms

SECTION 1.01 Defined Terms. As used in this Agreement, the following terms have the meanings set forth below:

“**Accounting Change**” has the meaning specified in the definition of “GAAP.”

“**Acquired Indebtedness**” means with respect to any Person (x) Indebtedness of any other Person or any of its Subsidiaries existing at the time such other Person becomes a Restricted Subsidiary or merges or amalgamates with or into or consolidates or otherwise combines with the Borrower or any Restricted Subsidiary and (y) Indebtedness secured by a Lien encumbering any asset acquired by such Person. Acquired Indebtedness shall be deemed to have been incurred, with respect to clause (x) of the preceding sentence, on the date such Person becomes a Restricted Subsidiary or on the date of the relevant merger, amalgamation, consolidation, acquisition or other combination.

“**Additional Lender**” means, at any time, any bank, other financial institution or institutional investor that, in any case, is not an existing Lender and that agrees to provide any portion of any Incremental Loan in accordance with Section 2.16; *provided* that each Additional Lender (other than any Person that is a Lender, an Affiliate of a Lender or an Approved Fund of a Lender at such time) shall be subject to the approval of the Administrative Agent and/or the Issuing Banks (such approval not to be unreasonably withheld, conditioned or delayed), in each case to the extent any such consent would be required from the Administrative Agent and/or the Issuing Banks under Section 11.07(b)(iii)(B) and/or (C), respectively, for an assignment of Loans to such Additional Lender.

“**Adjusted Term SOFR**” means the applicable Term SOFR, plus the Term SOFR Adjustment.

“**Administrative Agent**” has the meaning specified in the introductory paragraph to this Agreement.

“**Administrative Agent’s Office**” means the Administrative Agent’s address and, as appropriate, account as set forth on Schedule 11.02, or such other address or account as the Administrative Agent may from time to time notify the Borrower and the Lenders.

“**Administrative Questionnaire**” means an Administrative Questionnaire in a form supplied by the Administrative Agent.

“**Affected Financial Institution**” means (a) any EEA Financial Institution or (b) any UK Financial Institution.

“**Affiliate**” means, with respect to any Person, another Person that directly, or indirectly through one or more intermediaries, Controls or is Controlled by or is under common Control with the Person specified. “**Control**” means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise. “**Controlled**” has the meaning correlative thereto. For the avoidance of doubt, none of the Lead Arranger, the Agents or their respective lending affiliates shall be deemed to be an Affiliate of the Borrower or any of its Subsidiaries.

“**Affiliate Transaction**” has the meaning specified Section 6.18.

“**After-Acquired High Specification Vessels**” has the meaning specified in the definition of “Excluded Foreign Flag Vessel.”

“**Agency Fee Letter**” means the Agency Fee Letter, dated as of August 13, 2024 by and among the Borrower and DNB, as amended, restated, amended and restated, supplemented or otherwise modified from time to time in accordance with the terms thereof.

“**Agent Parties**” has the meaning specified in Section 11.02(e).

“**Agent-Related Persons**” means the Agents, together with their respective Affiliates, and the officers, directors, shareholders, employees, agents, attorney-in-fact, partners, trustees, advisors and other representatives of such Persons and of such Persons’ Affiliates.

“**Agents**” means, collectively, the Administrative Agent, the Collateral Agent, the Bookrunners, the Supplemental Administrative Agents (if any) and the Lead Arrangers.

“**Aggregate Commitments**” means the Commitments of all the Lenders.

“**Agreement**” means this Credit Agreement, as amended, restated, amended and restated, modified or supplemented from time to time in accordance with the terms hereof.

“**Agreement Currency**” has the meaning specified in [Section 2.21\(b\)](#).

“**Ancillary Fees**” has the meaning specified in [Section 11.01\(b\)\(ix\)](#).

“**Anti-Corruption Laws**” means all laws, rules, and regulations of any jurisdiction applicable to the Borrower or any of its Subsidiaries from time to time concerning or relating to bribery, or corruption, including, but not limited to, the U.S. Foreign Corrupt Practices Act of 1977, as amended, and the UK Bribery Act 2010.

“**Applicable Commitment Fee**” means a percentage *per annum* equal to 1.00%.

“**Applicable Creditor**” has the meaning specified in [Section 2.21\(b\)](#).

“**applicable decimal place**” has the meaning specified in [Section 1.04](#).

“**Applicable Indebtedness**” has the meaning specified in the definition of “Weighted Average Life to Maturity.”

“**Applicable Jurisdiction**” means the United States and any other jurisdiction approved by the Required Lenders of the applicable Class and the Administrative Agent, in each case, acting reasonably and in good faith.

“**Applicable Proceeds Threshold Amount**” has the meaning specified in [Section 7.05\(c\)](#).

“**Applicable Rate**” means, for any day, with respect to any Revolving Loans, SOFR Rate Loan or Base Rate Loan, as the case may be, the rate *per annum* set forth in the grid below, based upon the Total Net Leverage Ratio set forth below:

<i>Grid</i>			
Pricing Level	Total Net Leverage Ratio	SOFR Rate Margin	Base Rate Margin
1	≤ 0.50:1.00	2.75%	1.75%
2	≤ 1.50:1.00	3.00%	2.00%
3	≤ 2.00:1.00	3.25%	2.25%
4	≤ 2.50:1.00	3.50%	2.50%
5	> 2.50:1.00	3.75%	2.75%

Any increase or decrease in the Applicable Rate under the grid set forth above with respect to Base Rate Loans or SOFR Rate Loans, as the case may be, resulting from a change in the Total Net Leverage Ratio shall become effective as of the first Business Day immediately following the date a Compliance Certificate is delivered in respect of the preceding fiscal quarter pursuant to Section 6.02(b); *provided, however*, that if a Compliance Certificate is not delivered when due in accordance with Section 6.02(b), then Pricing Level 5 shall apply as of the first Business Day after the date on which such Compliance Certificate was required to have been delivered until such Compliance Certificate is delivered to the Administrative Agent. From the Closing Date until such time as a compliance certificate is delivered to the Administrative Agent in accordance with Section 6.02(b), the Applicable Rate shall be determined based on the Compliance Certificate delivered pursuant to Section 4.01(h).

Within one Business Day of receipt of the applicable information under Section 6.02(a), the Administrative Agent shall give each Lender electronic (including e-mail and Internet or intranet websites, including the Platform) notice of the Applicable Rate in effect from such date. In the event that any financial statement or certificate delivered pursuant to Section 6.02 is determined to be inaccurate (at a time prior to the satisfaction of the Termination Conditions), and such inaccuracy, if corrected, would have led to the application of a higher Applicable Rate for any period (an “**Applicable Rate Period**”) than the Applicable Rate applied for such Applicable Rate Period, then (a) the Borrower shall promptly (and in any event within five Business Days) following such determination deliver to the Administrative Agent correct financial statements and certificates required by Section 6.02 for such Applicable Rate Period, (b) the Applicable Rate for such Applicable Rate Period shall be determined as if the Total Net Leverage Ratio were determined based on the amounts set forth in such correct financial statements and certificates and (c) the Borrower shall promptly (and in any event within ten Business Days) following delivery of such corrected financial statements and certificates pay to the Administrative Agent the accrued additional interest owing as a result of such increased Applicable Rate for such Applicable Rate Period. Notwithstanding anything to the contrary set forth herein, the provisions of this paragraph (but not any of the other provisions of this definition preceding this paragraph) may be amended or waived with respect to any Class with the consent of only the Borrower and the Required Lenders of such Class.

“**Applicable Rate Period**” has the meaning specified in the definition of “Applicable Rate.”

“**Appropriate Lender**” means, at any time, with respect to Loans of any Class, the Lenders of such Class.

“**Approved Flag Jurisdiction**” means (x) the United States of America, Mexico, Brazil, Vanuatu, Marshall Islands, Guyana, Colombia, and (y) any other flag state constituting an internationally recognized open ship registry used by U.S. shipping companies (as determined in good faith by the Borrower) or other flag state instituting a cabotage regime, which in the Borrower’s or any Restricted Subsidiary’s good faith judgment is necessary or desirable in order to pursue customer opportunities in such non-U.S. jurisdictions, in each case under this clause (y) subject to the approval of the Administrative Agent, such approval not to be unreasonably withheld, conditioned or delayed.

“**Approved Fund**” means, with respect to any Lender, any Fund that is administered, advised or managed by (a) such Lender, (b) an Affiliate of such Lender or (c) an entity or an Affiliate of an entity that administers, advises or manages such Lender.

“**Assignment and Assumption**” means an Assignment and Assumption substantially in the form of Exhibit D or any other form (including electronic documentation generated by an electronic platform) approved by the Administrative Agent.

“**Associate**” means (i) any Person engaged in a Similar Business of which the Borrower or its Restricted Subsidiaries are the legal and beneficial owners of between 20% and 50% of all outstanding Voting Stock and (ii) any joint venture entered into by the Borrower or any Restricted Subsidiary.

“**Attorney Costs**” means all reasonable (so long as no Event of Default has occurred and is continuing) and documented in reasonable detail fees, expenses, charges and disbursements of any law firm or other external legal counsel.

“**Auto-Renewal Letter of Credit**” has the meaning specified in Section 2.04(b)(iii).

“**Available Amount**” has the meaning specified in Section 7.06(d)(v).

“**Available Tenor**” means, as of any date of determination and with respect to the then-current Benchmark, as applicable, any tenor for such Benchmark or payment period for interest calculated with reference to such Benchmark, as applicable, that is or may be used for determining the length of an Interest Period pursuant to this Agreement as of such date and not including, for the avoidance of doubt, any tenor for such Benchmark that is then-removed from the definition of “Interest Period” pursuant to Section 3.09(e).

“**Bail-In Action**” means the exercise of any Write-Down and Conversion Powers by the applicable Resolution Authority in respect of any liability of an Affected Financial Institution.

“**Bail-In Legislation**” means (a) with respect to any EEA Member Country implementing Article 55 of Directive 2014/59/EU of the European Parliament and of the Council of the European Union, the implementing law, regulation, rule or requirement for such EEA Member Country from time to time which is described in the EU Bail-In Legislation Schedule and (b) with respect to the United Kingdom, Part I of the United Kingdom Banking Act 2009 (as amended from time to time) and any other law, regulation or rule applicable in the United Kingdom relating to the resolution of unsound or failing banks, investment firms or other financial institutions or their Affiliates (other than through liquidation, administration or other insolvency proceedings).

“**Base Rate**” means for any day a fluctuating rate *per annum* equal to the highest of (a) the Federal Funds Rate plus 1/2 of 1%, (b) the Prime Rate, and (c) the SOFR on such day (or, if such day is not a Business Day, the immediately preceding Business Day) for an Interest Period of one month after giving effect to a “floor” of 0.00% *per annum* plus 1.00%; *provided* that, notwithstanding the foregoing, the “Base Rate” with respect to any Revolving Loans shall in no event be less than 0.00% *per annum*. If the Administrative Agent shall have determined (which determination shall be conclusive absent manifest error) that it is unable to ascertain the Federal Funds Rate or Adjusted Term SOFR for any reason, including the inability or failure of the Administrative Agent to obtain sufficient quotations in accordance with the terms of the definition of Federal Funds Rate, the Base Rate shall be determined without regard to clause (b) or (c) above, as applicable, until the circumstances giving rise to such inability no longer exist. Any change in the Base Rate due to a change in the Prime Rate, the Federal Funds Rate or Adjusted Term SOFR shall be effective from and including the effective day of such change in the Prime Rate, the Federal Funds Rate or Adjusted Term SOFR, respectively. If the Base Rate is being used as an alternate rate of interest pursuant to Section 3.09 (for the avoidance of doubt, only until an amendment to the applicable rate of interest has become effective in accordance with the terms of this Agreement), then the Base Rate shall be the greater of clauses (a) and (b) above and shall be determined without reference to clause (c) above.

“**Base Rate Loan**” means a Loan that bears interest based on the Base Rate.

“**Benchmark**” means, initially, in the case of Term SOFR Borrowings, Adjusted Term SOFR; *provided* that if a replacement of the Benchmark has occurred pursuant to Section 3.09(b), then “Benchmark” means the applicable Benchmark Replacement to the extent that such Benchmark Replacement has become effective pursuant to Section 3.09(b).

“**Benchmark Replacement**” means, for any Available Tenor, the first alternative set forth in the order below that can be determined by the Administrative Agent for the applicable Benchmark Replacement Date:

(1) the sum of (a) Adjusted Term SOFR and (b) the related Benchmark Replacement Adjustment;

(2) the sum of (a) Daily Simple SOFR and (b) the related Benchmark Replacement Adjustment;

(3) the sum of (a) the alternate benchmark rate that has been selected by the Administrative Agent and the Borrower as the replacement for the then-current Benchmark for the applicable Corresponding Tenor giving due consideration to (i) any selection or recommendation of a replacement benchmark rate or the mechanism for determining such a rate by the Relevant Governmental Body or (ii) any evolving or then-prevailing market convention for determining a benchmark rate as a replacement for the then-current Benchmark for syndicated credit facilities denominated in Dollars and (b) the related Benchmark Replacement Adjustment;

provided that, in the case of clause (1), such Unadjusted Benchmark Replacement is displayed on a screen or other information service that publishes such rate from time to time as selected by the Administrative Agent in its reasonable discretion; *provided, further*, that, notwithstanding anything to the contrary in this Agreement or in any other Loan Document, upon the occurrence of a Term SOFR Transition Event, and the delivery of a Term SOFR Notice, on the applicable Benchmark Replacement Date the “Benchmark Replacement” shall revert to and shall be deemed to be the sum of (a) Adjusted Term SOFR and (b) the related Benchmark Replacement Adjustment, as set forth in clause (1) of this definition (subject to the first proviso above).

“Benchmark Replacement Adjustment” means, with respect to any replacement of the then-current Benchmark with an Unadjusted Benchmark Replacement for any applicable Interest Period and Available Tenor for any setting of such Unadjusted Benchmark Replacement:

(1) for purposes of clauses (1) and (2) of the definition of “Benchmark Replacement,” the first alternative set forth in the order below that can be determined by the Administrative Agent:

(a) the spread adjustment, or method for calculating or determining such spread adjustment, (which may be a positive or negative value or zero) as of the Reference Time such Benchmark Replacement is first set for such Interest Period that has been selected or recommended by the Relevant Governmental Body for the replacement of such Benchmark with the applicable Unadjusted Benchmark Replacement for the applicable Corresponding Tenor;

(b) the spread adjustment (which may be a positive or negative value or zero) as of the Reference Time such Benchmark Replacement is first set for such Interest Period that would apply to the fallback rate for a derivative transaction referencing the ISDA Definitions to be effective upon an index cessation event with respect to such Benchmark for the applicable Corresponding Tenor; and

(2) for purposes of clause (3) of the definition of “Benchmark Replacement,” the spread adjustment, or method for calculating or determining such spread adjustment, (which may be a positive or negative value or zero) that has been selected by the Administrative Agent and the Borrower for the applicable Corresponding Tenor giving due consideration to (i) any selection or recommendation of a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of such Benchmark with the applicable Unadjusted Benchmark Replacement by the Relevant Governmental Body on the applicable Benchmark Replacement Date or (ii) any evolving or then-prevailing market convention for determining a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of such Benchmark with the applicable Unadjusted Benchmark Replacement for syndicated credit facilities denominated in Dollars;

provided that, in the case of clause (1) above, such adjustment is displayed on a screen or other information service that publishes such Benchmark Replacement Adjustment from time to time as selected by the Administrative Agent in its reasonable discretion.

“Benchmark Replacement Conforming Changes” means, with respect to any Benchmark Replacement, any technical, administrative or operational changes (including changes to the definition of “Base Rate,” the definition of “Business Day,” the definition of “Interest Period,” timing and frequency of determining rates and making payments of interest, timing of borrowing requests or prepayment, conversion or continuation notices, length of lookback periods, the applicability of breakage provisions, and other technical, administrative or operational matters) that the Administrative Agent reasonably decides in consultation with the Borrower may be appropriate to reflect the adoption and implementation of such Benchmark Replacement and to permit the administration thereof by the Administrative Agent in a manner substantially consistent with market practice (or, if the Administrative Agent reasonably decides that adoption of any portion of such market practice is not administratively feasible or if the Administrative Agent reasonably determines that no market practice for the administration of such Benchmark Replacement exists, in such other manner of administration as the Administrative Agent decides is reasonably necessary in connection with the administration of this Agreement and the other Loan Documents).

“Benchmark Replacement Date” means the earliest to occur of the following events with respect to the then-current Benchmark:

(1) in the case of clause (1) or (2) of the definition of “Benchmark Transition Event,” the later of (a) the date of the public statement or publication of information referenced therein and (b) the date on which the administrator of such Benchmark (or the published component used in the calculation thereof) permanently or indefinitely ceases to provide all Available Tenors of such Benchmark (or such component thereof);

(2) in the case of clause (3) of the definition of “Benchmark Transition Event,” the date of the public statement or publication of information referenced therein; or

(3) in the case of a Term SOFR Transition Event, the date that is thirty (30) days after the date a Term SOFR Notice is provided to the Lenders and the Borrower pursuant to this Section 3.09.

For the avoidance of doubt, (i) if the event giving rise to the Benchmark Replacement Date occurs on the same day as, but earlier than, the Reference Time in respect of any determination, the Benchmark Replacement Date will be deemed to have occurred prior to the Reference Time for such determination and (ii) the “Benchmark Replacement Date” will be deemed to have occurred in the case of clause (1) or (2) with respect to any Benchmark upon the occurrence of the applicable event or events set forth therein with respect to all then-current Available Tenors of such Benchmark (or the published component used in the calculation thereof).

“Benchmark Transition Event” means, with respect to any Benchmark, the occurrence of one or more of the following events with respect to the then-current Benchmark:

(1) a public statement or publication of information by or on behalf of the administrator of such Benchmark (or the published component used in the calculation thereof) announcing that such administrator has ceased or will cease to provide all Available Tenors of such Benchmark (or such component thereof), permanently or indefinitely; *provided* that, at the time of such statement or publication, there is no successor administrator that will continue to provide any Available Tenor of such Benchmark (or such component thereof);

(2) a public statement or publication of information by the regulatory supervisor for the administrator of such Benchmark (or the published component used in the calculation thereof), the Federal Reserve Board, the NYFRB, an insolvency official with jurisdiction over the administrator for such Benchmark (or such component), a resolution authority with jurisdiction over the administrator for such Benchmark (or such component) or a court or an entity with similar insolvency or resolution authority over the administrator for such Benchmark (or such component), in each case, which states that the administrator of such Benchmark (or such component) has ceased or will cease to provide all Available Tenors of such Benchmark (or such component thereof) permanently or indefinitely; *provided* that, at the time of such statement or publication, there is no successor administrator that will continue to provide any Available Tenor of such Benchmark (or such component thereof); or

(3) a public statement or publication of information by the regulatory supervisor for the administrator of such Benchmark (or the published component used in the calculation thereof) announcing that all Available Tenors of such Benchmark (or such component thereof) are no longer representative.

For the avoidance of doubt, a “Benchmark Transition Event” will be deemed to have occurred with respect to any Benchmark if a public statement or publication of information set forth above has occurred with respect to each then-current Available Tenor of such Benchmark (or the published component used in the calculation thereof).

“**Benchmark Unavailability Period**” means, with respect to any Benchmark, the period (if any) (x) beginning at the time that a Benchmark Replacement Date pursuant to clauses (1) or (2) of that definition has occurred if, at such time, no Benchmark Replacement has replaced the then-current Benchmark for all purposes hereunder and under any Loan Document in accordance with this Section 3.09 and (y) ending at the time that a Benchmark Replacement has replaced the then-current Benchmark for all purposes hereunder and under any Loan Document in accordance with this Section 3.09.

“**Beneficial Ownership Certification**” means a certification regarding beneficial ownership as required by the Beneficial Ownership Regulation.

“**Beneficial Ownership Regulation**” means 31 C.F.R. § 1010.230.

“**Benefit Plan**” means any of (a) an “employee benefit plan” (as defined in ERISA) that is subject to Title I of ERISA, (b) a “plan” as defined in and subject to Section 4975 of the Code or (c) any Person whose assets include (for purposes of ERISA Section 3(42) or otherwise for purposes of Title I of ERISA or Section 4975 of the Code) the assets of any such “employee benefit plan” or “plan.”

“**BHC Act Affiliate**” of a party means an “affiliate” (as such term is defined under, and interpreted in accordance with, 12 U.S.C. 1841(k)) of such party.

“**Blocked Account**” has the meaning assigned to such term in Section 6.11(c).

“**Blocking Event**” has the meaning assigned to such term in Section 9.01(e)(ii).

“**Board of Directors**” means, as to any Person, the board of directors, board of managers or other governing body of such Person, or if such Person is owned or managed by a single entity, the board of directors, board of managers or other governing body of such entity, and the term “directors” means members of the Board of Directors.

“**Bookrunners**” has the meaning specified in the introductory paragraph to this Agreement.

“**Borrower**” has the meaning specified in the introductory paragraph to this Agreement.

“**Borrower Materials**” has the meaning specified in Section 6.02.

“**Borrowing**” means a borrowing consisting of Loans of the same Class and Type made, converted or continued on the same date and, in the case of SOFR Rate Loans, having the same Interest Period.

“**Business Day**” means (i) any day that is not a Saturday, Sunday or other day on which commercial banks in New York City are authorized or required by law to remain closed and (ii) with respect to all notices, determinations, fundings and payments in connection with any SOFR Rate Loans, the term “Business Day” means any day which is a Business Day described in clause (i) and which is also a U.S. Government Securities Business Day.

“**Business Successor**” means (i) any former Subsidiary of the Borrower and (ii) any Person that, after the Closing Date, has acquired, merged or consolidated with a Subsidiary of the Borrower (that results in such Subsidiary ceasing to be a Subsidiary of the Borrower), or acquired (in one transaction or a series of transactions) all or substantially all of the property and assets or business of a Subsidiary or assets constituting a business unit, line of business or division of a Subsidiary of the Borrower.

“**Capitalized Lease Obligation**” means, at the time any determination thereof is to be made, the amount of the liability in respect of a Capitalized Lease that would at such time be required to be capitalized and reflected as a liability on a balance sheet (excluding the footnotes thereto) prepared in accordance with GAAP.

“**Capitalized Leases**” means all capital or finance leases that have been or are required to be, in accordance with GAAP as in effect on the Closing Date, recorded as capitalized leases; *provided* that for all purposes hereunder the amount of obligations under any Capitalized Lease shall be the amount thereof accounted for as a liability in accordance with GAAP as in effect on the Closing Date; *provided, further*, that all obligations of the Borrower and its Restricted Subsidiaries that are or would be characterized as an operating lease as determined in accordance with GAAP prior to the adoption of Accounting Standards Codification Topic 842, “Leases,” shall be accounted for as an operating lease (and not as a Capitalized Lease) for purposes of this Agreement regardless of any change in GAAP following the Closing Date (that would otherwise require such obligation to be recharacterized as a Capitalized Lease).

“**Captive Insurance Subsidiary**” means any Subsidiary of the Borrower that is subject to regulation as an insurance company (or any Subsidiary thereof).

“**Cash Collateral Account**” means an account held at (or through), and subject to the sole dominion and control of, the Administrative Agent.

“**Cash Collateralize**” means, in respect of an Obligation, to provide and pledge (as a first priority perfected security interest) cash collateral in Dollars, at a location and pursuant to documentation in form and substance satisfactory to Administrative Agent or an Issuing Bank, as applicable (and “**Cash Collateralization**” has a corresponding meaning). “**Cash Collateral**” shall have a meaning correlative to the foregoing and shall include the proceeds of such cash collateral and other credit support.

“**Cash Equivalents**” means any of the following types of Investments (including for the avoidance of doubt, cash), to the extent owned by the Borrower or any Restricted Subsidiary:

(a) Dollars;

(b) securities issued or directly and fully guaranteed or insured by the United States, government, a member of the European Union or, in each case any agency or instrumentality thereof the securities of which are guaranteed as a full faith and credit obligation of such government with maturities of one year or less from the date of acquisition;

(c) certificates of deposit, time deposits, eurodollar time deposits, overnight bank deposits, demand deposits or bankers’ acceptances with maturities of one year or less from the date of acquisition, in each case with a Lender or any other financial institution whose short-term unsecured debt rating is A or A2 or above as obtained from either S&P or Moody’s having capital and surplus of not less than \$250,000,000 (or the foreign currency equivalent thereof as of the date of such investment);

(d) repurchase obligations for underlying securities of the types described in clauses (c) and (d) above or clauses (g) and (h) below and securities with maturities of one year or less from the date of acquisition backed by standby letters of credit, in each case, entered into with any financial institution meeting the qualifications specified in clause (d) above;

(e) commercial paper and variable or fixed rate notes issued by any financial institution meeting the qualifications specified in clause (d) above (or by the parent company thereof) with maturities of one year or less from the date of creation;

(f) marketable short-term money market and similar highly liquid funds having a rating of at least P-2 or A-2 from Moody’s or S&P, respectively (or, if at any time neither Moody’s nor S&P shall be rating such obligations, an equivalent rating from another nationally recognized statistical rating agency);

(g) readily marketable direct obligations issued by and directly and fully guaranteed or insured by any state, commonwealth, province or territory of the United States or any political subdivision or taxing authority thereof, in each case rated at least A by S&P or A by Moody’s (or, if at any time neither Moody’s nor S&P shall be rating such obligations, an equivalent rating from another nationally recognized statistical rating agency) with maturities of 12 months or less from the date of acquisition; and

(h) Investments with average maturities of 12 months or less from the date of acquisition in money market funds rated AAA (or the equivalent thereof) or better by S&P or Aaa (or the equivalent thereof) or better by Moody's (or, if at any time neither Moody's nor S&P shall be rating such obligations, an equivalent rating from another nationally recognized statistical rating agency) and have portfolio assets of at least U.S.\$1,000,000,000.

In the case of Investments by any Foreign Subsidiary that is a Restricted Subsidiary or Investments made in a jurisdiction outside the United States of America, Cash Equivalents shall also include (i) investments of the type and maturity described in clauses (a) through (h) above in foreign obligors, which Investments or obligors (or the parents of such obligors) have ratings described in such clauses or equivalent ratings from comparable foreign rating agencies and (ii) other short-term investments in accordance with normal investment practices for cash management in investments analogous to the foregoing investments in clauses (a) through (h) above and in this paragraph. Notwithstanding the foregoing, Cash Equivalents shall include amounts denominated in Dollars, Canadian dollars, Australian dollars, pounds sterling, yen, euro, or any other national currency of any member state of the European Union; provided that (other than as set forth in clause (a) above) such amounts, except amounts used to pay obligations of the Borrower or any Restricted Subsidiary denominated in any currency other than Dollars in the ordinary course of business, are converted into Dollars as promptly as practicable and in any event within ten Business Days following the receipt of such amounts.

"Cash Management Bank" means any Person that is a Lender or Agent or an Affiliate of a Lender or Agent (a) on the Closing Date (with respect to any Cash Management Services entered into prior to the Closing Date), (b) at the time it initially provides any Cash Management Services to the Borrower or any Restricted Subsidiary, or (c) at the time that the Person to whom the Cash Management Services are provided is merged with the Borrower or becomes or is merged with a Restricted Subsidiary (with respect to any Cash Management Services entered into prior to the date of such merger or such Person becoming a Restricted Subsidiary), in each case whether or not such Person subsequently ceases to be a Lender or Agent or an Affiliate of a Lender or Agent.

"Cash Management Obligations" means obligations owed by the Borrower or any Restricted Subsidiary to any Cash Management Bank in respect of or in connection with any Cash Management Services and designated by the Cash Management Bank and the Borrower in writing to the Administrative Agent as "Cash Management Obligations."

"Cash Management Services" means any agreement or arrangement to provide cash management services, including treasury, depository, overdraft, credit card processing, credit or debit card, purchase card, electronic funds transfer and other cash management arrangements.

"Casualty Event" means any event that gives rise to the receipt by a Loan Party of any insurance proceeds or condemnation awards in respect of any equipment, fixed assets or real property (including any improvements thereon) to replace or repair such equipment, fixed assets or real property.

“Change in Law” means the occurrence, after the date of this Agreement, of any of the following:

(a) the adoption or taking effect of any law, rule, regulation or treaty (excluding the taking effect after the date of this Agreement of a law, rule, regulation or treaty adopted prior to the date of this Agreement),

(b) any change in any law, rule, regulation or treaty or in the administration, interpretation or application thereof by any Governmental Authority or (c) the making or issuance of any request, guideline or directive (whether or not having the force of law) by any Governmental Authority. It is understood and agreed that (i) the Dodd-Frank Wall Street Reform and Consumer Protection Act (Pub. L. 111-203, H.R. 4173), all Laws relating thereto, all interpretations and applications thereof and any compliance by a Lender with any and all requests, rules, guidelines, requirements and directives thereunder or issued in connection therewith or in implementation thereof or relating thereto and (ii) all requests, rules, guidelines, requirements or directives issued by any United States or foreign regulatory authority in connection with the implementation of the recommendations of the Bank for International Settlements or the Basel Committee on Banking Regulations and Supervisory Practices (or any successor or similar authority) in each case pursuant to Basel III, shall, for the purposes of this Agreement, be deemed to be adopted subsequent to the date hereof and a Change in Law regardless of the date enacted, adopted, issued, promulgated or implemented.

“Change of Control” means the earliest to occur of:

(a) (i) at any time while the Voting Stock of the Borrower (or any Parent Entity) is publicly traded, the Borrower (or such Parent Entity) becomes aware of (by way of a report or any other filing pursuant to Section 13(d) of the Exchange Act, proxy, vote, written notice or otherwise) or (ii) at any other time, any “person” or “group” (as each term is used in Sections 13(d) and 14(d) of the Exchange Act as in effect on the Closing Date), other than one or more Permitted Holders or any Parent Entity, that is or becomes the “beneficial owner” (as defined in Rules 13d-3 and 13d-5 of the Exchange Act as in effect on the Closing Date) of more than 50% of the total voting power of the Voting Stock of the Borrower (or any Parent Entity); *provided* that (x) so long as the Borrower is a Subsidiary of any Parent Entity, no person shall be deemed to be or become a beneficial owner of more than 50% of the total voting power of the Voting Stock of the Borrower unless such person shall be or become a beneficial owner of more than 50% of the total voting power of the Voting Stock of such Parent Entity (other than a Parent Entity that is a Subsidiary of another Parent Entity) and (y) any Voting Stock of which any Permitted Holder is the beneficial owner shall not in any case be included in any Voting Stock of which any such person is the beneficial owner; *provided, further*, notwithstanding the foregoing or the other provisions of this Agreement, so long as the change in total voting power of the Voting Stock of the Borrower (or any Parent Entity) as set forth in this clause (a) is a result of the Sponsors ceasing to hold their Equity Interests in connection with any Qualifying IPO or any other Equity Offering after any Qualifying IPO (including, for the avoidance of doubt, any block trades and/or secondary offering), no “Change of Control” shall occur; or

(b) the sale or transfer, in one or a series of related transactions, of all or substantially all of the assets of the Borrower and its Restricted Subsidiaries, taken as a whole, to a Person (other than the Borrower or any of its Restricted Subsidiaries or one or more Permitted Holders) and any “person” or “group” (each, as defined in clause (a) above), other than one or more Permitted Holders or any Parent Entity, is or becomes the “beneficial owner” (as so defined) of more than 50% of the total voting power of the Voting Stock of the transferee Person in such sale or transfer of assets, as the case may be; *provided that* (x) so long as the Borrower is a Subsidiary of any Parent Entity, no person shall be deemed to be or become a beneficial owner of more than 50% of the total voting power of the Voting Stock of the Borrower unless such person shall be or become a beneficial owner of more than 50% of the total voting power of the Voting Stock of such Parent Entity (other than a Parent Entity that is a Subsidiary of another Parent Entity) and (y) any Voting Stock of which any Permitted Holder is the beneficial owner shall not in any case be included in any Voting Stock of which any such person is the beneficial owner;

Notwithstanding the preceding or any provision of Section 13d-3 of the Exchange Act, (i) a Person or group shall not be deemed to beneficially own Voting Stock subject to a stock or asset purchase agreement, merger agreement, option agreement, warrant agreement or similar agreement (or voting or option or similar agreement related thereto) until the consummation of the acquisition of the Voting Stock in connection with the transactions contemplated by such agreement, (ii) if any group includes one or more Permitted Holders, the issued and outstanding Voting Stock of the Borrower owned, directly or indirectly, by any Permitted Holders that are part of such group shall not be treated as being beneficially owned by such group or any other member of such group for purposes of determining whether a Change of Control has occurred, (iii) a Person or group will not be deemed to beneficially own the Voting Stock of another Person as a result of its ownership of Voting Stock or other securities of such other Person’s parent entity (or related contractual rights) unless it owns 50% or more of the total voting power of the Voting Stock entitled to vote for the election of directors of such parent entity having a majority of the aggregate votes on the board of directors (or similar body) of such parent entity, (iv) the right to acquire Voting Stock (so long as such Person does not have the right to direct the voting of the Voting Stock subject to such right) or any veto power in connection with the acquisition or disposition of Voting Stock will not cause a party to be a beneficial owner, (v) for purposes of this definition, a time charter of, bareboat charter or other contract for, vessels to customers in the ordinary course of business shall not be deemed a sale or transfer of assets under clause (a) above and (vi) a Change of Control shall not occur as a result of any Reorganization Transactions and any transactions relating thereto.

“**Class**” when used in reference to,

(a) any Loan or Borrowing, refers to whether such Loan, or the Loans comprising such Borrowing, are Revolving Loans, Incremental Loans, Refinancing Loans or Extended Loans,

(b) any Commitment, refers to whether such Commitment is a Commitment in respect of Revolving Loans, Refinancing Commitment (and, in the case of a Refinancing Commitment, the Class of Loans to which such commitment relates) or a Commitment in respect of a Class of Loans to be made pursuant to an Incremental Amendment or an Extension Amendment, and

- (c) any Lender, refers to whether such Lender has a Loan or Commitment with respect to a particular Class of Loans or Commitments. Refinancing Commitments and Refinancing Loans that have different terms and conditions shall be construed to be in different Classes.

“**Closing Date**” means August 13, 2024.

“**Closing Date Consolidated Net Tangible Assets**” means \$818,331,499.

“**Closing Date Total Net Leverage Ratio**” means 1.67 to 1.00.

“**Code**” means the U.S. Internal Revenue Code of 1986, as amended from time to time.

“**Collateral**” means all the “Collateral” (or equivalent term) as defined in any Collateral Document (including the Vessel Collateral), and all other property that is subject or purported to be subject to any Lien in favor of the Collateral Agent for the benefit of the Secured Parties pursuant to any Collateral Document, but in any event excluding all Excluded Assets.

“**Collateral Agent**” means, initially, Wilmington Trust, National Association, as collateral agent under the Loan Documents, and any successor thereto.

“**Collateral Agency Fee Letter**” means the Fee Letter, dated as of August 13, 2024, by and among the Borrower and the Collateral Agent, as amended, restated, amended and restated, supplemented or otherwise modified from time to time in accordance with the terms thereof.

“**Collateral Agreement**” means the First Lien Guaranty and Collateral Agreement executed by the Loan Parties party thereto, substantially in the form of Exhibit F, together with each Collateral Agreement Supplement thereto executed and delivered pursuant to Section 6.11.

“**Collateral Agreement Supplement**” has the meaning specified in the Collateral Agreement.

“**Collateral Coverage Ratio**” means as of any date of determination, the ratio of (a) Collateral Value Amount to (b) Consolidated First and Second Lien Debt, in each case, as of such date of determination.

“**Collateral Documents**” means, collectively, the Collateral Agreement, the Collateral Trust Agreement (if any), the Vessel Mortgage, the Mortgages (if any), each of the collateral assignments, Collateral Agreement Supplements, security agreements, pledge agreements, account control agreements (if any) or other similar agreements delivered to the Agents and the Lenders pursuant to Sections 4.01(a)(iii), 6.11, 6.12 or 6.15, and each of the other agreements, instruments or documents that creates or purports to create a Lien in favor of the Collateral Agent for the benefit of the Secured Parties.

“Collateral Trust Agreement” means the Collateral Trust Agreement substantially in the form attached hereto as Exhibit L (as the same may be modified in a manner satisfactory to the Administrative Agent, the Collateral Agent, the Required Lenders and the Borrower), or, if requested by the providers of other secured Indebtedness permitted hereunder, another collateral trust arrangement reasonably satisfactory to the Administrative Agent, the Collateral Trustee, the Required Lenders and the Borrower, in each case as amended, restated, amended and restated, modified or supplemented from time to time in accordance with the terms hereof and thereof. Upon the request of the Borrower, the Administrative Agent and the Collateral Trustee will execute and deliver a Collateral Trust Agreement (or a joinder or supplement to an existing Collateral Trust Agreement) with one or more Debt Representatives for Indebtedness permitted hereunder; *provided* that the Borrower shall not make such request unless such Indebtedness and related Liens are permitted by (including with respect to priority) the Loan Documents; *provided, further*; that any amendments or modifications to the Loan Documents to reflect a Collateral Trust Agreement structure (including replacing references to the Collateral Agent with references to the Collateral Trustee and modifying the Collateral Documents so that such Collateral Documents secure all Indebtedness subject to the Collateral Trust Agreement) shall require the consent of the Administrative Agent (such consent not to be unreasonably withheld, conditioned or delayed).

“Collateral Trustee” means the Collateral Agent under the Loan Documents in their role as collateral trustee under any Collateral Trust Agreement, as applicable, together with any successors thereto.

“Collateral Value Amount” means an amount equal to the sum of (a) the Vessel Collateral Value Amount as determined on or about the applicable Measurement Date (but, in any case, no earlier than thirty (30) days prior to the applicable Measurement Date and no later than five days after the Measurement Date), *plus* (b) cash Collateral provided in favor of the Secured Parties in a blocked account (which, at the option of the Borrower, may be an interest-bearing blocked account with interest bearing at market rates) prior to the applicable Measurement Date.

“Commitment” means the commitment of a Lender to make or otherwise fund any Revolving Loan and to acquire participations in Letters of Credit hereunder and “Commitments” means such commitments of all Lenders in the aggregate. The amount of each Lender’s Commitment, if any, is set forth on Schedule 2.01 under the caption “Commitment” or in the applicable Assignment and Assumption, subject to any increase, adjustment or reduction pursuant to the terms and conditions hereof including Section 2.16. The aggregate amount of the Commitments as of the Closing Date is \$75,000,000.

“Commitment Period” means the period from the Closing Date to but excluding the Commitment Termination Date.

“Commitment Termination Date” means the earliest to occur of (a) one day prior to the Maturity Date, (b) the date the Commitments, including Commitments in respect of Letters of Credit, are permanently reduced to zero pursuant to Section 2.08, and (c) the date of the termination of the Commitments pursuant to Section 9.02.

“**Committed Loan Notice**” means a written notice of a Borrowing pursuant to Article II, which shall be substantially in the form of Exhibit A-1 or such other form as the Administrative Agent may reasonably agree.

“**Commodity Exchange Act**” means the Commodity Exchange Act (7 U.S.C. § 1 et seq.), as amended from time to time, and any successor statute.

“**Compliance Certificate**” means a certificate substantially in the form of Exhibit C.

“**Connection Income Taxes**” means Other Connection Taxes that are imposed on or measured by net income (however denominated) or capital or that are franchise Taxes or branch profits Taxes.

“**Consolidated Adjusted EBITDA**” means, with respect to any Person for any Test Period, the Consolidated Net Income of such Person for such Test Period:

(1) increased (without duplication) by:

(a) to the extent deducted (and not added back) in computing Consolidated Net Income, Consolidated Interest Expense of such Person for such period (including (x) net payments and losses or any obligations on any Swap Obligations or other derivative instruments, (y) bank, letter of credit and other financing fees and (z) costs of surety bonds in connection with financing activities, plus amounts excluded from the definition of “Consolidated Interest Expense”); *plus*

(b) to the extent deducted (and not added back) in computing Consolidated Net Income, (x) provision for Taxes based on gross receipts, income, profits, revenue or capital, including federal, foreign, state, provincial, territorial, local, unitary, excise, property, franchise, value added and similar Taxes (such as Delaware franchise Tax, Pennsylvania capital Tax and Texas margin Tax) and withholding Taxes (including any future Taxes or other levies which replace or are intended to be in lieu of such Taxes and any penalties, additions to Tax, and interest related to such Taxes or arising from Tax examinations) and similar Taxes of such Person paid or accrued during such period (including in respect of repatriated funds), (y) any distributions made to a Parent Entity or other direct or indirect holder of Equity Interests in the Borrower in respect of any such Taxes attributable to such Parent Entity or holder or pursuant to a Tax sharing arrangement or as a result of a Tax distribution or repatriated funds and (z) the net Tax expense associated with any adjustments made pursuant to the definition of “Consolidated Net Income”; *plus*

(c) to the extent deducted (and not added back) in computing Consolidated Net Income, consolidated depreciation and amortization expense (as determined by the Borrower in accordance with GAAP) of such Person for such period; *plus*

(d) to the extent deducted (and not added back) in computing Consolidated Net Income, any fees, costs, expenses or charges (other than consolidated depreciation and amortization expense (as determined by the Borrower in accordance with GAAP)) related to any actual, proposed or contemplated Equity Offering (including any expense relating to enhanced accounting functions or other transaction costs associated with becoming a public company, including Public Company Costs), Permitted Investment, Restricted Payment, acquisition, disposition or other transaction outside the ordinary course of business (whether or not successful or completed and including any such transaction consummated prior to the Closing Date), including (i) such fees, expenses or charges (including rating agency fees, consulting fees and other related expenses and/or letter of credit or similar fees) related to the offering or incurrence of, or ongoing administration of this Agreement, the Second Lien Credit Agreement, any other credit facilities or debt instruments and any Securitization Fees, and (ii) any amendment, waiver or other modification of this Agreement, the Second Lien Credit Agreement, any Receivables Facilities, Securitization Facilities, any other credit facilities or debt instruments, any Securitization Fees, any other Indebtedness or any Equity Offering, in each case, whether or not consummated; provided, that the amount of adjustments made for cash items pursuant to sub-clauses (d), (e), (g), (h), and (i) of this clause (1) in any period shall not exceed 30% of the aggregate amount of Consolidated Adjusted EBITDA for such period (calculated prior to giving effect to such capped amount under such clauses); *plus*

(e) (i) the amount of any restructuring charge, accrual, reserve (and adjustments to existing reserves) or expense, integration cost, inventory optimization programs or other business optimization, realignment or restructuring expense or cost (including charges directly related to the implementation of cost-savings initiatives and Tax restructurings) that is deducted (and not otherwise added back) in such period in computing Consolidated Net Income, including any costs incurred in connection with acquisitions or divestitures after the Closing Date, and (ii) fees, costs and expenses associated with litigation and settlement thereof; provided, that the amount of adjustments for cash items made pursuant to sub-clauses (d), (e), (g), (h), and (i) of this clause (1) in any period shall not exceed 30% of the aggregate amount of Consolidated Adjusted EBITDA for such period (calculated prior to giving effect to such capped amount under such clauses); *plus*

(f) any other non-cash charges, write-downs, expenses, losses or items reducing Consolidated Net Income for such period including, without limitation, (i) any write-offs or write-downs, deferred revenue or impairment charges, (ii) impairment charges, amortization (or write offs) of financing costs (including debt discount, early extinguishments, debt issuance costs and commissions and other fees associated with Indebtedness, including Indebtedness under this Agreement) of such Person and its Subsidiaries and/or (iii) the impact of acquisition method accounting adjustment and any non-cash write-up, write-down or write-off with respect to re-valuing assets and liabilities in connection with any Investment, deferred revenue or any effects of adjustments resulting from the application of purchase accounting, purchase price accounting (including any step-up in inventory and loss of profit on the acquired inventory) (excluding non-cash losses on the sale of assets) (provided that if any such non-cash charge, write-down, expense, loss or item represents an accrual or reserve for potential cash items in any future period, (A) the Borrower may elect not to add back such non-cash charge, expense or loss in the current period and (B) to the extent the Borrower elects to add back such non-cash charge, the cash payment in respect thereof in such future period shall be subtracted from Consolidated Adjusted EBITDA when paid), or other items classified by the Borrower as special items less other non-cash items of income increasing Consolidated Net Income (excluding any amortization of a prepaid cash item that was paid in a prior period or such non-cash item of income to the extent it represents a receipt of cash in any future period and excluding non-cash gains on the sale of assets); *plus*

(g) the amount of readily identifiable and factually supportable pro forma “run rate” cost savings (including cost savings with respect to salary, benefit and other direct savings resulting from workforce reductions and facility, benefit and insurance savings and any savings expected to result from the reduction of Public Company Costs), operating expense reductions, other operating improvements (it is understood and agreed that “run rate” means the full recurring benefit for a period that is associated with any action taken, committed to be taken or expected to be taken, net of the amount of actual benefits realized during such period from such actions) projected by the Borrower in good faith to result from actions taken or expected to be taken within 24 months of the date thereof (including from any actions taken in whole or in part prior to such date), which will be added to Consolidated Adjusted EBITDA as so projected until fully realized and calculated on a pro forma basis as though such cost savings (including cost savings with respect to salary, benefit and other direct savings resulting from workforce reductions and facility, benefit and insurance savings and any savings expected to result from the reduction of Public Company Costs), operating expense reductions, other operating improvements and initiatives and synergies had been realized on the first day of such period, net of the amount of actual benefits realized prior to or during such period from such actions (it being understood that the foregoing amounts or adjustments need not be made in compliance with Regulation S-X or other securities laws or regulations); *provided*, that the amount of adjustments for cash items made pursuant to sub-clauses (d), (e), (g), (h), and (i) of this clause (1) in any period shall not exceed 30% of the aggregate amount of Consolidated Adjusted EBITDA for such period (calculated prior to giving effect to such capped amount under such clauses); *plus*

(h) to the extent deducted (and not added back) in computing Consolidated Net Income, any costs or expenses incurred by the Borrower or a Restricted Subsidiary or a Parent Entity pursuant to any management equity plan, stock option plan, phantom equity plan, profits interests or any other management, employee benefit or other compensatory plan or agreement (and any successor plans or arrangements thereto), employment, termination or severance agreement, or any stock subscription or equityholder agreement, and any costs or expenses in connection with the roll-over, acceleration or payout of Equity Interests held by management, to the extent that such costs or expenses are non-cash or otherwise funded with cash proceeds contributed to the capital of the Borrower or net cash proceeds of an issuance of Equity Interests (other than Disqualified Equity Interests) of the Borrower; *provided*, that the amount of adjustments for cash items made pursuant to sub-clauses (d), (e), (g), (h), and (i) of this clause (1) in any period shall not exceed 30% of the aggregate amount of Consolidated Adjusted EBITDA for such period (calculated prior to giving effect to such capped amount under such clauses); *plus*

(i) (i) unrealized or realized foreign exchange losses resulting from the impact of foreign currency changes and (ii) gains and losses due to fluctuations in currency values and related Tax effects determined in accordance with GAAP, provided, that the amount of adjustments for cash items made pursuant to sub-clauses (d), (e), (g), (h), and (i) of this clause (1) in any period shall not exceed 30% of the aggregate amount of Consolidated Adjusted EBITDA for such period (calculated prior to giving effect to such capped amount under such clauses); *plus*

(j) the amount of any non-cash costs, charges or expenses relating to payments made to stock appreciation or similar rights, stock option, restricted stock, phantom equity, profits interests or other interests or rights holders of the Borrower or any of its Subsidiaries or any Parent Entity in connection with, or as a result of, any distribution being made to equityholders of such Person or any of its Subsidiaries or any Parent Entities, which payments are being made to compensate such holders as though they were equityholders at the time of, and entitled to share in, such distribution; *plus*

(k) any recovery of the Borrower or any of its Restricted Subsidiaries on account of any litigation, arbitration or bona fide dispute (whether determined through settlement, arbitration, judicial adjudication or otherwise) and any recovery of the Borrower or any of its Restricted Subsidiaries arising under or in respect of surety or similar arrangements to the extent such amounts were actually received and deducted (and not added back) in computing Consolidated Net Income; *plus*

(l) any mark-to-market fair value adjustment to liability-classified warrants and any other similar liability-classified adjustments in respect of any warrants, options and similar arrangements in respect of Equity Interests of the Borrower, any Parent Entity or any of their Subsidiaries to the extent deducted (and not added back) in computing Consolidated Net Income; *plus*

(m) any other non-cash adjustments to Consolidated Net Income included by the Borrower in calculating Consolidated Adjusted EBITDA for such period of a type reported in any public filing with the SEC, in each case, on a consolidated basis and consistent with applicable SEC guidelines regarding non-GAAP financial measures,

(2) decreased (without duplication) to the extent added back in or otherwise increasing Consolidated Net Income for such period, by non-cash items of such Person for such period, excluding any non-cash items to the extent they represent the reversal of an accrual or reserve for a potential cash item that reduced Consolidated Adjusted EBITDA in any prior period (other than non-cash gains relating to the application of Accounting Standards Codification Topic 842—Leases (or any successor provision or other financial accounting standard having a similar result or effect)).

In addition, “Consolidated Adjusted EBITDA” shall be calculated on a pro forma basis with such pro forma adjustments as are appropriate and consistent with the pro forma provisions set forth in the definition of “Fixed Charge Coverage Ratio” and Section 1.08 and to also give effect to (i) any acquisition of a Vessel (whether by out-right purchase thereof or by virtue of a merger of a company that is not the Borrower or a Restricted Subsidiary into the Borrower or a Restricted Subsidiary or acquisition by the Borrower or a Restricted Subsidiary of any other company that is not the Borrower or a Restricted Subsidiary (which acquisitions or mergers are not otherwise prohibited by this Agreement)), (ii) any acquisition or delivery of a newly constructed or converted Vessel of the Borrower or a Restricted Subsidiary (whether constructed or converted directly for the Borrower or a Restricted Subsidiary or constructed or converted for a third party and acquired by the Borrower or a Restricted Subsidiary within twelve (12) months after its delivery), or (iii) any reactivated Vessel that has been a Stacked Vessel for more than twelve months (including prior to the time of acquisition by the Borrower or any Restricted Subsidiary) (Vessels of the type described in clauses (i)–(iii), the “**Specified Vessels**”) (including, but not limited to, offshore supply vessels, offshore service vessels, multi-purpose support vessels, service operation vessels, commissioning service operation vessels, other offshore wind-related vessels, construction support offshore vessels, flotels, other specialty vessels, other construction vessels, crewboats, fast supply vessels, anchor handling and towing supply vessels, tankers, tugs and tank barges) usable in the normal course of business of the Borrower or any of its Restricted Subsidiaries, that is (or are) subject to a Qualified Services Contract.

For purposes of this paragraph, the amount of Consolidated Adjusted EBITDA attributable to such Specified Vessel (or Specified Vessels) shall be factually supportable and calculated in good faith by a responsible financial or accounting officer of the Borrower, and shall include in the calculation of the Consolidated Adjusted EBITDA the revenues to be earned pursuant to the Qualified Services Contract relating to such Specified Vessel (or Specified Vessels), taking into account, where applicable, only contractual minimum amounts (and not, for the avoidance of doubt, on an annualized or other extended basis in excess of the minimum contractual length), and the estimated expenses related thereto. Such estimated expenses shall be based on the expenses previously incurred by any reactivated Stacked Vessel or, in the case of a new Specified Vessel (or Specified Vessels), the expenses of the most nearly comparable vessel in the Borrower’s fleet or, if no such comparable vessel exists, then on the industry average for expenses of comparable vessels; provided, *however*, in determining the estimated expenses attributable to such new Specified Vessel (or Specified Vessels), the calculation shall give effect to the interest expense attributable to the incurrence, assumption or guarantee of any Indebtedness relating to the construction, delivery, acquisition or reactivation of such new Specified Vessel (or Specified Vessels). Notwithstanding the foregoing, in any calculation of Consolidated Adjusted EBITDA based on this paragraph, the pro forma inclusion of Consolidated Adjusted EBITDA attributable to such Qualified Services Contract for the applicable period shall be reduced by the actual Consolidated Adjusted EBITDA from such new Specified Vessel (or Specified Vessels) previously earned and accounted for in the actual results for the applicable period. Any such adjustments pursuant to this paragraph shall be (x) reasonably acceptable to the Required Lenders (and deemed acceptable unless the Required Lenders, through the Administrative Agent, notify that the Borrower that such adjustments are not reasonable), (y) supported by delivery of an abstract of the relevant Qualified Services Contract, and (z) in the case of Qualified Services Contracts for Specified Vessels which are reactivated, off-set by any amounts included in Consolidated Adjusted EBITDA in respect of any Vessel taken off-contract which such Specified Vessel is replacing.

To the extent that trailing actual Consolidated Adjusted EBITDA is not available for a newly acquired Specified Vessel, when determining Consolidated Adjusted EBITDA for such Specified Vessel, the pro forma calculation for such Specified Vessel will be based on the reasonably anticipated actual number of days of employment for such Specified Vessel for the year after acquisition and other reference data provided by the chief financial officer of the Parent Entity acting in good faith to the reasonable satisfaction of the Administrative Agent, which may include revenues to be earned pursuant to any Qualified Service Contract in accordance with the preceding paragraph.

All references to “Restricted Subsidiary” in this definition may apply equally to any existing, any newly created or any newly acquired Restricted Subsidiaries.

The adjustments described in the foregoing five paragraphs shall be referred to herein as a “**QSC Adjustment**”.

“**Consolidated First and Second Lien Debt**” means, as of any date of determination, the amount of Consolidated Total Debt outstanding under the Facility and outstanding under any other Indebtedness (other than Intercompany Indebtedness) that is First Lien Debt or “second lien” Junior Lien Debt.

“**Consolidated Interest Expense**” means, with respect to any Person for any period, the sum, without duplication, of (a) the consolidated interest expense of such Person and its Restricted Subsidiaries for such period, whether paid or accrued (including, without limitation, amortization of original issue discount, the interest component of any deferred payment obligations, the interest component of all payments associated with Capitalized Lease Obligations, commissions, discounts and other fees and charges incurred in respect of letter of credit or bankers’ acceptance financings, and net payments (if any) pursuant to Swap Obligations but excluding (i) amortization of debt issuance costs and (ii) any nonrecurring charges relating to any premium or penalty paid, write off of deferred finance costs or original issue discount or other charges in connection with redeeming or otherwise retiring any Indebtedness prior to its maturity date, to the extent that any of such nonrecurring charges constitute interest expense) and (b) the consolidated interest expense of such Person and its Restricted Subsidiaries that was capitalized during such period; provided that Consolidated Interest Expense shall exclude any interest that is paid-in-kind or is imputed non-cash interest expense in accordance with GAAP.

But excluding solely for purposes of determining “Fixed Charges”, for the avoidance of doubt, (i) amortization of deferred financing costs, debt issuance costs, commissions, fees and expenses and any other amounts of non-cash interest other than referred to in clause (b) above (including as a result of the effects of acquisition method accounting or pushdown accounting), (ii) non-cash interest expense attributable to the movement of the mark-to-market valuation of obligations under hedging agreements or other derivative instruments pursuant to FASB Accounting Standards Codification No. 815-Derivatives and Hedging, (iii) any one-time cash costs associated with breakage in respect of Hedge Agreements, (iv) commissions, discounts, yield, make whole premium and other fees and charges (including any interest expense) incurred in connection with any permitted receivables financing, (v) any “additional interest” owing pursuant to a registration rights agreement with respect to any securities, (vi) any payments with respect to make-whole premiums or other breakage costs of any Indebtedness, including any Indebtedness issued in connection with the Transactions, (vii) penalties and interest relating to taxes, (viii) accretion or accrual of discounted liabilities not constituting Indebtedness, (ix) interest expense attributable to a direct or indirect Parent Entity resulting from push-down accounting, (x) any expense resulting from the discounting of Indebtedness in connection with the application of recapitalization or purchase accounting, (xi) any interest expense attributable to the exercise of appraisal rights and the settlement of any claims or actions (whether actual, contingent or potential) with respect thereto and with respect to any acquisition or Investment permitted hereunder, all as calculated on a consolidated basis in accordance with GAAP and (xii) annual agency fees paid to any trustees, administrative agents, collateral trustees, and collateral agents with respect to any secured or unsecured loans, debt facilities, debentures, bonds, commercial paper facilities or other forms of Indebtedness (including any security or intercreditor arrangements related thereto). For the avoidance of doubt, interest expense shall be determined after giving effect to any net payments made or received by the Borrower and the Restricted Subsidiaries in respect of Hedge Agreements relating to interest rate protection.

“**Consolidated Net Debt**” means, as of any date of determination, (a) Consolidated Total Debt minus (b) the aggregate amount of cash and Cash Equivalents of the Borrower and the Restricted Subsidiaries as of such date that is not Restricted in an amount not to exceed \$25,000,000.

“**Consolidated Net Income**” means, with respect to any Person for any period, the consolidated net income (or loss) of such Person and its Restricted Subsidiaries, determined in accordance with GAAP and before any reduction in respect of preferred stock dividends, *provided that*:

(1) Net Income (but not loss) of any Person that is not a Restricted Subsidiary or that is accounted for by the equity method of accounting shall be included only to the extent of the amount of dividends or distributions paid in cash to the referent Person or a Restricted Subsidiary thereof,

(2) except to the extent of the amount of dividends or distributions paid to Restricted Subsidiaries which are Guarantors, the Net Income of any Restricted Subsidiary which is not a Guarantor shall be excluded to the extent that the declaration or payment of dividends or similar distributions by that Restricted Subsidiary of that Net Income is not at the date of determination permitted without any prior governmental approval (that has not been obtained) or, directly or indirectly, by operation of the terms of its charter or any agreement, instrument, judgment, decree, order, statute, rule or governmental regulation applicable to that Restricted Subsidiary or its stockholders,

(3) unrealized losses and gains under derivative instruments included in the determination of Consolidated Net Income, including, without limitation those resulting from the application of FASB ASC Topic No. 815, Derivatives and Hedging, shall be excluded,

(4) the cumulative effect of a change in accounting principles shall be excluded,

(5) any income (loss) from the extinguishment, conversion, modification or cancellation of Indebtedness, Swap Obligations or other derivative instruments (including deferred financing costs written off, premiums paid or other expenses incurred) shall be excluded,

(6) any unrealized or realized gain or loss resulting in such period from currency translation increases or decreases or transaction gains or losses and any other realized or unrealized foreign exchange gains or losses relating to the translation of assets and liabilities denominated in foreign currencies shall be excluded;

(7) (i) any impairment charge, write-off or write-down, including impairment charges, write-offs or write-downs related to intangible assets, long-lived assets, goodwill, investments in debt or equity securities (including any losses with respect to the foregoing in bankruptcy, insolvency or similar proceedings) and investments recorded using the equity method or as a result of a change in law or regulation and the amortization of intangibles arising pursuant to GAAP and (ii) gains, losses or charges arising from Accounting Standards Codification Topic 820—Fair Value Measurements and Disclosures shall be excluded, and

(8) any extraordinary, non-recurring, unusual or infrequent items shall be excluded (other than any gains or losses from dispositions of property or assets in the ordinary course of business (it being acknowledged and agreed that sales of Vessels permitted under Section 7.05 of this Agreement are in the ordinary course of business)).

In addition, notwithstanding the preceding, (a) there shall be excluded from Consolidated Net Income any nonrecurring charges relating to any premium or penalty paid, write off of deferred finance costs or original issue discount or other charges in connection with redeeming or otherwise retiring any Indebtedness prior to its stated maturity and (b) to the extent not already excluded (or included, as applicable) in the Consolidated Net Income of such Person and its Restricted Subsidiaries, notwithstanding anything to the contrary in the foregoing, Consolidated Net Income shall be increased by the amount of: (i) any expenses, charges or losses that are reimbursed by indemnification or other reimbursement provisions in connection with any investment or any sale, conveyance, transfer or other disposition of assets permitted hereunder, or, so long as the Borrower has made a determination that there exists reasonable evidence that such amount will in fact be reimbursed within 365 days of the date of such evidence (including that such counterparty has not denied reimbursement or indemnification) (net of any amount so added back in a prior period to the extent not so reimbursed within the applicable 365-day period) and (ii) to the extent covered by insurance (including business interruption insurance) and actually reimbursed, or, so long as the Borrower has made a determination that there exists reasonable evidence that such amount will in fact be reimbursed by the insurer (including that the insurer has not denied reimbursement of such amounts) and only to the extent that such amount is in fact reimbursed within 365 days of the date of such evidence (net of any amount so added back in a prior period to the extent not so reimbursed within the applicable 365-day period), expenses, charges or losses with respect to liability or Casualty Events or business interruption.

“**Consolidated Net Tangible Assets**” means, with respect to any Person as of any date, the sum of the amounts that would appear on a consolidated balance sheet of such Person and its consolidated Restricted Subsidiaries as the total assets of such Person and its consolidated Restricted Subsidiaries, determined on a consolidated basis in accordance with GAAP and after deducting therefrom, (a) to the extent otherwise included, unamortized debt discount and expenses and other unamortized deferred charges, goodwill, patents, trademarks, service marks, trade names, copyrights, licenses, organization or development expenses, right of use assets and other intangible items and (b) the aggregate amount of liabilities of such Person and its Restricted Subsidiaries that may be properly classified as current liabilities (including tax accrued as estimated), determined on a consolidated basis in accordance with GAAP.

“**Consolidated Secured Net Debt**” means, as of any date of determination, (a) (i) Consolidated Total Debt outstanding under the Facilities, (ii) Consolidated Total Debt constituting secured Refinancing Indebtedness in respect of the foregoing that is outstanding at such time and (iii) any other Consolidated Total Debt outstanding at such time that is secured by a Lien on the Collateral, minus (b) the aggregate amount of cash and Cash Equivalents of the Borrower and the Restricted Subsidiaries as of such date that (i) is not Restricted and (ii) from and after the Initial Funding Date, is held in a bank account meeting the requirements of Section 6.11(c).

“**Consolidated Total Debt**” means, as of any date of determination, the aggregate outstanding principal amount of Indebtedness (other than Intercompany Indebtedness) of the Borrower and the Restricted Subsidiaries on such date, determined on a consolidated basis and as reflected on the face of a balance sheet prepared in accordance with GAAP (but excluding the effects of the application of purchase accounting in connection with the Transactions, any acquisition or any other Investment permitted hereunder), consisting of Indebtedness for borrowed money, unreimbursed obligations in respect of drawn letters of credit (to the extent not cash collateralized), and obligations in respect of Capitalized Leases and purchase money obligations and debt obligations evidenced by promissory notes or debentures; *provided*, that Consolidated Total Debt will not include Indebtedness in respect of (a) any Qualified Securitization Financing, (b) any letter of credit, except to the extent of unreimbursed obligations in respect of drawn letters of credit (*provided*, that any unreimbursed amount under commercial letters of credit will not be counted as Consolidated Total Debt until three Business Days after such amount is drawn (it being understood that any borrowing, whether automatic or otherwise, to fund such reimbursement will be counted)), (c) obligations under Hedge Agreements, (d) customary purchase money obligations incurred in the ordinary course, trade payable and earn outs and similar obligations except to the extent owing and not paid, (e) Indebtedness to the extent it has been cash collateralized, and (f) any lease obligations other than in respect of Capitalized Leases.

“Contingent Obligations” means, with respect to any Person, any obligation of such Person guaranteeing in any manner, whether directly or indirectly, any Non-Financing Lease Obligation, dividend or other obligation that does not constitute Indebtedness (**“primary obligations”**) of any other Person (the **“primary obligor”**), including any obligation of such Person, whether or not contingent:

(1) to purchase any such primary obligation or any property constituting direct or indirect security therefor;

(2) to advance or supply funds:

(a) for the purchase or payment of any such primary obligation; or

(b) to maintain the working capital or equity capital of the primary obligor or otherwise to maintain the net worth or solvency of the primary obligor; or

(3) to purchase property, securities or services primarily for the purpose of assuring the owner of any such primary obligation of the ability of the primary obligor to make payment of such primary obligation against loss in respect thereof.

“Control” and **“Controlled”** have the meaning specified in the definition of **“Affiliate.”**

“Control Agreement” means (a) with respect to accounts governed by U.S. law, an agreement, in form and substance satisfactory to the Administrative Agent and the Collateral Agent, which provides for the Collateral Agent to have with respect to accounts governed by U.S. law, **“control”** (as defined in Section 9-104 of the Uniform Commercial Code of the State of New York or Section 8-106 of the Uniform Commercial Code of the State of New York, as applicable) of Deposit Accounts or Securities Accounts, as applicable and (b) with respect to accounts governed by the law of any other jurisdiction, a customary **“control agreement”** for such jurisdiction in form and substance satisfactory to the Administrative Agent and the Collateral Agent (it being agreed and understood that no Loan Document requires a **“control agreement”** of the type described in this clause (b)).

“Controlled Investment Affiliate(s)” means, as to any Person, any other Person, which directly or indirectly is in control of, is controlled by, or is under common control with such Person and is organized by such Person (or any Person controlling such Person) primarily for making direct or indirect equity or debt investments in the Borrower, its Subsidiaries any Parent Entity and/or other companies.

“Conversion Settlement” has the meaning specified in the definition of **“Permitted Payment.”**

“Conversion/Continuation Notice” means a written notice of (a) a conversion of Loans from one Type to another or (b) a continuation of SOFR Rate Loans, pursuant to Article II, which shall be substantially in the form of Exhibit A-3.

“**Corresponding Tenor**” with respect to any Available Tenor means, as applicable, either a tenor (including overnight) or an interest payment period having approximately the same length (disregarding Business Day adjustment) as such Available Tenor.

“**Covered Entity**” means any of the following:

- (a) a “covered entity” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 252.82(b);
- (b) a “covered bank” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 47.3(b); or
- (c) a “covered FSI” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 382.2(b).

“**Covered Party**” has the meaning specified in Section 11.26.

“**Daily Simple SOFR**” means, for any day, SOFR, with the conventions for this rate (which will include a lookback) being established by the Administrative Agent in accordance with the conventions for this rate selected or recommended by the Relevant Governmental Body for determining “Daily Simple SOFR” for syndicated business loans; *provided* that, if the Administrative Agent decides that any such convention is not administratively feasible for the Administrative Agent, then the Administrative Agent may establish another convention in its reasonable discretion.

“**Debt Representative**” means, with respect to any series of Indebtedness secured by a Lien permitted under Section 7.01(a), (i), (j), (ll) or (mm), Permitted Pari Passu Secured Refinancing Debt or Permitted Junior Secured Refinancing Debt, the trustee, administrative agent, collateral trustee, collateral agent, security agent or similar agent under the indenture or agreement pursuant to which such Indebtedness is issued, incurred or otherwise obtained, as the case may be, and each of their successors in such capacities.

“**Debtor Relief Laws**” means the U.S. Bankruptcy Code and all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization, or similar debtor relief Laws of the United States or other Applicable Jurisdictions from time to time in effect and affecting the rights of creditors generally.

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

“**Default Rate**” means an interest rate equal to (a) the Base Rate *plus* (b) the Applicable Rate applicable to Base Rate Loans that are Revolving Loans *plus* (c) 2.00% *per annum*; *provided* that with respect to the outstanding principal amount of any Loan not paid when due, the Default Rate shall be an interest rate equal to the interest rate (including any Applicable Rate) otherwise applicable to such Loan (giving effect to Section 2.05(c)) *plus* 2.00% *per annum*, in each case, to the fullest extent permitted by applicable Laws.

“Default Rights” has the meaning assigned to that term in, and shall be interpreted in accordance with, 12 C.F.R. §§ 252.81, 47.2 or 382.1, as applicable.

“Defaulting Lender” means, subject to Section 2.20(b), any Lender that,

(a) has failed to (i) fund all or any portion of its Loans, including participations in respect of Letters of Credit within two Business Days of the date such Loans were required to be funded hereunder unless such Lender notifies the Administrative Agent and the Borrower in writing that such failure is the result of such Lender’s determination that one or more conditions precedent to funding (which conditions precedent, together with the applicable default, if any, shall be specifically identified in such writing) has not been satisfied, or (ii) pay to the Administrative Agent, the Issuing Banks or any other Lender any other amount required to be paid by it hereunder (including in respect of its participation in Letters of Credit) within two Business Days of the date when due, (b) has notified the Borrower, the Administrative Agent or the Issuing Banks in writing that it does not intend to comply with its funding obligations hereunder, or has made a public statement to that effect (unless such writing or public statement relates to such Lender’s obligation to fund a Loan hereunder and states that such position is based on such Lender’s determination that a condition precedent to funding (which condition precedent, together with the applicable default, if any, shall be specifically identified in such writing or public statement) cannot be satisfied),

(b) has failed, within three Business Days after written request by the Administrative Agent or the Borrower, to confirm in writing to the Administrative Agent and such Borrower that it will comply with its prospective funding obligations hereunder (*provided* that such Lender shall cease to be a Defaulting Lender pursuant to this clause (b) upon receipt of such written confirmation by the Administrative Agent and such Borrower), or

(c) the Administrative Agent has received notification that such Lender is, or has a direct or indirect parent company that is, (i) insolvent, or is generally unable to pay its debts as they become due, or admits in writing its inability to pay its debts as they become due, or makes a general assignment for the benefit of its creditors, (ii) other than via an Undisclosed Administration, the subject of a bankruptcy, insolvency, reorganization, liquidation or similar proceeding, or a receiver, trustee, conservator, intervenor or sequestrator, administrator, assignee for the benefit of creditors or similar Person charged with reorganization or liquidation of its business or assets, including the Federal Deposit Insurance Corporation or any other Federal or state, provincial or territorial regulatory authority acting in such a capacity or the like has been appointed for such Lender or its direct or indirect parent company, or such Lender or its direct or indirect parent company has taken any action in furtherance of or indicating its consent to or acquiescence in any such proceeding or appointment or (iii) become the subject of a Bail-In Action; *provided* that a Lender shall not be a Defaulting Lender solely by virtue of the ownership or acquisition of any Equity Interest in that Lender or any direct or indirect parent company thereof by a Governmental Authority so long as such ownership interest does not result in or provide such Lender with immunity from the jurisdiction of courts within the United States or from the enforcement of judgments or writs of attachment on its assets or permit such Lender (or such Governmental Authority or instrumentality) to reject, repudiate, disavow or disaffirm any contracts or agreements made with such Lender.

Any determination by the Administrative Agent that a Lender is a Defaulting Lender under clauses (a) through (c) above shall be conclusive absent manifest error, and such Lender shall be deemed to be a Defaulting Lender (subject to Section 2.20) upon delivery of written notice of such determination to the Borrower, the Issuing Banks and each Lender.

“Deliverable Obligation” means each obligation of the Loan Parties that would constitute a “Deliverable Obligation” under a market standard credit default swap transaction documented under the ISDA CDS Definitions and specifying any of the Loan Parties as a Reference Entity. Each capitalized term used but not defined in the preceding sentence has the meaning specified in the ISDA CDS Definitions.

“Deposit Account” has the meaning specified in the Uniform Commercial Code.

“Derivative Instrument” means, with respect to a Person, any contract or instrument to which such Person is a party (whether or not requiring further performance by such Person), the value and/or cash flows of which (or any portion thereof) are based on the value and/or performance of the Loans and/or any Deliverable Obligations or “Obligations” (as defined in the ISDA CDS Definitions) with respect to the Loan Parties; *provided* that a “Derivative Instrument” will not include any contract or instrument that is entered into pursuant to bona fide market-making activities.

“Designated Non-Cash Consideration” means the Fair Market Value of any non-cash consideration received by the Borrower or a Restricted Subsidiary in connection with a Disposition pursuant to Section 7.05 that is designated as Designated Non-Cash Consideration pursuant to a certificate of a Responsible Officer, setting forth in reasonable detail the basis of such valuation (which (i) certificate shall conclusively establish such value absent manifest error and (ii) amount will be reduced by the Fair Market Value of the portion of the non-cash consideration converted to cash following the consummation of the applicable Disposition).

“Disinterested Director” means, with respect to any Affiliate Transaction, a member of the Board of Directors having no material direct or indirect financial interest in or with respect to such Affiliate Transaction. A member of the Board of Directors shall be deemed not to have such a financial interest by reason of such member’s holding Equity Interests of the Borrower or any Parent Entity or any options, warrants or other rights in respect of such Equity Interests.

“Disposition” or “Dispose” means:

(a) the sale, conveyance, transfer or other disposition, whether in a single transaction or a series of related transactions, of property or assets (including by way of a Sale Leaseback Transaction) of the Borrower or any of its Restricted Subsidiaries (in each case other than Equity Interests of the Borrower); or

(b) the issuance or sale of Equity Interests of any Restricted Subsidiary (other than preferred stock or Disqualified Equity Interests of Restricted Subsidiaries issued in compliance with Section 7.03 or directors’ qualifying shares and shares issued to foreign nationals as required under applicable law), whether in a single transaction or a series of related transactions;

in each case, other than:

(1) a disposition by the Borrower or a Restricted Subsidiary to the Borrower or a Restricted Subsidiary, including pursuant to any Intercompany License Agreement;

(2) a disposition of cash, Cash Equivalents or Investment Grade Securities, including any marketable securities portfolio owned by the Borrower and its Subsidiaries on the Closing Date;

(3) a disposition of inventory, goods or other assets (including Settlement Assets) in the ordinary course of business or consistent with past practice or held for sale or no longer used in the ordinary course of business, including any disposition of disposed, abandoned or discontinued operations;

(4) a disposition of obsolete, worn-out, uneconomic, damaged, non-core or surplus property, equipment or other assets or property, equipment or other assets that are no longer economically practical or commercially desirable to maintain or used or useful in the business of the Borrower and its Restricted Subsidiaries whether now or hereafter owned or leased or acquired in connection with an acquisition or used or useful in the conduct of the business of the Borrower and its Restricted Subsidiaries (including by ceasing to enforce, allowing the lapse, abandonment or invalidation of or discontinuing the use or maintenance of or putting into the public domain any intellectual property that is, in the reasonable judgment of the Borrower or the Restricted Subsidiaries, no longer used or useful, or economically practicable to maintain, or in respect of which the Borrower or any Restricted Subsidiary determines its reasonable judgment that such action or inaction is desirable);

(5) transactions governed by and permitted under Section 7.04 or a transaction that constitutes a Change of Control;

(6) an issuance of Equity Interests by a Restricted Subsidiary to the Borrower or to another Restricted Subsidiary or as part of or pursuant to an equity incentive or compensation plan approved by the Board of Directors of the Borrower;

(7) any dispositions of Equity Interests, properties or assets in a single transaction or series of related transactions with a Fair Market Value (as determined in good faith by the Borrower) of less than the greater of \$25.0 million and 3.0% of the Borrower's Consolidated Net Tangible Assets determined as of the end of the Borrower's most recently completed fiscal quarter for which internal financial statements are available;

(8) any Restricted Payment that is permitted to be made, and is made, under Section 7.06 or Section 7.09 and the making of any Permitted Payment, Permitted Investment or asset sales;

(9) dispositions in connection with Permitted Liens, Permitted Intercompany Activities and related transactions;

(10) dispositions of receivables in connection with the compromise, settlement or collection thereof in the ordinary course of business or consistent with past practice or in bankruptcy or similar proceedings and exclusive of factoring or similar arrangements;

(11) conveyances, sales, transfers, licenses, sublicenses, cross-licenses or other dispositions of intellectual property, software or other general intangibles and licenses, sublicenses, cross-licenses, leases or subleases of other property, in each case, in the ordinary course of business or consistent with past practice or pursuant to a research or development agreement in which the counterparty to such agreement receives a license in the intellectual property or software that result from such agreement;

(12) the lease, assignment, license, sublease or sublicense of any real or personal property in the ordinary course of business or consistent with industry practice;

(13) foreclosure, condemnation, expropriation, forced disposition or any similar action with respect to any property or other assets or the granting of Liens not prohibited by this Agreement;

(14) the sale, discount or other disposition (with or without recourse, and on customary or commercially reasonable terms and for credit management purposes) of inventory, accounts receivable or notes receivable in the ordinary course of business or consistent with past practice, or the conversion or exchange of accounts receivable for notes receivable;

(15) any issuance or sale of Equity Interests in, or Indebtedness or other securities of, an Unrestricted Subsidiary or any other disposition of Equity Interests, Indebtedness or other securities of an Unrestricted Subsidiary;

(16) any disposition of Equity Interests of a Restricted Subsidiary pursuant to an agreement or other obligation with or to a Person (other than the Borrower or a Restricted Subsidiary) from whom such Restricted Subsidiary was acquired, or from whom such Restricted Subsidiary acquired its business and assets (having been newly formed in connection with such acquisition), made as part of such acquisition and in each case comprising all or a portion of the consideration in respect of such sale or acquisition;

(17) (i) dispositions of property to the extent that such property is exchanged for credit against the purchase price of similar replacement property that is promptly purchased, (ii) dispositions of property to the extent that the proceeds of such disposition are promptly applied to the purchase price of such replacement property (which replacement property is actually promptly purchased) and (iii) to the extent allowable under Section 1031 of the Code or comparable law or regulation, any exchange of like property (excluding any boot thereon) for use in a Similar Business;

(18) any disposition of Securitization Assets or Receivables Assets, or participations therein, in connection with any Qualified Securitization Financing or Receivables Facility, or the disposition of an account receivable in connection with the collection or compromise thereof in the ordinary course of business or consistent with past practice;

(19) any financing transaction with respect to property constructed, acquired, leased, renewed, relocated, expanded, replaced, repaired, maintained, upgraded or improved (including any reconstruction, refurbishment, renovation and/or development of real property) by the Borrower or any Restricted Subsidiary after the Closing Date, including Sale Leaseback Transactions and asset securitizations, not prohibited by this Agreement;

(20) sales, transfers or other dispositions of Investments in joint ventures or similar entities to the extent required by, or made pursuant to customary buy/sell arrangements between, the parties set forth in joint venture arrangements and similar binding arrangements;

(21) any surrender or waiver of contractual rights or the settlement, release, surrender or waiver of contractual, tort, litigation or other claims of any kind;

(22) the unwinding of any Cash Management Obligations or Hedge Agreements;

(23) transfers of property or assets subject to Casualty Events upon receipt of the net proceeds of such Casualty Event;

(24) any disposition to a Captive Insurance Subsidiary;

(25) the disposition of any assets (including Equity Interests) (i) acquired in a transaction after the Closing Date, which assets are not useful in the core or principal business of the Borrower and its Restricted Subsidiaries, or (ii) made in connection with the approval of any applicable antitrust authority or otherwise necessary or advisable in the reasonable determination of the Borrower to consummate any acquisition;

(26) any charter or lease of any equipment or other properties or assets entered into in the ordinary course of business and with respect to which the Borrower or any of its Restricted Subsidiaries is the lessor or Person granting the charter, except any such charter or lease that provides for the acquisition of such properties or assets by the lessee during or at the end of the term thereof for an amount that is less than the Fair Market Value thereof at the time the right to acquire such properties or assets occurs;

(27) any sale, lease, conveyance or other disposition of any property or assets other than the Collateral; and

(28) any disposition of non-revenue producing assets to a Person who is providing services related to such assets, the provision of which have been or are to be outsourced by the Borrower or any Restricted Subsidiary to such Person.

In the event that a transaction (or any portion thereof) meets the criteria of a permitted Disposition and would also be a Permitted Investment or an Investment permitted under Section 7.06 the Borrower, in its sole discretion, will be entitled to divide and classify such transaction (or a portion thereof) as a Disposition and/or one or more of the types of Permitted Investments or Investments permitted under Section 7.06. For the avoidance of doubt, the entry into a Hedge Agreement (including any call, capped call or warrant transaction) any settlement, unwind or termination thereof shall not constitute a Disposition.

“**Disqualified Equity Interest**” means, with respect to any Person, any Equity Interests of such Person which by its terms (or by the terms of any security into which it is convertible or for which it is exchangeable) or upon the happening of any event:

(1) matures or is mandatorily redeemable for cash or in exchange for Indebtedness pursuant to a sinking fund obligation or otherwise; or

(2) is or may become (in accordance with its terms) upon the occurrence of certain events or otherwise redeemable or repurchasable for cash or in exchange for Indebtedness at the option of the holder of the Equity Interests in whole or in part,

in each case on or prior to the earlier of (a) the Latest Maturity Date of the Loans or (b) the date on which there are no Loans or Obligations outstanding; provided, however, that (i) only the portion of Equity Interests which so matures or is mandatorily redeemable, is so convertible or exchangeable or is so redeemable at the option of the holder thereof prior to such date will be deemed to be Disqualified Equity Interests and (ii) any Equity Interests that would constitute Disqualified Equity Interests solely because the holders thereof have the right to require the Borrower to repurchase such Equity Interests upon the occurrence of a change of control or asset sale (howsoever defined or referred to) shall not constitute Disqualified Equity Interests if any such redemption or repurchase obligation is subject to compliance by the relevant Person with Section 7.06; provided, however, that if such Equity Interests are issued to any future, current or former employee, director, officer, manager, contractor, consultant or advisor (or their respective Controlled Investment Affiliates or Immediate Family Members) (excluding the Permitted Holders (but not excluding any future, current or former employee, director, officer, manager, contractor, consultant or advisor) or Immediate Family Members), of the Borrower, any of its Subsidiaries, any Parent Entity or any other entity in which the Borrower or a Restricted Subsidiary has an Investment and is designated in good faith as an “affiliate” by the Board of Directors (or the compensation committee thereof) or any other plan for the benefit of current, former or future employees (or their respective Controlled Investment Affiliates or Immediate Family Members) of the Borrower or its Subsidiaries or by any such plan to such employees (or their respective Controlled Investment Affiliates or Immediate Family Members), such Equity Interests shall not constitute Disqualified Equity Interests solely because it may be required to be repurchased by the Borrower or its Subsidiaries in order to satisfy applicable statutory or regulatory obligations.

“**Disqualified Lender**” means,

(a) the competitors of the Borrower and their Subsidiaries identified in writing by or on behalf of the Borrower (i) to the Administrative Agent on or prior to the Closing Date and (ii) to the Administrative Agent from time to time on or after the Closing Date subject to the Administrative Agent’s consent (such consent not to be unreasonably withheld, conditioned or delayed);

(b) (i) any Persons that are engaged as principals primarily in private equity, mezzanine financing or venture capital and (ii) those particular banks, financial institutions, other institutional lenders and other Persons, in the case of each of clauses (i) and (ii), to the extent identified in writing by or on behalf of the Borrower to the Administrative Agent on or prior to the Closing Date or after the Closing Date subject to the Administrative Agent's consent (such consent not to be unreasonably withheld, conditioned or delayed);

(c) any Affiliate of the Persons described in the preceding clauses (a) or (b) (in each case, other than any Affiliates that are banks, financial institutions, *bona fide* debt funds or investment vehicles that are engaged in making, purchasing, holding or otherwise investing in commercial loans, bonds and similar extensions of credit in the ordinary course (except to the extent separately identified under clause (a) or (b) above)), in each case, that are either reasonably identifiable as such on the basis of their name or are identified as such in writing by or on behalf of the Borrower (i) to the Administrative Agent on or prior to the Closing Date, or (ii) to the Administrative Agent from time to time on or after the Closing Date; and

(d) at any time, or with respect to any action (or proposed action) in connection with which, a Net Short Representation is required to be made (or deemed made) hereunder, any Lender (or prospective Lender) that has breached its Net Short Representation at such time or in connection with such action (or proposed action).

Notwithstanding the foregoing, any Persons identified as Disqualified Lenders on or after the Closing Date shall be added to the list of Disqualified Lenders, and such designation as a Disqualified Lender will take effect, three (3) Business Days after such designation or identification is made in writing and received by the Administrative Agent; *provided*, that to the extent any transfer is made in anticipation of such designation or otherwise in bad faith by any Lender or Participant during such three (3) Business Day period, such transaction shall be subject to the applicable provisions of Section 11.29(a) (and the Borrower shall be entitled to seek specific performance in any applicable court of law or equity to enforce this sentence). The Administrative Agent shall make the list of Disqualified Lenders available to any Lender, Participant or prospective Lender or Participant upon request by such Lender, Participant or prospective Lender or Participant; *provided* that such Lender, Participant or prospective Lender or Participant shall only make such request, to the extent and only to the extent, necessary to determine whether a proposed assignment, participation or disclosure of Information is permitted.

“**Division**” has the meaning specified in Section 1.02(d).

“**DNB**” has the meaning specified in the introductory paragraph to this Agreement.

“**Dollar**”, “**\$**” and “**USD**” mean lawful money of the United States.

“**Dollar Amount**” means, at any time:

(a) with respect to any Loan denominated in Dollars, the principal amount thereof then outstanding (or in which such participation is held);

(b) with respect to any Letter of Credit Obligation (or any risk participation therein), the amount thereof; and

(c) with respect to any other amount (i) if denominated in Dollars, the amount thereof and (ii) if denominated in any currency other than Dollars, the equivalent amount thereof in Dollars as determined by the Administrative Agent or the applicable Issuing Bank, as applicable, on the basis of the Exchange Rate (determined in respect of the most recent relevant date of determination) for the purchase of Dollars with such currency.

“Domestic Subsidiary” means any Subsidiary that is organized under the Laws of the United States, any state thereof or the District of Columbia.

“EEA Financial Institution” means (a) any credit institution or investment firm established in any EEA Member Country which is subject to the supervision of an EEA Resolution Authority, (b) any entity established in an EEA Member Country which is a parent of an institution described in clause (a) of this definition, or (c) any financial institution established in an EEA Member Country which is a subsidiary of an institution described in clauses (a) or (b) of this definition and is subject to consolidated supervision with its parent.

“EEA Member Country” means any of the member states of the European Union, Iceland, Liechtenstein and Norway.

“EEA Resolution Authority” means any public administrative authority or any person entrusted with public administrative authority of any EEA Member Country (including any delegee) having responsibility for the resolution of any EEA Financial Institution.

“Eligible Assignee” means any Person that meets the requirements to be an assignee under Section 11.07(b)(v); *provided* that the following Persons shall not be Eligible Assignees: (a) any Defaulting Lender, and (b) any Disqualified Lender (other than a Net Short Lender); *provided* that, to the extent persons become Disqualified Lenders after the Closing Date in accordance with clauses (a) or (c) in the definition thereof, the inclusion of such persons as Disqualified Lenders shall not retroactively apply to prior assignments or participations made in compliance with applicable assignment or participation provisions.

“EMU” means the Economic and Monetary Union as contemplated in the EU Treaty.

“EMU Legislation” means the legislative measures of the EMU for the introduction of, changeover to, or operation of the Euro in one or more member states.

“Environmental Claim” means any and all administrative, regulatory or judicial actions, suits, demands, demand letters, claims, liens, notices of noncompliance or violation, or proceedings with respect to any Environmental Liability or pursuant to Environmental Law, including those (a) by any Governmental Authority for enforcement, cleanup, removal, response, remedial or other actions or damages pursuant to any Environmental Law and (b) by any Person seeking damages, contribution, indemnification, cost recovery, compensation or injunctive relief pursuant to any Environmental Law.

“Environmental Laws” means any Laws relating to the protection of the environment or, to the extent relating to exposure to Hazardous Materials, human health.

“Environmental Liability” means any liability, contingent or otherwise (including any liability for damages, costs of environmental remediation, fines, penalties or indemnities, including but not limited to those assumed by contract, written agreement, or other consensual written agreement) of any Loan Party or any of its Subsidiaries directly resulting from or based upon (a) violation of any Environmental Law, (b) the generation, use, handling, transportation, storage, treatment or disposal of any Hazardous Materials, (c) exposure of any Person to any Hazardous Materials, or (d) the release or threatened release of any Hazardous Materials into the environment.

“Environmental Permit” means any permit, approval, identification number, license or other authorization required under or issued pursuant to any Environmental Law.

“Equal Priority Intercreditor Agreement” means a “*pari passu*” intercreditor agreement substantially in the form attached hereto as Exhibit K-3 (as the same may be modified in a manner satisfactory to the Administrative Agent, the Collateral Agent, the Required Lenders and the Borrower), or, if requested by the providers of Indebtedness permitted hereunder to be *Pari Passu Lien Debt*, another *pari passu* intercreditor arrangement reasonably satisfactory to the Administrative Agent, the Collateral Agent, the Required Lenders and the Borrower, in each case as amended, restated, amended and restated, modified or supplemented from time to time in accordance with the terms hereof and thereof. Upon the request of the Borrower, the Administrative Agent and the Collateral Agent will execute and deliver an Equal Priority Intercreditor Agreement (or a joinder or supplement to an existing Equal Priority Intercreditor Agreement) with one or more Debt Representatives for *Pari Passu Lien Debt* permitted hereunder; *provided* that the Borrower shall not make such request unless such Indebtedness and related Liens are permitted by (including with respect to priority) the Loan Documents.

“Equity Interests” of any Person means any and all shares of, rights to purchase or acquire, warrants (including, for the avoidance of doubt, the Jones Act Warrants), options or depositary receipts for, or other equivalents of, or partnership or other interests in (however designated), equity of such Person, including any Preferred Stock, but excluding any debt securities convertible into, or exchangeable for, such equity.

“Equity Offering” means (x) a sale of Equity Interests (other than through the issuance of Disqualified Equity Interests) other than (a) offerings registered on Form S-8 (or any successor form) under the Securities Act or any similar offering in other jurisdictions or other securities of the Borrower or any Parent Entity and (b) issuances of Equity Interests to any Subsidiary of the Borrower or (y) a cash equity contribution to the Borrower.

“ERISA” means the Employee Retirement Income Security Act of 1974, as amended from time to time, and the rules and regulations promulgated thereunder.

“ERISA Affiliate” means any trade or business (whether or not incorporated) that together with any Loan Party is treated as a single employer within the meaning of Section 414 of the Code or Section 4001 of ERISA. For the avoidance of doubt, when any provision of this Agreement relates to a past event or period of time, the term “ERISA Affiliate” includes any Person who was, as to the time of such past event or period of time, an ERISA Affiliate within the meaning of the preceding sentence.

“ERISA Event” means (a) a Reportable Event with respect to a Pension Plan; (b) a withdrawal by any Loan Party or any of their respective ERISA Affiliates from a Pension Plan subject to Section 4063 of ERISA during a plan year in which it was a substantial employer (as defined in Section 4001(a)(2) of ERISA) or a cessation of operations that is treated as a termination under Section 4062(e) of ERISA; (c) a complete or partial withdrawal by any Loan Party or any of their respective ERISA Affiliates from a Multiemployer Plan, written notification of any Loan Party or any of their respective ERISA Affiliates concerning the imposition of Withdrawal Liability on it or written notification that a Multiemployer Plan is insolvent within the meaning of Title IV of ERISA or in endangered or critical status within the meaning of Section 432 of the Code or Section 305 of ERISA; (d) the filing under Section 4041(c) of ERISA of a notice of intent to terminate a Pension Plan, the treatment of a Pension Plan or Multiemployer Plan amendment as a termination under Sections 4041 or 4041A of ERISA, the commencement of proceedings by the PBGC to terminate a Pension Plan or Multiemployer Plan, or the written notification from the PBGC or a plan administrator relating to an intention to terminate or to appoint a trustee to administer any Pension Plan or Multiemployer Plan under Section 4042 of ERISA; (e) the imposition of any liability under Title IV of ERISA, other than for the payment of plan contributions or PBGC premiums due but not delinquent under Section 4007 of ERISA, upon any Loan Party; (f) the failure to satisfy the minimum funding standards (within the meaning of Section 412 of the Code or Section 302 of ERISA) with respect to any Pension Plan; (g) the application for a minimum funding waiver under Section 412 of the Code or Section 302(c) of ERISA with respect to a Pension Plan; (h) the failure by any Loan Party or any of their respective ERISA Affiliates to make any required contribution to any Pension Plan or any Multiemployer Plan; (i) the imposition of a lien on the assets of a Loan Party under Section 430(k) of the Code or Section 303(k) of ERISA with respect to any Pension Plan; or (j) a determination that any Pension Plan is in “at risk” status (within the meaning of Section 430(i) of the Code or Section 303(i) of ERISA).

“Erroneous Payment” has the meaning specified in [Section 10.17\(a\)](#).

“Erroneous Payment Deficiency Assignment” has the meaning specified in [Section 10.17\(d\)](#).

“Erroneous Payment Impacted Class” has the meaning specified in [Section 10.17\(d\)](#).

“Erroneous Payment Return Deficiency” has the meaning specified in [Section 10.17\(d\)](#).

“Erroneous Payment Subrogation Rights” has the meaning specified in [Section 10.17\(d\)](#).

“EU Bail-In Legislation Schedule” means the EU Bail-In Legislation Schedule published by the Loan Market Association (or any successor person), as in effect from time to time.

“EU Treaty” means the Treaty on European Union.

“Euro” and “€” mean the single currency of the Participating Member States introduced in accordance with the provisions of Article 109(i)4 of the EU Treaty.

“Eurocurrency Liabilities” has the meaning specified in Section 3.04(e).

“Event of Default” has the meaning specified in Section 9.01.

“Exchange Act” means the Securities Exchange Act of 1934, as amended, and the rules and regulations of the SEC promulgated thereunder, as amended.

“Exchange Rate” means, on any date with respect to any currency, the rate at which such currency may be exchanged into any other currency, as set forth at approximately 11:00 a.m., London time, on such date on the applicable Bloomberg page for such currency. In the event that such rate does not appear on any Bloomberg page, the Exchange Rate shall be determined by reference to such other publicly available service for displaying the exchange rates as may be selected by the Administrative Agent, or, in the event no such service is selected, such Exchange Rate shall instead be the arithmetic average of the spot rates of exchange of the Administrative Agent in the market where its foreign currency exchange operations in respect of such currency are then being conducted, at or about 10:00 a.m., local time, on such date for the purchase of the relevant currency for delivery two Business Days later; *provided* that, if at the time of any such determination, for any reason no such spot rate is being quoted, the Administrative Agent, after consultation with the Borrower, may use any reasonable method that it deems appropriate to determine such rate, and such determination shall be presumed correct absent manifest error.

“Excluded Account” means each of the following Deposit Accounts and Securities Accounts of the Borrower or a Guarantor (and all cash, Cash Equivalents and other securities or investments credited thereto or deposited therein): (a) Deposit Accounts and Securities Accounts exclusively used for withholding, payroll, payroll Taxes, workers compensation and employee benefits, or withholding, sales, use, value added or similar taxes, (b) Deposit Accounts and Securities Accounts held in trust for a third party; *provided*, that such accounts consist solely of funds set aside for such purpose, (c) escrow accounts that have an overnight balance of which in the aggregate, together with the overnight balance of all such other escrow accounts excluded pursuant to this clause (c), do not exceed \$5,000,000, (d) each Deposit Account holding the cash constituting cash collateral in respect of letters of credit permitted to be issued pursuant to this Agreement or Section 7.03 and other cash collateral permitted under Section 7.01(k)(i), (iii) or (iv), Section 7.01(ii) or Section 7.01(mm), (e) any zero balance accounts so long as the relevant Borrower or Guarantor shall ACH or wire transfer no less frequently than daily to a Blocked Account all amounts on deposit in each such zero balance account, (f) any bank account opened in, or under the laws of, a jurisdiction outside of the United States, (g) those Deposit Accounts and Securities Accounts that have an overnight balance of which in the aggregate, together with the overnight balance of all such other Deposit Accounts, Securities Accounts and Commodity Accounts excluded pursuant to this clause (g) and clause (i) that do not exceed \$5,000,000, (h) any Deposit Accounts and Securities Accounts holding exclusively Subsidized Indebtedness Specified Cash and (i) other Deposit Accounts and Securities Accounts, provided that the aggregate balance in such accounts excluded pursuant to this clause (i) and clause (g) at the end of any Business Day shall not exceed \$5.0 million in the aggregate.

“**Excluded Asset**” means:

(a) any asset (including, to the extent applicable, any equipment or inventory owned by the Borrower or a Guarantor that is subject to a Permitted Lien pursuant to Section 7.01(n)), lease, license, franchise, charter, authorization, contract or agreement to which the Borrower or a Guarantor is a party, together with any rights or interest thereunder, in each case, if and to the extent security interests therein (A) are prohibited by or in violation of any applicable law, (B) require any governmental consent that has not been obtained or consent of a third party (that is not the Borrower or a Restricted Subsidiary) that has not been obtained pursuant to any contract or agreement binding on such asset at the time of its acquisition and not entered into in contemplation of such acquisition, (C) in the case of any lease, license, franchise, charter, authorization, contract or agreement, are prohibited by or in violation of a term, provision or condition of any such lease, license, franchise, charter, authorization, contract or agreement to which the Borrower or a Guarantor is a party or create a right of termination in favor of any other party thereto (other than the Borrower or a Restricted Subsidiary), except, in the case of each of the foregoing clauses (A), (B), and (C), to the extent that such prohibition or restriction would be rendered ineffective under the Uniform Commercial Code or other applicable law or principle of equity or (D) in the case of any property subject to a lien securing permitted purchase money indebtedness, capitalized lease obligation indebtedness, government or quasi-government provided, supported, guaranteed or subsidized Indebtedness or similar arrangement, but only to the extent that a grant of a security interest therein to secure the Loans would violate or invalidate such purchase money, capital lease, government or quasi-government provided, supported, guaranteed or subsidized Indebtedness or similar arrangement (including as a result of any requirement to obtain the consent, approval, license or authorization of any third party unless such consent has been obtained (and it being understood and agreed that neither the Borrower nor any Guarantor shall have any obligation to procure any such consent, approval, license or authorization)) or create a right of termination in favor of any other party thereto (other than the Borrower, a Guarantor or a Restricted Subsidiary) after giving effect to the applicable anti-assignment provisions of the Uniform Commercial Code; *provided, however*, that, notwithstanding the foregoing, the Collateral includes, at such time as the contractual or legal prohibition shall no longer be applicable, and, to the extent severable, any portion of such asset, lease, license, franchise, charter, authorization, contract or agreement not subject to the prohibitions specified in clauses (A), (B), (C), or (D) above (in each case, after giving effect to the applicable anti-assignment provisions of the Uniform Commercial Code or other applicable law);

(b) the Excluded Equity Interests and any assets of any Subsidiary that is not a Guarantor;

(c) Securitization Assets or Receivables Assets, or participations therein, in connection with any Qualified Securitization Financing or Receivables Facility;

(d) any “intent-to-use” trademark applications prior to the filing and acceptance of a “Statement of Use” pursuant to Section 1(d) of the Lanham Act or an “Amendment to Allege Use” pursuant to Section 1(c) of the Lanham Act with respect thereto, to the extent that, and solely during the period, if any, in which, the grant of a security interest therein would impair the validity or enforceability of any registration that issues from such intent-to-use application under applicable federal law (it being understood that, after such period, such intent-to-use application will automatically be included in the Collateral);

(e) (A) any leasehold interest (including any ground lease interest) in real property, including leasehold improvements, (B) any fee interest in owned real property, and (C) any fixtures affixed to any real property to the extent a security interest in such fixtures may not be perfected by the filing of a Uniform Commercial Code financing statement in the jurisdiction of organization of the applicable Borrower or Guarantor;

(f) any asset (other than Vessel Collateral) subject to any notice or consent of governmental authorities under the Federal Assignment of Claims Act or any similar or commensurate legislation under the Laws of the United States or a jurisdiction thereof;

(g) (A) as-extracted collateral, (B) timber to be cut, (C) farm products, (D) manufactured homes and (E) healthcare insurance receivables;

(h) any particular asset, if the pledge thereof or the security interest therein would result in material adverse Tax consequences to any Parent Entity, the Borrower or any Guarantor as reasonably determined by the Borrower in good faith in consultation with the Administrative Agent;

(i) any particular asset, if the pledge thereof or the security interest therein would result in material adverse Tax consequences to any Parent Entity, Borrower or any Guarantor as reasonably determined by the Borrower in good faith in consultation with the Administrative Agent;

(j) any specifically identified asset with respect to which the Administrative Agent has determined in its reasonable judgement (in consultation with the Borrower) that the costs of obtaining, perfecting or maintaining a security interest or pledge in such asset outweighs the benefit to be obtained on account thereof (including if such actions exceed the fair market value thereof, as determined by the Borrower in its reasonable judgement) or the practical benefit to the Lenders afforded thereby;

(k) letter-of-credit rights, except to the extent constituting a supporting obligation for other Collateral as to which perfection of the security interest in such other Collateral is accomplished by the filing of UCC-1 financing statements;

(l) commercial tort claims (i) existing as of the date hereof and (ii) arising after the Closing Date where, in the case of this clause (ii), the amount of the damages reasonably expected to be realized by the applicable Borrower or Guarantor (as determined by the Borrower in good faith) is not in excess of an amount equal to the greater of (a) \$40.0 million and (b) an amount equal to 5.0% of the Borrower's Consolidated Net Tangible Assets determined as of the end of the Borrower's most recently completed fiscal quarter for which internal financial statements are available;

(m) motor vehicles, aircraft, recreational vessels and other assets (other than Vessels (other than recreational vessels)) subject to certificates of title or ownership (including aircraft, airframes, aircraft engines or helicopters, or any equipment or other assets constituting a part thereof and rolling stock) in each case, to the extent a security interest therein cannot be perfected by the filing of a UCC-1 financing statement in the jurisdiction of organization (or other location of the Borrower or Guarantor under Section 9-307 of the Uniform Commercial Code) of the applicable Borrower or Guarantor;

(n) any Excluded Accounts;

(o) any Excluded Vessels;

(p) any foreign assets and assets located in or governed by any non-U.S. jurisdiction or agreement (other than stock certificates otherwise required to be pledged and other than Vessels flagged under an Approved Flag Jurisdiction if the Borrower has expressly elected to include such Vessel as Vessel Collateral) or credit support with respect to such foreign assets or any property or assets owned by a FSHCO, Foreign Subsidiary, Subsidiary of a FSHCO or Foreign Subsidiary, or an Unrestricted Subsidiary;

(q) any asset (other than any Vessel Collateral) subject to any notice, consent or other action of or in respect of governmental authorities under the Federal Assignment of Claims Act or any similar or commensurate legislation under the Laws of the United States or a jurisdiction thereof;

(r) any assets acquired pursuant to an acquisition, merger, consolidation or other Investments after the Closing Date permitted hereunder that are financed by or constitute collateral in respect of Acquired Indebtedness permitted hereunder or that are prohibited from having a Lien granted thereon by any enforceable contract or other agreement (in each case, binding on the assets at the time of such consummation and not created or entered into in contemplation thereof), solely to the extent and for so long as such contract or other agreement (or a permitted refinancing or replacement thereof) finances, is secured by or prohibits such security interest;

provided, that the Borrower, in its sole discretion may (upon written notice to the Collateral Agent) cause any assets (including Vessels) that otherwise qualify as Excluded Assets under any of the clauses above to become Collateral and thereafter such assets shall not constitute "Excluded Assets" (or, if applicable, Excluded Vessels) until such time as the Lien in such assets is released in accordance with the terms of this Agreement, the applicable Collateral Document or the applicable Intercreditor Agreement, as applicable; *provided, further*, that the Excluded Assets referred to above shall not include any proceeds or receivables of any such Excluded Asset (except to the extent such proceeds or receivables constitute Excluded Assets). For the avoidance of doubt, the foregoing is subject to the Permitted Reflagging Transactions.

"**Excluded Equity Interests**" has the meaning specified in the Collateral Agreement.

“**Excluded Foreign Flag Vessel**” means any Vessel that is registered under the laws and flag of an Approved Flag Jurisdiction other than the United States of America or is a U.S. Non-Jones Act Vessel (a) as of the Closing Date, (b) if acquired by the Borrower or a Restricted Subsidiary after the Closing Date from a Person other than the Borrower or a Restricted Subsidiary, as of the date of such acquisition or (c) as of any date after the Closing Date if (i) on a pro forma basis, following the reflagging of such Vessel, the Collateral Coverage Ratio shall not be less than 1.50:1.00 and the RCF Collateral Coverage Ratio shall not be less than 3.00:1.00, (ii) a reflagging of Vessel Collateral is, in the good faith judgment of the Borrower, necessary or desirable in order to pursue customer opportunities in non-U.S. jurisdictions, and (iii) any of the following is true with respect to the Vessel to be reflagged:

(A) such Vessel is a Mid-Spec Vessel or a Low-Spec Vessel; or

(B) such Vessel is registered under the laws and flag of an Approved Flag Jurisdiction other than the United States of America; or

(C) such Vessel is registered under the laws and flag of the United States of America but is not a Jones Act Vessel (a “**U.S. Non-Jones Act Vessel**”); or

(D) prior to its reflagging such Vessel is a (i) Jones Act Vessel and (ii) is a High-Spec Vessel or Ultra High-Spec Vessel and after giving effect to its reflagging, no more than seven (7) vessels that were (i) Jones Act Vessels and (ii) High-Spec Vessels or Ultra High-Spec Vessels owned by the Borrower or a Restricted Subsidiary as of the Closing Date have become Excluded Foreign Flag Vessels or U.S. Non-Jones Act Vessels; *provided*, that, of such seven (7) Vessels, no more than three (3) such Vessels so re-flagged or converted into U.S. Non-Jones Act Vessels may be Ultra High-Spec Vessels; *provided further* that no more than one (1) of such Vessels may be the HOS Centerline or the HOS Strongline; or

(E) after giving effect to such re-flagging, in respect of any Jones Act Vessels that are Vessel Collateral that are acquired by the Borrower or a Restricted Subsidiary after the Closing Date, no more than (x) thirty percent (30%) of such Vessel Collateral which are High-Spec Vessels (the “**After-Acquired High Specification Vessels**”) would have become Excluded Foreign Flag Vessels or U.S. Non-Jones Act Vessels and (y) ten percent (10%) of the After-Acquired High Specification Vessels which are Ultra High-Spec Vessels would have become Excluded Foreign Flag Vessels or U.S. Non-Jones Act Vessels; *provided, however*, if there is available capacity under clause (D) above in respect of Vessels owned as of the Closing Date, the Borrower may elect in its sole discretion to consummate a re-flagging described under this clause (E) using available capacity under clause (D) above (and such election shall reduce the corresponding availability under clause (D)).

“**Excluded Subsidiary**” means:

(a) any Restricted Subsidiary that is not a wholly-owned Restricted Subsidiary of the Borrower or a Guarantor,

(b) any (i) FSHCO, (ii) Foreign Subsidiary or (iii) any Restricted Subsidiary of any FSHCO or Foreign Subsidiary,

(c) any Restricted Subsidiary that is prohibited or restricted by applicable Law from providing a Guaranty or by a binding contractual obligation existing on the Closing Date or at the time of the acquisition of such Restricted Subsidiary (and not incurred in contemplation of the Closing Date or such acquisition) from providing a Guaranty (*provided* that such contractual obligation is not entered into by the Borrower or its Restricted Subsidiaries principally for the purpose of qualifying as an “Excluded Subsidiary” under this definition) or if such Guaranty would require governmental (including regulatory) or third party (other than the Borrower or a Restricted Subsidiary) consent, approval, license or authorization, unless such consent, approval, license or authorization has been obtained,

(d) any special purpose securitization vehicle (or similar entity), including any Securitization Subsidiary created pursuant to a transaction permitted under this Agreement,

(e) any Restricted Subsidiary that is a not-for-profit organization,

(f) any Captive Insurance Subsidiary,

(g) any other Restricted Subsidiary with respect to which, as reasonably determined by the Borrower in good faith and in consultation with the Administrative Agent, the cost or other consequences (including any material adverse tax consequences) of providing the Guaranty shall be excessive in view of the benefits to be obtained by the Lenders therefrom,

(h) any other Restricted Subsidiary to the extent the provision of a guarantee by such Restricted Subsidiary would result in material adverse Tax consequences to any Parent Entity (to the extent such material adverse Tax consequences are related to its ownership of the Equity Interests in the Borrower and its subsidiaries), the Borrower or any of their subsidiaries as reasonably determined by the Borrower in good faith and in consultation with the Administrative Agent;

(i) any Unrestricted Subsidiary; and

(j) any Immaterial Subsidiary;

provided that the Borrower, in its sole discretion (or in the case of any Foreign Subsidiary, in consultation with the Administrative Agent), may cause any Restricted Subsidiary that qualifies as an Excluded Subsidiary under clauses (a) through (j) above to become a Guarantor in accordance with the definition thereof (subject to completion of any requested “know your customer” and similar requirements of the Administrative Agent and the Lenders) and thereafter such Restricted Subsidiary shall not constitute an “Excluded Subsidiary” (unless and until the Borrower elects, in its sole discretion, to designate such Persons as an Excluded Subsidiary).

“**Excluded Swap Obligation**” means, with respect to any Guarantor, any Swap Obligation if, and to the extent that, all or a portion of the Guaranty of such Guarantor of, or the grant by such Guarantor of a security interest to secure, such Swap Obligation (or any Guaranty thereof) is or becomes illegal under the Commodity Exchange Act or any rule, regulation or order of the Commodity Futures Trading Commission (or the application or official interpretation of any thereof) by virtue of such Guarantor’s failure for any reason to constitute an “eligible contract participant” as defined in the Commodity Exchange Act (determined after giving effect to any keepwell, support or other agreement for the benefit of such Guarantor and any and all guarantees of such Guarantor’s Swap Obligations by other Loan Parties) at the time the Guaranty of such Guarantor, or a grant by such Guarantor of a security interest, becomes effective with respect to such Swap Obligation. If a Swap Obligation arises under a master agreement governing more than one swap, such exclusion shall apply only to the portion of such Swap Obligation that is attributable to swaps for which such Guaranty or security interest is or becomes excluded in accordance with the first sentence of this definition.

“Excluded Taxes” means any of the following Taxes imposed on or with respect to a Recipient or required to be withheld or deducted from a payment to a Recipient, (i) Taxes imposed on or measured by income (however denominated), branch profits, franchise or similar Taxes, in each case, that are (A) imposed by the jurisdiction (or political subdivision thereof) under the laws of which it is organized or in which its principal office is located or, in the case of any Lender, in which its applicable Lending Office is located, or (B) Other Connection Taxes, (ii) any Tax that is (or would be) required to be withheld with respect to amounts payable hereunder in respect of an Eligible Assignee (pursuant to an assignment under Section 11.07) on the date it becomes an assignee to the extent such Tax is in excess of the Tax that would have been applicable had such assigning Lender not assigned its interest arising under any Loan Document (unless such assignment is at the express written request of the Borrower), (iii) withholding Taxes imposed on amounts payable to or for the account of a Recipient with respect to an applicable interest in a Loan or Commitment pursuant to a Law in effect on the date on which (A) such Lender, Agent or Issuing Bank acquires such interest in the Loan or Commitment (other than pursuant to an assignment request by the Borrower under Section 3.07) or (B) such Lender changes its Lending Office (other than at the written request of the Borrower to change such Lending Office), except in each case to the extent that pursuant to this Section 3.01, amounts with respect to such Taxes were payable to such Recipient’s assignor immediately before such Recipient became a party hereto, or to such Lender immediately before it changed its Lending Office, (iv) any Taxes imposed as a result of the failure of any Recipient to comply with the provisions of Sections 3.01(b) (in the case of any Foreign Lender, as defined below), 3.01(c), 3.01(d) or 3.01(e) (in the case of any U.S. Lender, as defined below), and (v) any Taxes imposed under FATCA.

“Excluded Vessel” means any Vessel owned from time to time by the Borrower or any Guarantor (i) that is an Excluded Foreign Flag Vessel, (ii) that is under construction and has not been delivered to the Borrower or a Guarantor, (iii) that is a Low-Spec Vessel or (iv) that is an Excluded Asset, other than any such Vessel that the Borrower has elected to cause to become Collateral.

“Existing Junior Lien Intercreditor Agreement” means that certain Intercreditor Agreement, dated as of September 4, 2020, among the administrative agent and collateral agent under the Second Lien Credit Agreement (the **“Second Lien Agent”**), the Administrative Agent, the Collateral Agent, the Loan Parties and each “Additional Representative” party thereto (and as defined therein), which together with all amendments, supplements and joinders thereto is attached hereto as Exhibit K-1, as supplemented by that certain First Lien Joinder Agreement, dated as of the date hereof, by and between the Second Lien Agent, the Administrative Agent, the Collateral Agent and the Loan Parties party thereto.

“**Existing Letter of Credit**” means any letter of credit previously issued that (a) will remain outstanding on and after the Closing Date and (b) is listed on Schedule 1.01(a).

“**Extended Commitments**” means the Commitments held by an Extending Lender.

“**Extended Loans**” means the Revolving Loans made pursuant to Extended Commitments.

“**Extending Lender**” means each Lender accepting an Extension Offer.

“**Extension**” has the meaning specified in Section 2.18(a).

“**Extension Amendment**” has the meaning specified in Section 2.18(b).

“**Extension Offer**” has the meaning specified in Section 2.18(a).

“**Facility**” means the Commitments, Revolving Loans, any Extension Commitments and Extended Loans or any Refinancing Loans, as the context may require.

“**Fair Market Value**” may be conclusively established by means of a certificate from a Responsible Officer or resolutions of the Board of Directors setting out such fair market value as determined by such Responsible Officer or such Board of Directors in good faith.

“**FATCA**” means Sections 1471 through 1474 of the Code, as of the date of this Agreement (or any amended or successor version to the extent such version is substantively comparable and not materially more onerous to comply with), any current or future regulations or official interpretations thereof, any agreements entered into pursuant to Section 1471(b)(1) of the Code and any fiscal or regulatory legislation, rules or practices adopted pursuant to any intergovernmental agreement, treaty or convention among Governmental Authorities implementing the foregoing.

“**Federal Funds Rate**” means, for any day, the rate calculated by the Federal Reserve Bank of New York based on such day’s federal funds transactions by depository institutions (as determined in such manner as the Federal Reserve Bank of New York shall set forth on its public website from time to time) and published on the next succeeding Business Day by the Federal Reserve Bank of New York as the federal funds effective rate; provided, that if the Federal Funds Rate for any day is less than 0.00%, the Federal Funds Rate for such day will be deemed to be 0.00%.

“**Fee Letter**” means the Fee Letter, dated as of August 13, 2024, by and among the Borrower, the Administrative Agent and the Lenders, as amended, restated, amended and restated, supplemented or otherwise modified from time to time in accordance with the terms thereof.

“**Financial Covenant**” means the covenants set forth in Article VIII.

“**Financial Covenant Blocking Event**” has the meaning assigned to such term in Section 9.01(b)(ii).

“**Financial Statements**” means the audited consolidated balance sheets of the Borrower as of December 31, 2023, the related consolidated statements of operations, changes in stockholders’ equity and cash flows for the Borrower for the fiscal year then ended.

“**First Lien Debt**” means Indebtedness that is secured by a Lien on the Collateral on a pari passu basis with the Liens securing the Obligations and is subject to an Equal Priority Intercreditor Agreement and, if requested by the Borrower, the Collateral Trust Agreement.

“**Fixed Charge Coverage Ratio**” means, with respect to any Person on any determination date, the ratio of Consolidated Adjusted EBITDA of such Person for the most recent four consecutive fiscal quarters ending immediately prior to such determination date (the “**reference period**”) for which consolidated financial statements are available (which may, at the Borrower’s election, be internal consolidated financial statements) to the Fixed Charges of such Person for the reference period. In the event that the Borrower or any Restricted Subsidiary incurs, assumes, guarantees, redeems, defeases, retires or extinguishes any Indebtedness (other than Indebtedness incurred under any revolving credit facility unless such Indebtedness has been permanently repaid and has not been replaced), has caused any Reserved Indebtedness Amount to be deemed to be incurred during such period or issues or redeems Disqualified Equity Interests or Preferred Stock subsequent to the commencement of the reference period but prior to or simultaneously with the event for which the calculation of the Fixed Charge Coverage Ratio is made (the “**Fixed Charge Coverage Ratio Calculation Date**”), then the Fixed Charge Coverage Ratio shall be calculated giving pro forma effect to such incurrence, deemed incurrence, assumption, guarantee, redemption, defeasance, retirement or extinguishment of Indebtedness, or such issuance or redemption of Disqualified Equity Interests or Preferred Stock, as if the same had occurred at the beginning of the applicable four-quarter period.

Notwithstanding anything to the contrary herein, in the event an item of Indebtedness (or any portion thereof) is incurred or issued, any Lien is incurred or other transaction is undertaken in reliance on any ratio based exceptions, thresholds and baskets, such ratio(s) shall be calculated with respect to such incurrence, issuance or other transaction without giving effect to amounts being utilized under any other exceptions, thresholds or baskets (other than ratio based baskets) on the same date. Each item of Indebtedness that is incurred or issued, each Lien incurred and each other transaction undertaken will be deemed to have been incurred, issued or taken first, to the extent available, pursuant to the relevant ratio-based test.

For purposes of this definition, whenever pro forma effect is to be given to a transaction, the pro forma calculations shall be made in good faith by a responsible financial or chief accounting officer of the Borrower (and may include, for the avoidance of doubt, cost savings, operating expenses reductions and synergies resulting from such transactions which is being given pro forma effect) and will include any QSC Adjustment. If any Indebtedness bears a floating rate of interest and is being given pro forma effect, the interest on such Indebtedness shall be calculated as if the rate in effect on the Fixed Charge Coverage Ratio Calculation Date had been the applicable rate for the entire reference period (taking into account any Swap Obligations applicable to such Indebtedness). Interest on a Capitalized Lease Obligation shall be deemed to accrue at an interest rate reasonably determined by a responsible financial or accounting officer of the Borrower to be the rate of interest implicit in such Capitalized Lease Obligation in accordance with GAAP. For purposes of making the computation referred to above, interest on any Indebtedness under a revolving credit facility computed with a pro forma basis shall be computed based upon the average daily balance of such Indebtedness during the reference period except as set forth in the first paragraph of this definition. Interest on Indebtedness that may optionally be determined at an interest rate based upon a factor of a prime or similar rate, a eurocurrency interbank offered rate, or other rate, shall be determined to have been based upon the rate actually chosen, or if none, then based upon such optional rate chosen as the Borrower may designate.

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

(1) Consolidated Interest Expense of such Person for such period;

(2) all cash dividends or other distributions paid (excluding items eliminated in consolidation) on any series of Preferred Stock of any Restricted Subsidiary of such Person during such period;

(3) all cash dividends or other distributions paid (excluding items eliminated in consolidation) on any series of Disqualified Equity Interests of such Person during such period; and

(4) all scheduled amortization payments in respect of Indebtedness for borrowed money during such period.

“**Foreign Corporate Subsidiary**” means a Foreign Subsidiary that is treated as a corporation for U.S. federal income tax purposes.

“**Foreign Lender**” has the meaning specified in [Section 3.01\(b\)](#).

“**Foreign Pension Plan**” means any plan, fund (including any superannuation fund) or other similar program established or maintained outside the United States by any Loan Party or any one or more of its Subsidiaries primarily for the benefit of its or their employees residing outside the United States, which plan, fund or other similar program provides, or results in, defined benefit retirement income, other than any such plan that is sponsored, maintained or administered by a Governmental Authority, and which plan is not subject to United States Law.

“**Foreign Plan Event**” means:

(1) the accrued benefit obligations of a Foreign Pension Plan (based on those assumptions used to fund that Foreign Pension Plan or, if that Foreign Pension Plan is unfunded, based on those assumptions used for financial accounting statement purposes or, if accrued benefit obligations are not calculated for financial accounting purposes, based on such reasonable assumptions as may be approved by the relevant entity’s independent auditors for these purposes) materially exceeding the assets of such Foreign Pension Plan and such event would reasonably be expected to result in a Material Adverse Effect; or

(2) the occurrence of an event with respect to the funding or maintenance of a Foreign Pension Plan that could reasonably be expected to result in a Material Adverse Effect.

“**Foreign Subsidiary**” means any direct or indirect Subsidiary of the Borrower that is not a Domestic Subsidiary.

“**FRB**” means the Board of Governors of the Federal Reserve System of the United States.

“**Fronting Exposure**” means, at any time there is a Defaulting Lender, with respect to the Issuing Banks, such Defaulting Lender’s Pro Rata Share of the outstanding Letters of Credit Obligations other than such Obligations as to which such Defaulting Lender’s participation obligation has been reallocated to other Lenders or Cash Collateralized in accordance with the terms hereof.

“**FSHCO**” means any direct or indirect Subsidiary that substantially all of the assets of which consist of Equity Interests and/or Indebtedness of one or more direct or indirect Foreign Corporate Subsidiaries.

“**Fund**” means any Person (other than a natural person) that is engaged in making, purchasing, holding or otherwise investing in commercial loans and similar extensions of credit in the ordinary course.

“**GAAP**” means generally accepted accounting principles in the United States, as in effect from time to time; *provided, however*, that if the Borrower notifies the Administrative Agent that the Borrower requests an amendment to any provision of a Loan Document to eliminate the effect of any change occurring after the Closing Date in GAAP or in the application thereof (including through the adoption of IFRS) (any such change, an “**Accounting Change**”) on the operation of such provision (or if the Administrative Agent notifies the Borrower that the Required Lenders request an amendment to any provision hereof for such purpose), regardless of whether any such notice is given before or after such change in GAAP or in the application thereof (including through the adoption of IFRS), then such provision shall be interpreted on the basis of GAAP as in effect and applied immediately before such change shall have become effective until such notice shall have been withdrawn or such provision amended in accordance herewith.

“**Governmental Authority**” means the government of the United States or any other nation, or of any political subdivision thereof, whether state, provincial, territorial or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government (including any supra-national bodies such as the European Union or the European Central Bank).

“**Grant Event**” means the occurrence of any of the following:

(a) the formation or acquisition by a Loan Party of a new wholly-owned Subsidiary (other than an Excluded Subsidiary);

(b) the designation in accordance with Section 6.13 of a wholly-owned Subsidiary (other than an Excluded Subsidiary) of any Loan Party as a Restricted Subsidiary;

(c) any Person becoming a wholly-owned Subsidiary (other than an Excluded Subsidiary); or

(d) any wholly-owned Restricted Subsidiary of a Loan Party ceasing to be an Excluded Subsidiary.

“**Granting Lender**” has the meaning specified in Section 11.07(g).

“**Guarantee**” means, any obligation, contingent or otherwise, of any Person directly or indirectly guaranteeing any Indebtedness of any other Person, including any such obligation, direct or indirect, contingent or otherwise, of such Person:

(a) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness of such other Person (whether arising by virtue of partnership arrangements, or by agreements to keep-well, to purchase assets, goods, securities or services, to take-or-pay or to maintain financial statement conditions or otherwise); or

(b) entered into primarily for purposes of assuring in any other manner the obligee of such Indebtedness of the payment thereof or to protect such obligee against loss in respect thereof (in whole or in part); *provided, however*, that the term “Guarantee” will not include (x) endorsements for collection or deposit in the ordinary course of business or consistent with past practice and, (y) standard contractual indemnities or product warranties provided in the ordinary course of business, or (z) pledges or grants of liens in any assets of a Person as long as the obligations benefiting from such pledge or lien are otherwise non-recourse (or foreign law equivalent) to such Person and *provided, further*, that the amount of any Guarantee shall be deemed to be the lower of (i) an amount equal to the stated or determinable amount of the primary obligation in respect of which such Guarantee is made and (ii) the maximum amount for which such guaranteeing Person may be liable pursuant to the terms of the instrument embodying such Guarantee or, if such Guarantee is not an unconditional guarantee of the entire amount of the primary obligation and such maximum amount is not stated or determinable, the amount of such guaranteeing Person’s maximum reasonably anticipated liability in respect thereof as determined by such Person in good faith. The term “Guarantee” used as a verb has a corresponding meaning.

“**Guarantors**” means each Restricted Subsidiary that executed a counterpart to the Guaranty (or a joinder thereto) on the Closing Date or thereafter pursuant to Section 6.11, in each case, other than any Excluded Subsidiaries; *provided, however*, that a Guarantor shall not be released from its Guaranty by virtue of becoming an Excluded Subsidiary under clause (i) of the definition of Excluded Subsidiary if (x) the transaction which caused the Restricted Subsidiary to cease to be a wholly-owned Subsidiary of the Borrower or a Guarantor was done in contemplation of the release and (y) the Equity Interests in such Restricted Subsidiary that are not held by a Borrower or Guarantor are owned by an Affiliate thereof.

“**Guaranty**” means (a) the guaranty made by the Guarantors from time to time party thereto in favor of the Administrative Agent on behalf of the Secured Parties pursuant to the Collateral Agreement and (b) each other guaranty and guaranty supplement delivered pursuant to Section 6.11.

“**Guaranty Release Event**” has the meaning specified in Section 10.11(a)(iv).

“**Hazardous Materials**” means any hazardous or toxic chemicals, materials, substances or waste which is listed, classified or regulated by any Governmental Authority as “hazardous substances,” “hazardous wastes,” “hazardous materials,” “extremely hazardous wastes,” “restricted hazardous wastes,” “toxic substances,” “toxic wastes,” “contaminants” or “pollutants,” or words of similar import, under any Environmental Law, due to their deleterious or dangerous properties or characteristics, including petroleum or petroleum products (including gasoline, crude oil or any fraction thereof), asbestos or asbestos-containing materials, polychlorinated biphenyls, radon gas and urea formaldehyde.

“**Hedge Agreement**” means any agreement with respect to (a) any and all rate swap transactions, basis swaps, credit derivative transactions, forward rate transactions, commodity swaps, commodity options, forward commodity contracts, equity or equity index swaps or options, any call or capped call option warrant or substantively equivalent derivative transactions, bond or bond price or bond index swaps or options or forward bond or forward bond price or forward bond index transactions, interest rate options, forward foreign exchange transactions, cap transactions, floor transactions, collar transactions, currency swap transactions, cross-currency rate swap transactions, currency options, spot contracts, or any other similar transactions or any combination of any of the foregoing (including any options to enter into any of the foregoing), whether or not any such transaction is governed by or subject to any master agreement, and (b) any and all transactions of any kind, and the related confirmations, which are subject to the terms and conditions of, or governed by, any form of master agreement published by the International Swaps and Derivatives Association, Inc., any International Foreign Exchange Master Agreement, or any other master agreement, including any such obligations or liabilities under any such master agreement.

“**Hedge Bank**” means any Person that is an Agent, a Lender, a Lead Arranger or an Affiliate of any of the foregoing on the Closing Date (with respect to any Secured Hedge Agreement entered into on or prior to the Closing Date) or at the time it enters into a Secured Hedge Agreement, in its capacity as a party thereto, whether or not such Person subsequently ceases to be an Agent, a Lender, a Lead Arranger or an Affiliate of any of the foregoing; *provided*, at the time of entering into a Secured Hedge Agreement, no Hedge Bank shall be a Defaulting Lender.

“**High Specification**” or “**High-Spec**” means, when referring to a Vessel, a Vessel with cargo-carrying capacity of between 3,500 and 5,000 DWT (i.e., primarily 265 to 280 class OSV notations), and dynamic-positioning systems with a DP-2 classification or higher. For the avoidance of doubt, any MPSV is a High-Spec Vessel (other than MPSVs which are Ultra High-Spec Vessels).

“**Holding Company**” means any Person so long as such Person directly or indirectly holds 100% of the total voting power of the Voting Stock of the Borrower, and at the time such Person acquired such voting power, no Person and no group (within the meaning of Section 13(d)(3) or Section 14(d)(2) of the Exchange Act, or any successor provision), including any such group acting for the purpose of acquiring, holding or disposing of securities (within the meaning of Rule 13d-5(b)(1) under the Exchange Act) (other than any Permitted Holder), shall have beneficial ownership (within the meaning of Rule 13d-3 under the Exchange Act, or any successor provision), directly or indirectly, of more than 50% of the total voting power of the Voting Stock of such Person.

“**Identified Transaction**” has the meaning specified in Section 10.11.

“**IFRS**” means International Financial Reporting Standards and applicable accounting requirements set by the International Accounting Standards Board or any successor thereto (or the Financial Accounting Standards Board, the Accounting Principles Board of the American Institute of Certified Public Accountants, or any successor to either such board, or the SEC, as the case may be), as in effect from time to time.

“**Immaterial Subsidiary**” means, at any date of determination, each Restricted Subsidiary of the Borrower that (i) has not guaranteed any other Indebtedness of the Borrower and (ii) has Total Assets and revenues, in each case, of less than 3.5% of Total Assets and revenues and, together with all other Immaterial Subsidiaries, has Total Assets and revenues of less than 3.5% of Total Assets and revenues, in each case, measured (1) at the end of the most recent fiscal period for which consolidated financial statements are available (which may, at the Borrower’s election, be internal consolidated financial statements) on a pro forma basis giving effect to any acquisitions or dispositions of assets, Vessels, companies, division or lines of business since such balance sheet date or the start of such four quarter period, as applicable, and (2) as of the date of acquisition of any such Restricted Subsidiary.

“**Immediate Family Members**” means, with respect to any individual, such individual’s child, stepchild, grandchild or more remote descendant, parent, stepparent, grandparent, spouse, former spouse, qualified domestic partner, sibling, mother-in-law, father-in-law, son-in-law and daughter-in-law (including adoptive relationships, the estate of such individual and such other individuals above) and any trust, partnership or other bona fide estate-planning vehicle the only beneficiaries of which are any of the foregoing individuals or any private foundation or fund that is controlled by any of the foregoing individuals or any donor-advised fund of which any such individual is the donor.

“**Incremental Amendment**” has the meaning specified in Section 2.16(e).

“**Incremental Amount**” has the meaning specified in Section 2.16(c).

“**Incremental Equivalent Debt**” means Indebtedness; *provided* that at the time of incurrence thereof:

(a) the aggregate principal amount of all Incremental Equivalent Debt on any date such Indebtedness is incurred (or commitments with respect thereto are made) shall not, together with any Incremental Facilities then outstanding, exceed the Incremental Amount;

(b) any Incremental Equivalent Debt that is term Indebtedness shall not mature prior to the Latest Maturity Date of the Revolving Loans; *provided* that this clause (b) shall not apply to the incurrence of any such Indebtedness pursuant to the Inside Maturity Exception;

(c) except for Indebtedness incurred pursuant to the Inside Maturity Exception, any mandatory prepayments of any Incremental Equivalent Debt that is term Indebtedness:

(i) that is Pari Passu Lien Debt shall be made on a *pro rata* basis or less than *pro rata* basis with any corresponding mandatory prepayment of the Revolving Loans (but not on a greater than *pro rata* basis, except for (A) any repayment of such Incremental Equivalent Debt at maturity and (B) any greater than *pro rata* repayment of such Incremental Equivalent Debt with the proceeds of a Refinancing Indebtedness thereof); and

(ii) that comprises Junior Lien Debt or Indebtedness that is not secured by a Lien on all or any portion of the Collateral may not be made unless, to the extent required hereunder, such prepayments are first made or offered to the Loans on a *pro rata* basis;

(d) a Debt Representative acting on behalf of the holders of such Incremental Equivalent Debt has become party to, or is otherwise subject to the provisions of, (A) if such Incremental Equivalent Debt is Pari Passu Lien Debt, an Equal Priority Intercreditor Agreement or (B) if such Incremental Equivalent Debt is Junior Lien Debt, a Junior Lien Intercreditor Agreement and, if elected by the Borrower, the Collateral Trust Agreement;

(e) [reserved];

(f) if such Indebtedness is Pari Passu Lien Debt in respect of which a Loan Party is an obligor, (a) unless otherwise consented to by the Required Lenders, payments in respect of such Indebtedness are subject to the Priority Waterfall or another agreement with substantially equivalent provisions and (b) such Indebtedness shall be term Indebtedness;

(g) Incremental Equivalent Debt may be guaranteed solely by the Loan Parties (or Persons that become Loan Parties substantially concurrently with the incurrence of such Incremental Equivalent Debt); and

(h) the incurrence of Incremental Equivalent Debt shall have been consented to by all Lenders.

Incremental Equivalent Debt will be deemed to include any Registered Equivalent Notes issued in exchange therefor.

“**Incremental Facilities**” has the meaning specified in [Section 2.16\(a\)](#).

“**Incremental Facility Lender**” has the meaning specified in [Section 2.16\(i\)\(i\)](#).

“**Incremental Loans**” has the meaning specified in [Section 2.16\(a\)](#).

“**Indebtedness**” means, with respect to any Person, on any date of determination (without duplication):

(1) the principal of indebtedness of such Person for borrowed money;

(2) the principal of obligations of such Person evidenced by bonds, debentures, notes or other similar instruments;

(3) all reimbursement obligations of such Person in respect of letters of credit, bankers' acceptances or other similar instruments (the amount of such obligations being equal at any time to the aggregate then undrawn and unexpired amount of such letters of credit or other instruments plus the aggregate amount of drawings thereunder that have not been reimbursed) (except to the extent such reimbursement obligations relate to trade payables and such obligations are satisfied within thirty (30) days of incurrence);

(4) the principal component of all obligations of such Person to pay the deferred and unpaid purchase price of property (except trade payables or similar obligations, including accrued expenses owed, to a trade creditor), which purchase price is due more than one year after the date of placing such property in service or taking final delivery and title thereto;

(5) Capitalized Lease Obligations of such Person;

(6) the principal component of all obligations, or liquidation preference, of such Person with respect to any Disqualified Equity Interests or, with respect to any Restricted Subsidiary, any preferred stock (but excluding, in each case, any accrued dividends);

(7) the principal component of all Indebtedness of other Persons secured by a Lien on any asset of such Person, whether or not such Indebtedness is assumed by such Person; *provided, however*, that the amount of such Indebtedness will be the lesser of (a) the Fair Market Value of such asset at such date of determination (as determined in good faith by the Borrower) and (b) the amount of such Indebtedness of such other Persons; *provided, further*, that this clause (7) shall not apply in respect of any Restricted Subsidiary that provides Collateral for the First Lien Debt (including the Obligations) and Junior Lien Debt (if any) that is not a guarantor of any First Lien Debt or Junior Lien Debt;

(8) Guarantees by such Person of the principal component of Indebtedness of the type referred to in clauses (1), (2), (3), (4), (5) and (9) of other Persons to the extent Guaranteed by such Person; and

(9) to the extent not otherwise included in this definition, net obligations of such Person under Hedge Agreements (the amount of any such obligations to be equal at any time to the net payments under such agreement or arrangement giving rise to such obligation that would be payable by such Person at the termination of such agreement or arrangement);

with respect to clauses (1), (2), (3), (4), (5) and (9), above, if and to the extent that any of the foregoing Indebtedness (other than letters of credit and obligations in respect of Hedge Agreements) would appear as a liability upon a balance sheet (excluding the footnotes thereto) of such Person prepared in accordance with GAAP.

The amount of Indebtedness of any Person at any time in the case of a revolving credit or similar facility shall be the total amount of funds borrowed and then outstanding. The amount of any Indebtedness outstanding as of any date shall be (a) the accreted value thereof in the case of any Indebtedness issued with original issue discount and (b) the principal amount of Indebtedness, or liquidation preference thereof, in the case of any other Indebtedness. Indebtedness shall be calculated without giving effect to the effects of Accounting Standards Codification Topic 815—Derivatives and Hedging and related pronouncements to the extent such effects would otherwise increase or decrease an amount of Indebtedness for any purpose under this Agreement as a result of accounting for any embedded derivatives created by the terms of such Indebtedness.

Notwithstanding the above provisions, in no event shall the following constitute Indebtedness:

(a) Contingent Obligations incurred in the ordinary course of business or consistent with past practice, other than guarantees or other assumptions of Indebtedness;

(b) Cash Management Obligations;

(c) any lease, concession or license of property (or Guarantee thereof) which would be considered an operating lease under GAAP as in effect on the Closing Date, Non-Financing Lease Obligations, Sale Leaseback Transactions or any prepayments of deposits received from clients or customers in the ordinary course of business or consistent with past practice;

(d) obligations under any license, permit or other approval (or guarantees given in respect of such obligations) incurred prior to the Closing Date or in the ordinary course of business or consistent with past practice;

(e) in connection with the purchase by the Borrower or any Restricted Subsidiary of any business, any deferred or prepaid revenue, post-closing payment adjustments to which the seller may become entitled to the extent such payment is determined by a final closing balance sheet or such payment depends on the performance of such business after the closing; *provided, however*, that, at the time of closing, the amount of any such payment is not determinable and, to the extent such payment thereafter becomes fixed and determined, the amount is paid in a timely manner;

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

(g) obligations under or in respect of Qualified Securitization Financings or Receivables Facilities;

(h) Indebtedness of any Parent Entity appearing on the balance sheet of the Borrower solely by reason of push down accounting under GAAP;

(i) Equity Interests (other than in the case of clause (6) above, Disqualified Equity Interests);

(j) lease obligations other than obligations in respect of Capitalized Leases; and

(k) amounts owed to dissenting stockholders (including in connection with, or as a result of, exercise of dissenters' or appraisal rights and the settlement of any claims or action (whether actual, contingent or potential)), pursuant to or in connection with a consolidation, amalgamation, merger or transfer of assets that complies with Section 7.04.

"Indebtedness for Borrowed Money" means, with respect to a Person, Indebtedness of such Person under clauses (1), (2), (3) or (8) (to the extent relating to the foregoing clauses) of the definition of "Indebtedness", and shall include any exchange of existing Indebtedness that results in another class of Indebtedness for borrowed money.

"Indemnified Liabilities" has the meaning specified in Section 11.05(e).

"Indemnified Taxes" means (a) Taxes, other than Excluded Taxes, imposed on or with respect to any payment made by or on account of any obligation of any Loan Party under any Loan Document and (b) to the extent not otherwise described in (a), Other Taxes.

"Indemnitees" has the meaning specified in Section 11.05.

"Independent Financial Advisor" means an accounting, appraisal, investment banking firm or consultant of nationally recognized standing that is, in the good faith judgment of the Borrower, qualified to perform the task for which it has been engaged and that is independent of the Borrower and their Affiliates.

"Information" has the meaning specified in Section 11.08.

"Initial Agreement" has the meaning specified in Section 7.08(c)(xvi).

"Initial Revolving Loans" means the revolving loans denominated in Dollars equal to such Lender's Commitment as of the Closing Date.

"Initial Funding Date" has the meaning set forth in Section 4.02.

"Inside Maturity Exception" means Indebtedness in an aggregate principal amount not to exceed \$25,000,000 and such additional amounts as agreed by the Administrative Agent with the consent of the Required Lenders, that constitutes bridge financings, escrow or other similar arrangements, the terms of which provide for automatic and irrevocable extension of the maturity date thereof, subject to customary conditions, to a date that is not earlier than the latest maturity date of the Initial Revolving Loans, in each case, that is designated by the Borrower as being incurred pursuant to this provision, together with any Refinancing Indebtedness in respect of the foregoing.

“Intercompany Indebtedness” means Indebtedness by and among the Borrower or any Restricted Subsidiary, on the one hand, and the Borrower or any Restricted Subsidiary, on the other hand.

“Intercompany License Agreement” means any cost sharing agreement, commission or royalty agreement, license or sublicense agreement, distribution agreement, services agreement, intellectual property rights transfer agreement, any related agreements or similar agreements, in each case where all parties to such agreement are one or more of the Borrower or a Restricted Subsidiary.

“Intercreditor Agreements” means any Junior Lien Intercreditor Agreement, any Equal Priority Intercreditor Agreement, any Collateral Trust Agreement and any other intercreditor agreement governing lien priority with the approval of the Required Lenders, in each case that may be executed by the Administrative Agent and Collateral Agent from time to time.

“Interest Payment Date” means, (a) as to any SOFR Rate Loan, the last Business Day of each Interest Period applicable to such SOFR Rate Loan, as applicable, and the applicable Maturity Date; *provided* that if any Interest Period for a SOFR Rate Loan exceeds three months, the respective dates (which shall be a Business Day) that fall every three months after the beginning of such Interest Period shall also be Interest Payment Dates and (b) as to any Base Rate Loan, the last Business Day of each fiscal quarter and the applicable Maturity Date.

“Interest Period” means, as to each SOFR Rate Loan, the period commencing on the date such SOFR Rate Loan is disbursed or converted to or continued as a SOFR Rate Loan and ending on the date one, three or six months thereafter, or to the extent consented to by each applicable Lender, twelve months (or such period of less than one month as may be consented to by each applicable Lender), as selected by the Borrower in its Committed Loan Notice; *provided* that:

(a) any Interest Period that would otherwise end on a day that is not a Business Day shall be extended to the next succeeding Business Day unless such Business Day falls in another calendar month, in which case such Interest Period shall end on the immediately preceding Business Day;

(b) any Interest Period (other than an Interest Period having a duration of less than one month) that begins on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period) shall end on the last Business Day of the calendar month at the end of such Interest Period; and

(c) no Interest Period shall extend beyond the applicable Maturity Date.

“Investment” means, with respect to any Person, all investments by such Person in other Persons (including Affiliates) in the form of advances, loans or other extensions of credit (excluding (i) accounts receivable, trade credit, advances or extensions of credit to customers, suppliers, future, present or former employees, directors, officers, managers, contractors, consultants or advisors (or their respective Controlled Investment Affiliates or Immediate Family Members) of any Person in the ordinary course of business or consistent with past practice, (ii) any debt or extension of credit represented by a bank deposit other than a time deposit, (iii) intercompany advances arising from cash management, Tax and accounting operations and (iv) intercompany loans, advances or Indebtedness having a term not exceeding 364 days (inclusive of any roll-over or extensions of terms)) or capital contribution to (by means of any transfer of cash or other property to others or any payment for property or services for the account or use of others), or the incurrence of a guarantee of any obligation of, or any purchase or acquisition of Equity Interests, Indebtedness or other similar instruments issued by, such other Persons and all other items that are or would be classified as investments on a balance sheet prepared in accordance with GAAP; *provided, however*, that endorsements of negotiable instruments and documents in the ordinary course of business or consistent with past practice will not be deemed to be an Investment.

For purposes of Section 6.13 and Section 7.06:

(1) “Investment” will include the portion (proportionate to the Borrower’s equity interest in a Restricted Subsidiary to be designated as an Unrestricted Subsidiary) of the Fair Market Value of the net assets of such Restricted Subsidiary at the time that such Restricted Subsidiary is designated an Unrestricted Subsidiary; *provided, however*, that upon a redesignation of such Subsidiary as a Restricted Subsidiary, the Borrower will be deemed to continue to have a permanent “Investment” in an Unrestricted Subsidiary in an amount (if positive) equal to (a) the Borrower’s “Investment” in such Subsidiary at the time of such redesignation less (b) the portion (proportionate to the Borrower’s equity interest in such Subsidiary) of the Fair Market Value of the net assets (as determined by the Borrower) of such Subsidiary at the time that such Subsidiary is so re-designated a Restricted Subsidiary;

(2) any property transferred to or from an Unrestricted Subsidiary will be valued at its Fair Market Value at the time of such transfer, in each case as determined by the Borrower;

(3) if the Borrower or any Restricted Subsidiary issues, sells or otherwise disposes of Equity Interests in a Person that is a Restricted Subsidiary such that, after giving effect thereto, such Person is no longer a Restricted Subsidiary, any investment by the Borrower or any Restricted Subsidiary in such Person remaining after giving effect thereto shall not be deemed to be an Investment at such time.

The amount of any Investment outstanding at any time shall be the original cost of such Investment, reduced by any dividend, distribution, interest payment, return of capital, repayment or other amount received in cash and Cash Equivalents by the Borrower or a Restricted Subsidiary in respect of such Investment to the extent such amounts do not increase any other baskets under this Agreement.

“**Investment Grade Securities**” means:

(1) securities issued or directly and fully Guaranteed or insured by the United States government or any agency or instrumentality thereof (other than Cash Equivalents);

(2) securities issued or directly and fully guaranteed or insured by the Canadian, United Kingdom, Australian or Japanese governments, a member state of the European Union, or any agency or instrumentality thereof (other than Cash Equivalents);

(3) debt securities or debt instruments with a rating of “BBB-” or higher from S&P or “Baa3” or higher by Moody’s or the equivalent of such rating by such rating organization or, if no rating of Moody’s or S&P then exists, the equivalent of such rating by any other Nationally Recognized Statistical Ratings Organization, but excluding any debt securities or instruments constituting loans or advances among the Borrower and its Subsidiaries;

(4) investments in any fund that invests exclusively in investments of the type described in clauses (1), (2) and (3) above which fund may also hold cash and Cash Equivalents pending investment or distribution; and

(5) corresponding instruments in countries other than the United States customarily utilized for high quality investments.

“**IRS**” means Internal Revenue Service of the United States.

“**ISDA CDS Definitions**” has the meaning specified in the definition of “Net Short Position.”

“**ISDA Definitions**” means the 2006 ISDA Definitions published by the International Swaps and Derivatives Association, Inc. or any successor thereto, as amended or supplemented from time to time, or any successor definitional booklet for interest rate derivatives published from time to time by the International Swaps and Derivatives Association, Inc. or such successor thereto.

“**Issuance Notice**” means an Issuance Notice in respect of letters of credit substantially in the form of Exhibit A-2.

“**Issuing Bank**” means DNB and JPMorgan Chase Bank, N.A. as Issuing Banks hereunder, together with their permitted successors and assigns in such capacity, and any other Revolving Lender that becomes an Issuing Bank in accordance with Section 2.04(k) or (m). Any Issuing Bank may cause Letters of Credit to be issued by an Affiliate of such Issuing Bank or by another financial institution designated by such Issuing Bank, and all Letters of Credit issued by any such Affiliate or any such designated financial institution shall be treated as being issued by such Issuing Bank for all purposes under the Loan Documents.

“**Jones Act Notes**” has the meaning specified in Section 7.03(q).

“**Jones Act Vessel**” means, when referring to a vessel, a United States-flagged vessel documented with the United States Coast Guard with a coastwise endorsement and qualified to engage in domestic coastwise trade under the U.S. citizenship and cabotage laws principally contained in 46 U.S.C. § 50501(a), (b) and (d) and 46 U.S.C. Chapters 121 and 551, as amended or modified from time to time, and any successor statutes thereto.

“**Jones Act Warrants**” means those certain warrants issued to certain non-U.S. citizens in settlement of certain liabilities in respect of the Chapter 11 cases in the United States Bankruptcy Court for the Southern District of Texas, Houston Division, consummated September 4, 2020 and in connection with subsequent private offerings of the Borrower’s Equity Interests.

“**Judgment Currency**” has the meaning specified in Section 2.21(b).

“**Junior Debt Repayment**” has the meaning specified in Section 7.09(a).

“**Junior Financing**” means any Material Indebtedness (with clause (d) of the proviso in the definition thereof being deemed to be limited to Intercompany Indebtedness) that is (a) contractually subordinated in right of payment to the Obligations expressly by its terms, (b) Junior Lien Debt or (c) unsecured and constitutes Ratio Debt or is incurred in reliance on Section 7.03(a)(ii).

“**Junior Financing Documentation**” means any documentation governing any Junior Financing.

“**Junior Lien Debt**” means Indebtedness incurred in accordance with this Agreement that is secured by Liens on the Collateral (including any Vessel Collateral) having Junior Lien Priority, *provided* that prior to the issuance of any such Indebtedness, the applicable Debt Representative shall enter into a Junior Lien Intercreditor Agreement with the Collateral Agent and the Administrative Agent, among others (if applicable) and, if elected by the Borrower, the Collateral Trust Agreement; *provided, further*, for the avoidance of doubt, that Junior Lien Debt shall not include any unsecured Indebtedness.

“**Junior Lien Intercreditor Agreement**” means the Existing Junior Lien Intercreditor Agreement and, after termination of the Existing Junior Lien Intercreditor Agreement in connection with the Second Lien Credit Agreement Refinancing or otherwise, a junior lien intercreditor agreement in the form attached hereto as Exhibit K-2 (as the same may be modified in a manner reasonably satisfactory to the Administrative Agent, the Collateral Agent (at the direction of the Administrative Agent), the Required Lenders and the Borrower), or, if requested by the providers of Indebtedness permitted hereunder to be Junior Lien Debt, another lien subordination arrangement reasonably satisfactory to the Administrative Agent, the Collateral Agent (at the direction of the Administrative Agent), the Required Lenders and the Borrower, in each case as amended, restated, amended and restated, modified or supplemented from time to time in accordance with the terms hereof and thereof. Upon the request of the Borrower, the Administrative Agent and the Collateral Agent will execute and deliver a Junior Lien Intercreditor Agreement with one or more Debt Representatives for secured Indebtedness that is permitted to be incurred hereunder as Junior Lien Debt; *provided* that the Borrower shall not make such request unless such Indebtedness and related Liens are permitted by (including with respect to priority) the Loan Documents.

“**Junior Lien Priority**” means, with respect to a Lien on the Collateral, a Lien on such Collateral that is junior in priority to the Liens on the Collateral securing the Obligations pursuant to a Junior Lien Intercreditor Agreement.

“**L/C Fee**” has the meaning specified in Section 2.11(b)(ii).

“**Latest Maturity Date**” means, at any date of determination, the latest maturity or expiration date applicable to any Loan or Commitment hereunder at such time, including the latest maturity or expiration date of any Incremental Loan, any Refinancing Loan or any Extended Loan, in each case as extended in accordance with this Agreement from time to time.

“**Laws**” means, collectively, all international, foreign, federal, state, provincial, territorial and local statutes, treaties, rules, guidelines, regulations, ordinances, codes and administrative or judicial precedents or authorities and executive orders, including the interpretation or administration thereof by any Governmental Authority charged with the enforcement, interpretation or administration thereof.

“**LCT Election**” has the meaning specified in Section 1.08(f).

“**LCT Test Date**” has the meaning specified in Section 1.08(f).

“**Lead Arranger**” has the meaning specified in the introductory paragraph to this Agreement.

“**Lender**” has the meaning specified in the introductory paragraph to this Agreement (and, for the avoidance of doubt, includes each Revolving Lender), and their respective successors and assigns as permitted hereunder, each of which is referred to herein as a “Lender.” Each Additional Lender shall be a Lender to the extent any such Person has executed and delivered a Refinancing Amendment or an Incremental Amendment, as the case may be, and to the extent such Refinancing Amendment or Incremental Amendment shall have become effective in accordance with the terms hereof and thereof, and each Extending Lender shall continue to be a Lender. As of the Closing Date, Schedule 2.01 sets forth the name of each Lender. Unless the context otherwise requires, the term “Lenders” includes the Issuing Banks.

“**Lending Office**” means, as to any Lender, the office or offices of such Lender described as such in such Lender’s Administrative Questionnaire, or such other office or offices as a Lender may from time to time notify the Borrower and the Administrative Agent.

“**Letter of Credit**” means a letter of credit issued or to be issued (or, in the case of an Existing Letter of Credit, deemed to be issued) by any Issuing Bank pursuant to this Agreement, which letter of credit shall be (a) a standby letter of credit or (b) solely to the extent agreed by the applicable Issuing Bank in its sole discretion, commercial or “trade” letter of credit.

“**Letter of Credit Advance**” means, as to any Revolving Lender, such Lender’s funding of its participation in any Letter of Credit Borrowing in accordance with its Pro Rata Share.

“**Letter of Credit Application**” means an application and agreement for the issuance or amendment of a Letter of Credit in the form from time to time in use by the applicable Issuing Bank, together with an Issuance Notice.

“**Letter of Credit Borrowing**” means an extension of credit resulting from a drawing under any Letter of Credit that has not been reimbursed by the Borrower on the date when made or refinanced as a Revolving Loan Borrowing.

“**Letter of Credit Documents**” means, as to any Letter of Credit, each Letter of Credit Application and any other document, agreement and instrument entered into by the applicable Issuing Bank and the Borrower or in favor of such Issuing Bank and relating to such Letter of Credit.

“Letter of Credit Expiration Date” means the day that is five Business Days prior to the Commitment Maturity Date (or, if such day is not a Business Day, the immediately preceding Business Day).

“Letter of Credit Extension” means, with respect to any Letter of Credit, the issuance thereof or the extension of the expiry date thereof, or the renewal or increase of the amount thereof.

“Letter of Credit Obligations” means, at any time, the aggregate of all liabilities at such time of any Loan Party to each Issuing Bank with respect to Letters of Credit, whether or not any such liability is contingent, including, without duplication, the sum of (a) the Reimbursement Obligations at such time and (b) the maximum aggregate amount which is, or at any time thereafter may become, available for drawing under all Letters of Credit then outstanding.

“Letter of Credit Percentage” means, (a) initially with respect to DNB, 100.00% (as may be reduced to reflect any percentage allocated to another Issuing Bank pursuant to the immediately succeeding clause (b)) and (b) from time to time after the Closing Date with respect to any other Issuing Bank, a percentage to be agreed between the Borrower and such Issuing Bank.

“Letter of Credit Sublimit” means the greater of (a) \$25,000,000 and (b) such higher amount as the Borrower, the Revolving Lenders and the applicable Issuing Bank(s) may from time to time agree.

“Letter of Credit Usage” means, as of any date of determination, the sum of (a) the maximum aggregate amount which is, or at any time thereafter may become, available for drawing under all Letters of Credit then outstanding and (b) the aggregate amount of all Reimbursement Obligations outstanding at such time.

“Lien” means any mortgage, pledge, security interest, encumbrance, lien, hypothecation or charge of any kind (including any conditional sale or other title retention agreement or lease in the nature thereof); provided that in no event shall Non-Financing Lease Obligations be deemed to constitute a Lien.

“Lien Release Event” has the meaning specified in Section 10.11(a)(i).

“Limited Condition Transaction” means (1) any Investment or acquisition (whether by merger, amalgamation, consolidation or other business combination or the acquisition of Equity Interests or otherwise and which may include, for the avoidance of doubt, a transaction that may constitute a Change of Control), (2) any redemption, repurchase, defeasance, satisfaction and discharge or repayment of Indebtedness, Disqualified Equity Interests or Preferred Stock requiring irrevocable notice in advance of such redemption, repurchase, defeasance, satisfaction and discharge or repayment, (3) any Restricted Payment requiring irrevocable notice in advance thereof, (4) any asset sale or a disposition excluded from the definition of “Disposition,” and (5) any combination of any of the foregoing.

“Liquidity” means, as of any date of determination, the aggregate amount of cash and Cash Equivalents that is not Restricted, in each case, of the Loan Parties and their Restricted Subsidiaries, together with unused and undrawn Commitments under this Agreement that are available to be drawn at such time.

“**Loan**” means a Revolving Loan made by a Lender to the Borrower under Article II (including Section 2.16).

“**Loan Documents**” means, collectively, (a) this Agreement, (b) the Revolving Loan Notes, if any, (c) any Refinancing Amendment, Incremental Amendment or Extension Amendment, (d) the Guaranty, (e) the Collateral Documents, (f) any Intercreditor Agreements required to be entered into pursuant to the terms of this Agreement, (g) the Collateral Agent Fee Letter, (h) the Agency Fee Letter and (i) any other document or agreement designated as such by the Borrower and the Administrative Agent.

“**Loan Parties**” means, collectively, the Borrower and the Guarantors.

“**Low-Spec Vessel**” means, when referring to a Vessel, a Vessel with cargo-carrying capacity of less than 2,500 DWT (i.e., primarily 200 class OSV notations), and/or dynamic-positioning systems with a DP-1 classification or lower.

“**Management Advances**” means loans or advances made to, or Guarantees with respect to loans or advances made to, future, present or former employees, directors, officers, managers, contractors, consultants or advisors (or their respective Controlled Investment Affiliates or Immediate Family Members) of any Parent Entity, the Borrower or any Restricted Subsidiary:

(1) (a) in respect of travel, entertainment, relocation or moving related expenses, payroll advances and other analogous or similar expenses or payroll expenses, in each case incurred in the ordinary course of business or consistent with past practice or (b) for purposes of funding any such person’s purchase of Equity Interests (or similar obligations) of the Borrower, its Subsidiaries or any Parent Entity with (in the case of this clause (1)(b)) the approval of the Board of Directors of the Borrower;

(2) in respect of relocation or moving related expenses, payroll advances and other analogous or similar expenses or payroll expenses, in each case incurred in connection with any closing or consolidation of any facility or office; or

(3) not exceeding \$2.0 million .

“**Management Stockholders**” means the members of management of the Borrower (or any Parent Entity) or its Subsidiaries who are holders of Equity Interests of the Borrower or of any Parent Entity.

“**Margin Stock**” has the meaning set forth in Regulation U.

“**Material Adverse Effect**” means any event, circumstance or condition that has had a materially adverse effect on (a) the business, operations, assets, liabilities (actual or contingent) or financial condition of the Borrower and the Restricted Subsidiaries, taken as a whole, (b) the ability of the Loan Parties (taken as a whole) to perform their respective payment obligations under any Loan Document to which any of the Loan Parties is a party or (c) the rights and remedies of the Collateral Agent or the Administrative Agent under any Loan Document.

“**Material Indebtedness**” means, as of any date, Indebtedness for Borrowed Money on such date of any Loan Party in an aggregate principal amount exceeding the Threshold Amount; *provided* that in no event shall any of the following be Material Indebtedness (a) Indebtedness under a Loan Document, (b) obligations in respect of a Qualified Securitization Financing, (c) Capitalized Lease Obligations, (d) Indebtedness held by a Loan Party or any Indebtedness held by an Affiliate of a Loan Party and (e) Indebtedness under Hedge Agreements.

“**Maturity Date**” means, (a) with respect to any Revolving Loans, the earlier of (i) the date that is five years after the Closing Date and (ii) the date such Revolving Loans are terminated and declared due and payable pursuant to Section 9.02, (b) with respect to any tranche of Extended Commitments, the earlier of (i) the final maturity date as specified in the applicable Extension Amendment and (ii) the date such tranche of Extended Commitments are terminated and declared due and payable pursuant to Section 9.02, and (c) with respect to any Refinancing Loans, the earlier of (i) the final maturity date as specified in the applicable Refinancing Amendment and (ii) the date such Refinancing Loans are terminated and declared due and payable pursuant to Section 9.02; *provided* that if such day is not a Business Day, the applicable Maturity Date shall be the Business Day immediately preceding such day.

“**Maximum Rate**” has the meaning specified in Section 11.10.

“**Measurement Date**” has the meaning assigned to such term in Section 8.01(a).

“**Mid Specification**” or “**Mid-Spec**” means, when referring to OSVs, vessels with cargo carrying capacity of between 2,500 and 3,500 DWT (i.e., primarily 240 class OSV notations), and dynamic positioning systems with a DP-2 classification or lower.

“**Minimum L/C Collateral Amount**” means, at any time, (a) with respect to Cash Collateral consisting of cash or deposit account balances, an amount equal to 105% of the Fronting Exposure of the Issuing Banks with respect to Letters of Credit issued and outstanding at such time, and (b) otherwise, an amount determined by the Administrative Agent and the Issuing Banks in their sole discretion.

“**Moody’s**” means Moody’s Investors Service, Inc. and any successor thereto.

“**Mortgage**” has the meaning specified in Section 6.19(e).

“**MPSV**” means a multi-purpose support vessel.

“**Multiemployer Plan**” means any multiemployer plan as defined in Section 4001(a)(3) of ERISA and subject to Title IV of ERISA, to which any Loan Party or any of their respective ERISA Affiliates makes or is obligated to make contributions, or during the preceding five plan years, has made or been obligated to make contributions if liability to a Loan Party remains.

“**Net Income**” means, with respect to any Person, the net income (loss) of such Person, determined in accordance with GAAP (determined, for the avoidance of doubt, on a consolidated basis) and before any reduction in respect of preferred stock dividends.

“**Net Short Lender**” means, at any date of determination, each Lender (other than any Unrestricted Lender) that has a Net Short Position as of such date.

“**Net Short Position**” means, with respect to a Lender (other than an Unrestricted Lender), as of a date of determination, the net positive position, if any, held by such Lender that is remaining after deducting any long position that the Lender holds (i.e., a position (whether as an investor, lender or holder of Loans, debt obligations and/or Derivative Instruments) where the Lender is exposed to the credit risk of Deliverable Obligations of the Loan Parties) from any short positions (i.e., a position as described above, but where the Lender is instead protected from the credit risk described above).

For purposes of determining whether a Lender (other than an Unrestricted Lender) has a Net Short Position on any date of determination:

(i) Derivative Instruments shall be counted at the notional amount (in Dollars) of such Derivative Instrument; *provided* that, subject to clause (v) below, the notional amount of Derivative Instruments referencing an index that includes any of the Loan Parties or any bond or loan obligation issued or guaranteed by any Loan Party shall be determined in proportionate amount and by reference to the percentage weighting of the component which references any Loan Party or any bond or loan obligation issued or guaranteed by any Loan Party that would be a “Deliverable Obligation” or an “Obligation” (as defined in the ISDA CDS Definitions) of the Loan Parties;

(ii) notional amounts of Derivative Instruments in other currencies shall be converted to the Dollar equivalent thereof by such Lender in accordance with the terms of such Derivative Instruments, as applicable; *provided* that if not otherwise provided in such Derivative Instrument, such conversion shall be made in a commercially reasonable manner consistent with generally accepted financial practices and based on the prevailing conversion rate determined (on a mid-market basis) by such Lender, acting in a commercially reasonable manner, on the date of determination;

(iii) Derivative Instruments that are documented using either the 2014 ISDA Credit Derivatives Definitions or the 2003 ISDA Credit Derivatives Definitions (or any successor definitions thereof, collectively, the “**ISDA CDS Definitions**”) shall be deemed to create a short position with respect to the Loans if such Lender is a protection buyer or the equivalent thereof for such Derivative Instrument and (A) the Loans are a “Reference Obligation” under the terms of such derivative transaction (whether specified by name in the related documentation, included as a “Standard Reference Obligation” on the most recent list published by Markit, if “Standard Reference Obligation” is specified as applicable in the relevant documentation or in any other manner) or (B) the Loans would be a “Deliverable Obligation” or an “Obligation” (as defined in the ISDA CDS Definitions) of the Loan Parties under the terms of such derivative transaction;

(iv) credit derivative transactions or other Derivative Instruments not documented using the ISDA CDS Definitions shall be counted for purposes of the Net Short Position determination if, with respect to the Loans, such transactions are functionally equivalent to a transaction that offers such Lender protection in respect of the Loans; and

(v) Derivative Instruments in respect of an index that includes any of the Loan Parties or any instrument issued or guaranteed by any of the Loan Parties shall not be deemed to create a short position, so long as (A) such index is not created, designed, administered or requested by such Lender and (B) the Loan Parties, and any Deliverable Obligation of the Loan Parties, collectively, shall represent less than 5.0% of the components of such index.

“Net Short Representation” means, with respect to any Lender (other than an Unrestricted Lender) at any time, a representation and warranty (including any deemed representation and warranty, as the case may be) from such Lender to the Borrower that it is not (x) a Net Short Lender at such time or (y) knowingly and intentionally acting in concert with any of its Affiliates for the express purpose of creating (and in fact creating) the same economic effect with respect to the Loan Parties as though such Lender were a Net Short Lender at such time.

“Non-Consenting Lender” has the meaning specified in the penultimate paragraph of [Section 3.07](#).

“Non-Defaulting Lender” means, at any time, each Lender that is not a Defaulting Lender at such time.

“Non-Financing Lease Obligation” means a lease obligation that is not required to be accounted for as a financing or capital lease in accordance with GAAP. For the avoidance of doubt, a straight-line or operating lease shall be considered a Non-Financing Lease Obligation.

“Nonrenewal Notice Date” has the meaning specified in [Section 2.04\(b\)\(iii\)](#).

“NYFRB” means the Federal Reserve Bank of New York.

“Obligations” means all (a) advances to, and debts, liabilities, obligations, covenants and duties of, any Loan Party arising under any Loan Document or otherwise with respect to any Loan or Letter of Credit, whether direct or indirect (including those acquired by assumption), absolute or contingent, due or to become due, now existing or hereafter arising and including interest, fees and expenses that accrue after the commencement by or against any Loan Party of any proceeding under any Debtor Relief Laws naming such Person as the debtor in such proceeding, regardless of whether such interest, fees and expenses are allowed claims in such proceeding, (b) obligations of any Loan Party arising under any Secured Hedge Agreement, (c) Cash Management Obligations and (d) Erroneous Payment Subrogation Rights; *provided* that “Obligations” shall exclude any Excluded Swap Obligations. Without limiting the generality of the foregoing, the Obligations of the Loan Parties under the Loan Documents (and any of their Subsidiaries to the extent they have obligations under the Loan Documents) include the obligation (including guarantee obligations) to pay principal, interest, reimbursement obligations, charges, expenses, fees, Attorney Costs, indemnities and other amounts payable by any Loan Party and to provide Cash Collateral under any Loan Document.

“**Organization Documents**” means,

(a) with respect to any corporation, the certificate or articles of incorporation and the bylaws (or equivalent or comparable constitutive documents with respect to any non-U.S. jurisdiction);

(b) with respect to any limited liability company, the certificate or articles of formation or organization and operating agreement; and

(c) with respect to any partnership, joint venture, trust or other form of business entity, the partnership, joint venture or other applicable agreement of formation or organization and any agreement, instrument, filing or notice with respect thereto filed in connection with its formation or organization with the applicable Governmental Authority in the jurisdiction of its formation or organization and, if applicable, any certificate or articles of formation or organization of such entity.

“**Other Connection Taxes**” means, with respect to any Recipient, Taxes imposed as a result of a present or former connection between such Recipient and the jurisdiction imposing such Tax (other than connections arising solely from such Recipient having executed, delivered, become a party to, performed its obligations under, received payments under, received or perfected a security interest under, engaged in any other transaction pursuant to or enforced by any Loan Document).

“**Other Taxes**” has the meaning specified in [Section 3.01\(f\)](#).

“**Overnight Rate**” means, for any day, the greater of (i) the Federal Funds Rate and (ii) an overnight rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation.

“**Parent Entity**” has the meaning specified in [Section 6.01](#).

“**Pari Passu Lien Debt**” means any Indebtedness that is secured by Liens on the Vessel Collateral that are *pari passu* in priority with the Liens on the Collateral (including any Vessel Collateral) that secure the Obligations. For the avoidance of doubt, “Pari Passu Lien Debt” includes the Revolving Loans (if any) and the Commitments as of the Closing Date.

“**Participant**” has the meaning specified in [Section 11.07\(d\)](#).

“**Participant Register**” has the meaning specified in [Section 11.07\(e\)](#).

“**Participating Member State**” means each state as described in any EMU Legislation.

“**Payment Recipient**” has the meaning specified in [Section 10.17\(a\)](#).

“**PBGC**” means the Pension Benefit Guaranty Corporation or any successor thereto.

“**Pension Plan**” means any “employee pension benefit plan” (as such term is defined in Section 3(2) of ERISA), other than a Multiemployer Plan, that is subject to Title IV of ERISA or Section 302 of ERISA or Section 412 of the Code and is sponsored or maintained by any Loan Party or any of their respective ERISA Affiliates or to which any Loan Party or any of their respective ERISA Affiliates contributes or has an obligation to contribute, or in the case of a multiple employer or other plan described in Section 4064(a) of ERISA, has made, or has had an obligation to make, contributions at any time in the preceding five plan years if liability to a Loan Party remains.

“**Permitted Asset Swap**” means the concurrent purchase and sale or exchange of assets used or useful in a Similar Business or a combination of such assets and cash, Cash Equivalents between the Borrower or any of the Restricted Subsidiaries and another Person.

“**Permitted Consent Event**” has the meaning specified in Section 10.11.

“**Permitted Debt**” has the meaning specified in Section 7.03.

“**Permitted Holders**” means:

- (a) the Sponsors;
- (b) the Management Stockholders (including any Management Stockholders holding Equity Interests through an equityholding vehicle);
- (c) any Person who is acting solely as an underwriter in connection with a public or private offering of Equity Interests of any Parent Entity or the Borrower, acting in such capacity;
- (d) any group (within the meaning of Section 13(d)(3) or Section 14(d)(2) of the Exchange Act or any successor provision) of which any of the foregoing, any Holding Company, Permitted Plan or any Person or group that becomes a Permitted Holder specified in the last sentence of this definition are members and any member of such group; *provided* that, in the case of such group and without giving effect to the existence of such group or any other group, Persons referred to in subclauses (i) through (iii), collectively, have beneficial ownership of more than 50% of the total voting power of the Voting Stock of the Borrower or any Parent Entity held by such group;
- (e) any Holding Company in connection with and immediately following a Qualifying IPO or, prior to a Qualifying IPO, to the extent such Holding Company itself (or any of its Parent Entities) is listed on any United States national securities exchange; and
- (f) any Permitted Plan.

Any Person or group whose acquisition of beneficial ownership constitutes a Change of Control in respect of which the Required Lenders have provided a consent in accordance with this Agreement will thereafter, together with its Affiliates, constitute an additional Permitted Holder.

“Permitted Intercompany Activities” means any transactions (A) between or among the Borrower and its Restricted Subsidiaries that are entered into in the ordinary course of business or consistent with past practice of the Borrower and its Restricted Subsidiaries and, in the reasonable determination of the Borrower are necessary or advisable in connection with the ownership or operation of the business of the Borrower and its Restricted Subsidiaries, including (i) payroll, cash management, purchasing, insurance and hedging arrangements; (ii) management, technology and licensing arrangements; (iii) customary loyalty and rewards programs and (iv) Vessel reflagging arrangements (to the extent the reflagging is otherwise permitted hereunder); and (B) between or among the Borrower, its Restricted Subsidiaries and any Captive Insurance Subsidiary.

“Permitted Investment” means (in each case, by the Borrower or any of the Restricted Subsidiaries):

(1) Investments in (a) a Restricted Subsidiary (including the Equity Interests of, or guarantees of obligations of, a Restricted Subsidiary) or the Borrower or (b) a Person (including the Equity Interests of any such Person) that will, upon the making of such Investment, become a Restricted Subsidiary of the Borrower;

(2) Investments in another Person and as a result of such Investment such other Person, in one transaction or a series of transactions, is merged, amalgamated, consolidated or otherwise combined with or into, or transfers or conveys all or substantially all its assets (or such division, business unit, product line or business) to, or is liquidated into, the Borrower or a Restricted Subsidiary, and any Investment held by such Person; *provided* that such Investment was not acquired by such Person in contemplation of such acquisition, merger, amalgamation, consolidation, combination, transfer or conveyance;

(3) Investments in cash, Cash Equivalents or Investment Grade Securities;

(4) Investments in receivables owing to the Borrower or any Restricted Subsidiary created or acquired in the ordinary course of business or consistent with past practice;

(5) Investments in payroll, travel, entertainment, relocation, moving related and similar advances that are made in the ordinary course of business or consistent with past practice;

(6) Management Advances;

(7) Investments (including debt obligations and Equity Interests) (a) received in settlement, compromise or resolution of debts created in the ordinary course of business or consistent with past practice, (b) in exchange for any other Investment or accounts receivable, endorsements for collection or deposit held by the Borrower or any such Restricted Subsidiary, (c) as a result of foreclosure, perfection or enforcement of any Lien, (d) in satisfaction of judgments or (e) pursuant to any plan of reorganization or similar arrangement including upon the bankruptcy or insolvency of a debtor or litigation, arbitration or other disputes or otherwise with respect to any secured Investment or other transfer of title with respect to any secured Investment in default;

(8) Investments made as a result of the receipt of promissory notes or other non-cash consideration (including earn-outs) from a sale or other disposition of property or assets that complies with or is permitted by Section 7.05;

(9) Investments existing or pursuant to binding commitments, agreements or arrangements in effect on the Closing Date and any modification, replacement, renewal, reinvestment or extension thereof; *provided* that the amount of any such Investment may not be increased except (i) as required by the terms of such Investment or binding commitment as in existence on the Closing Date (including in respect of any unused commitment), plus any accrued but unpaid interest (including any accretion of interest, original issue discount or the issuance of pay-in-kind securities) and premium payable by the terms of such Indebtedness thereon and fees and expenses associated therewith as of the Closing Date or (ii) as otherwise permitted under this Agreement;

(10) Obligations in respect of Hedge Agreements, which transactions or obligations not prohibited by Section 7.03;

(11) pledges or deposits with respect to leases or utilities provided to third parties in the ordinary course of business or Liens otherwise made in connection with Liens permitted under Section 7.01;

(12) any Investment to the extent made using Equity Interests of the Borrower (other than Disqualified Equity Interests) or Equity Interests of any Parent Entity or any Unrestricted Subsidiary as consideration;

(13) Investments consisting of (i) purchases or other acquisitions of inventory, supplies, materials, equipment and similar assets or (ii) licenses, sublicenses, cross-licenses, leases, subleases, assignments, contributions or other Investments of intellectual property or other intangibles or services in the ordinary course of business pursuant to any joint development, joint venture or marketing arrangements with other Persons or any Intercompany License Agreement and any other Investments made in connection therewith;

(14) (i) Guarantees of Indebtedness not prohibited by Section 7.03 and (other than with respect to Indebtedness) guarantees, keepwells and similar arrangements in the ordinary course of business or consistent with past practice, and (ii) performance guarantees and Contingent Obligations with respect to obligations that are not prohibited by this Agreement;

(15) Investments consisting of earnest money deposits required in connection with a purchase agreement, or letter of intent, or other acquisitions to the extent not otherwise prohibited by this Agreement;

(16) Investments of a Restricted Subsidiary acquired after the Closing Date or of an entity merged or amalgamated into or consolidated with the Borrower or merged or amalgamated into or consolidated with a Restricted Subsidiary after the Closing Date to the extent that such Investments were not made in contemplation of or in connection with such acquisition, merger, amalgamation or consolidation and were in existence on the date of such acquisition, merger, amalgamation or consolidation;

(17) contributions to a “rabbi” trust for the benefit of any employee, director, officer, manager, contractor, consultant, advisor or other service providers or other grantor trust subject to claims of creditors in the case of a bankruptcy of the Borrower, and Investments relating to non-qualified deferred payment plans in the ordinary course of business or consistent with past practice;

(18) provided no Default or Event of Default has occurred and is continuing, Investments in joint ventures and similar entities and Unrestricted Subsidiaries having an aggregate Fair Market Value, when taken together with all other Investments made pursuant to this clause that are at the time outstanding, not to exceed the greater of (i) \$25.0 million and (ii) an amount equal to 3.0% of the Borrower’s Consolidated Net Tangible Assets determined as of the end of the Borrower’s most recently completed fiscal quarter for which internal financial statements are available in the aggregate outstanding at the time of such Investment (with the Fair Market Value of each Investment being measured at the time made and without giving effect to subsequent changes in value), plus the amount of any returns (including dividends, payments, interest, distributions, returns of principal, profits on sale, repayments, income and similar amounts) in respect of such Investments (without duplication of any amounts applied pursuant to Section 7.06(d)(iv)) with the Fair Market Value of each Investment being measured at the time made and without giving effect to subsequent changes in value; *provided, however*, that if any Investment pursuant to this clause is made in any Person that is not the Borrower or a Restricted Subsidiary at the date of the making of such Investment (A) and such person becomes the Borrower or a Restricted Subsidiary after such date, such Investment shall thereafter be deemed to have been made pursuant to clause (1) or (2) above and shall cease to have been made pursuant to this clause and (B) the Borrower shall be in pro forma compliance with the Financial Covenants upon giving effect to such Investment;

(19) provided no Default or Event of Default has occurred and is continuing, additional Investments having an aggregate Fair Market Value, taken together with all other Investments made pursuant to this clause that are at that time outstanding, not to exceed the greater of (i) \$75.0 million and (ii) an amount equal to 10.0% of the Borrower’s Consolidated Net Tangible Assets determined as of the end of the Borrower’s most recently completed fiscal quarter for which internal financial statements are available in the aggregate outstanding at the time of such Investment (with the Fair Market Value of each Investment being measured at the time made and without giving effect to subsequent changes in value), plus the amount of any returns (including dividends, payments, interest, distributions, returns of principal, profits on sale, repayments, income and similar amounts) in respect of such Investments (without duplication of any amounts applied pursuant to Section 7.06(d)(iv)) with the Fair Market Value of each Investment being measured at the time made and without giving effect to subsequent changes in value; *provided, however*, that if any Investment pursuant to this clause is made in any Person that is not the Borrower or a Restricted Subsidiary at the date of the making of such Investment (A) and such Person becomes the Borrower or a Restricted Subsidiary after such date, such Investment shall thereafter be deemed to have been made pursuant to clause (1) or (2) above and shall cease to have been made pursuant to this clause and (B) the Borrower shall be in pro forma compliance with the Financial Covenants upon giving effect to such Investment;

(20) [reserved];

(21) (i) Investments arising or made in connection with a Qualified Securitization Financing or Receivables Facility and (ii) distributions or payments of Securitization Fees and purchases of Securitization Assets or Receivables Assets in connection with a Qualified Securitization Financing or Receivables Facility;

(22) Investments made from casualty insurance proceeds in connection with the replacement, substitution, restoration or repair of assets on account of a Casualty Event;

(23) guaranty and indemnification obligations arising in connection with surety bonds issued in the ordinary course of business or consistent with past practice;

(24) Investments (a) consisting of purchases and acquisitions of assets or services in the ordinary course of business or consistent with past practice, (b) made in the ordinary course of business or consistent with past practice in connection with obtaining, maintaining or renewing client, franchisee and customer contacts and loans or (c) advances, loans, extensions of credit (including the creation of receivables) or prepayments made to, and guarantees with respect to obligations of, franchisees, distributors, suppliers, lessors, licensors and licensees in the ordinary course of business or consistent with past practice;

(25) Investments in prepaid expenses, negotiable instruments held for collection and lease, utility and workers compensation, performance and similar deposits entered into as a result of the operations of the business in the ordinary course of business or consistent with past practice;

(26) Investments consisting of UCC Article 3 endorsements for collection or deposit and Article 4 trade arrangements with customers (or any comparable or similar provisions in other applicable jurisdictions) in the ordinary course of business or consistent with past practices;

(27) any Investment by any Captive Insurance Subsidiary in connection with the provision of insurance to the Borrower or any Subsidiaries, which Investment is made in the ordinary course of business or consistent with past practice of such Captive Insurance Subsidiary, or by reason of applicable law, rule, regulation or order, or that is required or approved by any regulatory authority having jurisdiction over such Captive Insurance Subsidiary or its business, as applicable;

(28) non-cash Investments in connection with Tax planning and reorganization activities, and Investments in connection with a Permitted Intercompany Activities and related transactions;

(29) [reserved]; and

(30) any other Investment so long as no Default or Event of Default has occurred and is continuing and immediately after giving pro forma effect to the Investment and the incurrence of any Indebtedness the net proceeds of which are used to make such Investment, the Total Net Leverage Ratio shall be no greater than 2.00 to 1.00 and the Borrower shall be in pro forma compliance with the Financial Covenants upon giving effect to such Investment.

“Permitted Junior Debt Repayment” has the meaning specified in Section 7.09(a).

“Permitted Junior Secured Refinancing Debt” means any Second Lien Credit Agreement Refinancing Indebtedness that is Junior Lien Debt.

“Permitted Lien” means any Lien permitted under Section 7.01.

“Permitted Maritime Lien” means, at any time with respect to any Vessel Collateral:

(1) Liens for crews’ wages (including the wages of the master of any Vessel) that are incurred in the ordinary course of business and have accrued for not more than forty-five (45) days unless any such Lien is being contested in good faith and by appropriate proceedings or other acts by the relevant Loan Party and the relevant Loan Party shall have set aside on its books adequate reserves with respect to such Lien;

(2) Liens for salvage (including contract salvage) or general average, and Liens for wages of stevedores employed by the owner of any Vessel, the master of such Vessel or a charterer or lessee of such Vessel, which in each case have accrued for not more than forty-five (45) days unless any such Lien is being contested in good faith and by appropriate proceedings or other acts by the relevant Loan Party and such Loan Party shall have set aside on its books adequate reserves with respect to such Lien;

(3) shipyard Liens and other Liens arising by operation of law arising in the ordinary course of business in operating, maintaining, repairing, modifying, refurbishing, or rebuilding any Vessel (other than those referred to in (1) and (2) above), including maritime Liens for necessities, which in each case have accrued for not more than forty-five (45) days unless any such Lien is being contested in good faith and by appropriate proceedings or other acts by the relevant Loan Party, and such Loan Party shall have set aside on its books adequate reserves with respect to such Lien;

(4) Liens for damages arising from maritime torts which are unclaimed, or are covered by insurance and any deductible applicable thereto, or in respect of which a bond or other security has been posted on behalf of the relevant Loan Party with the appropriate court or other tribunal to prevent the arrest or secure the release of any Vessel from arrest, unless any such Lien is being contested in good faith and by appropriate proceedings or other acts by the relevant Loan Party, and such Loan Party shall have set aside on its books adequate reserves with respect to such Lien;

(5) Liens that, as indicated by the written admission of liability therefor by an insurance company, are covered by insurance (subject to reasonable deductibles); and

(6) Liens for charters or subcharters or leases or subleases, including any charter, subcharter, lease or sublease permitted under this Agreement.

“**Permitted Pari Passu Secured Refinancing Debt**” means any Second Lien Credit Agreement Refinancing Indebtedness that is Pari Passu Lien Debt.

“**Permitted Payment**” means:

(1) the payment of any dividend or distribution within sixty (60) days after the date of declaration thereof, if at the date of declaration such payment would have complied with the provisions of this Agreement or the redemption, repurchase or retirement of Indebtedness if, at the date of any redemption notice, such payment would have complied with the provisions of this Agreement as if it were and is deemed at such time to be a Restricted Payment at the time of such notice;

(2) (a) any prepayment, purchase, repurchase, redemption, defeasance, discharge, retirement or other acquisition of Equity Interests, including any accrued and unpaid dividends thereon (“**Treasury Equity Interests**”) made by exchange (including any such exchange pursuant to the exercise of a conversion right or privilege in connection with which cash is paid in lieu of the issuance of fractional shares) for, or out of the proceeds of the substantially concurrent sale of, Equity Interests of the Borrower or any Parent Entity to the extent contributed to the Borrower (in each case, other than Disqualified Equity Interests) (“**Refunding Equity Interests**”) and (b) the declaration and payment of dividends on Treasury Equity Interests out of the proceeds of the substantially concurrent sale or issuance (other than to a Subsidiary of the Borrower or to an employee stock ownership plan or any trust established by a Parent Entity, the Borrower or any of its Subsidiaries) of Refunding Equity Interests;

(3) any prepayment, purchase, repurchase, exchange, redemption, defeasance, discharge, retirement or other acquisition of Junior Financing made by exchange for, or out of the proceeds of the substantially concurrent sale of, any Refinancing Indebtedness or Second Lien Credit Agreement Refinancing Indebtedness permitted to be incurred pursuant to Section 7.03;

(4) any prepayment, purchase, repurchase, exchange, redemption, defeasance, discharge, retirement or other acquisition of preferred stock of the Borrower or a Restricted Subsidiary made by exchange for, or out of the proceeds of the substantially concurrent sale of, preferred stock of the Borrower or a Restricted Subsidiary, as the case may be, that, in each case, is permitted to be incurred pursuant to Section 7.03;

(5) any prepayment, purchase, repurchase, redemption, defeasance, discharge, retirement or other acquisition of Subordinated Indebtedness of the Issuer or a Restricted Subsidiary to the extent required by the agreement governing such Subordinated Indebtedness, following the occurrence of (i) a Change of Control (or other similar event described therein as a “change of control”) or (ii) an asset disposition (or other similar event described therein as an “asset disposition” or “asset sale”), but only if the Borrower shall have first complied with the terms described under “—Change of Control” or “—Limitation on Sales of Assets and Subsidiary Stock,” as applicable, and purchased all notes tendered pursuant to the offer to repurchase all the notes required thereby, prior to purchasing, repurchasing, redeeming, defeasing or otherwise acquiring or retiring such Subordinated Indebtedness;

(6) a Restricted Payment to pay for the prepayment, purchase, repurchase, redemption, defeasance, discharge, retirement or other acquisition of Equity Interests of the Borrower or any Parent Entity held by any future, present or former employee, director, officer, manager, contractor, consultant or advisor (or their respective Controlled Investment Affiliates or Immediate Family Members) of the Borrower, any of its Subsidiaries or any Parent Entity pursuant to any management equity plan, stock option plan, phantom equity plan or any other management, employee benefit or other compensatory plan or agreement (and any successor plans or arrangements thereto), employment, termination or severance agreement, or any stock subscription or equityholder agreement (including, for the avoidance of doubt, any principal and interest payable on any Indebtedness issued by the Borrower or any Parent Entity in connection with such prepayment, purchase, repurchase, redemption, defeasance, discharge, retirement or other acquisition), including any Equity Interests rolled over, accelerated or paid out by or to any employee, director, officer, manager, contractor, consultant or advisor (or their respective Controlled Investment Affiliates or Immediate Family Members) of the Borrower, any of its Subsidiaries or any Parent Entity in connection with any transaction; *provided, however*, that the aggregate Restricted Payments made under this clause do not exceed (x) the greater of (i) \$15.0 million and (ii) an amount equal to 1.5% of the Borrower's Consolidated Net Tangible Assets determined as of the end of the Borrower's most recently completed fiscal quarter for which internal financial statements are available in any fiscal year (with unused amounts in any fiscal year being carried over to succeeding fiscal years) or (y) subsequent to the consummation of a Qualifying IPO of the Borrower or any Parent Entity, the greater of (i) \$25.0 million and (ii) an amount equal to 3.0% of the Borrower's Consolidated Net Tangible Assets determined as of the end of the Borrower's most recently completed fiscal quarter for which internal financial statements are available in any fiscal year (with unused amounts in any fiscal year being carried over to succeeding fiscal years); *provided, further*, that such amount in any fiscal year may be increased by an amount not to exceed:

- (a) the cash proceeds from the sale of Equity Interests (other than Disqualified Equity Interests) of the Borrower and, to the extent contributed to the capital of the Borrower, the cash proceeds from the sale of Equity Interests of any Parent Entity, in each case, to any future, present or former employee, director, officer, manager, contractor, consultant or advisor (or their respective Controlled Investment Affiliates or Immediate Family Members) of the Borrower, any of its Subsidiaries or any Parent Entity that occurred after the Closing Date, to the extent the cash proceeds from the sale of such Equity Interests have not otherwise been applied to the payment of Restricted Payments by virtue of clause (c) of the preceding paragraph; plus

- (b) the cash proceeds of key man life insurance policies received by the Borrower or its Restricted Subsidiaries (or any Parent Entity to the extent contributed to the Borrower) after the Closing Date; less
- (c) the amount of any Restricted Payments made in previous calendar years pursuant to clauses (a) and (b) of this clause; *provided* that the Borrower may elect to apply all or any portion of the aggregate increase contemplated by subclauses (a) and (b) of this clause in any fiscal year; *provided, further*, that (i) cancellation of Indebtedness owing to the Borrower or any Restricted Subsidiary from any future, present or former employee, director, officer, manager, contractor, consultant or advisor (or their respective Controlled Investment Affiliates or Immediate Family Members) of the Borrower or Restricted Subsidiaries or any Parent Entity in connection with a repurchase of Equity Interests of the Borrower or any Parent Entity and (ii) the repurchase of Equity Interests deemed to occur upon the exercise of options, warrants or similar instruments if such Equity Interests represents all or a portion of the exercise price thereof and payments, in lieu of the issuance of fractional shares of such Equity Interests or withholding to pay other Taxes payable in connection therewith, in the case of each of clauses (i) and (ii), will not be deemed to constitute a Restricted Payment for purposes of this covenant or any other provision of this Agreement;

(7) the declaration and payment of dividends on Disqualified Equity Interests of the Borrower or any of its Restricted Subsidiaries or preferred stock of a Restricted Subsidiary, issued in accordance with the covenant described under Section 7.03;

(8) payments made or expected to be made by the Borrower or any Restricted Subsidiary in respect of withholding or similar Taxes payable in connection with the exercise or vesting of Equity Interests or any other equity award by any future, present or former employee, director, officer, manager, contractor, consultant or advisor (or their respective Controlled Investment Affiliates or Immediate Family Members) of the Borrower or any Restricted Subsidiary or any Parent Entity and purchases, repurchases, redemptions, defeasances or other acquisitions or retirements of Equity Interests deemed to occur upon the exercise, conversion or exchange of stock options, warrants, equity-based awards or other rights in respect thereof if such Equity Interests represents a portion of the exercise price thereof or payments in respect of withholding or similar Taxes payable upon exercise or vesting thereof;

(9) (a) the declaration and payment of dividends on the common stock, common equity interests or Jones Act Warrants (including, for the avoidance of doubt, in the form of notes, warrants or similar Indebtedness) of the Borrower or any Parent Entity (and any equivalent declaration and payment of a distribution of any security exchangeable for such common stock, common equity interests or Jones Act Warrants to the extent required by the terms of any such exchangeable securities and any Restricted Payment to any such Parent Entity to fund the payment by such Parent Entity of dividends on such entity's Equity Interests), following a public offering of such common stock, common equity interests or Jones Act Warrants (or such exchangeable securities, as applicable), in an amount in any fiscal year not to exceed 6% of the amount of net cash proceeds received by or contributed to the Borrower or any of its Restricted Subsidiaries from any such public offering; or (b) in lieu of all or a portion of the dividends permitted by clause (a), any prepayment, purchase, repurchase, redemption, defeasance, discharge, retirement or other acquisition of the Borrower's Equity Interests (and any equivalent declaration and payment of a distribution of any security exchangeable for such common stock, common equity interests or Jones Act Warrants to the extent required by the terms of any such exchangeable securities and any Restricted Payment to any such Parent Entity to fund the payment by such Parent Entity of dividends on such entity's Equity Interests) for aggregate consideration that, when taken together with dividends permitted by clause (a), does not exceed the amount contemplated by clause (a);

(10) payments by the Borrower, or loans, advances, dividends or distributions to any Parent Entity to make payments, to holders of Equity Interests of the Borrower or any Parent Entity in lieu of the issuance of fractional shares of such Equity Interests, *provided, however*, that any such payment, loan, advance, dividend or distribution shall not be for the purpose of evading any limitation of this covenant or otherwise to facilitate any dividend or other return of capital to the holders of such Equity Interests (as determined in good faith by the Borrower);

(11) distributions, by dividend or otherwise, or other transfer or disposition of shares of Equity Interests of, or equity interests in, an Unrestricted Subsidiary (or a Restricted Subsidiary that owns one or more Unrestricted Subsidiaries and no other material assets), or Indebtedness owed to the Borrower or a Restricted Subsidiary by an Unrestricted Subsidiary (or a Restricted Subsidiary that owns one or more Unrestricted Subsidiaries and no other material assets), in each case, other than Unrestricted Subsidiaries, substantially all of the assets of which are cash and Cash Equivalents;

(12) distributions or payments of Securitization Fees, sales contributions and other transfers of Securitization Assets or Receivables Assets and purchases of Securitization Assets or Receivables Assets pursuant to a Securitization Repurchase Obligation, in each case in connection with a Qualified Securitization Financing or Receivables Facility;

(13) (i) so long as, immediately after giving pro forma effect to the payment of any such Restricted Payment and the incurrence of any Indebtedness the net proceeds of which are used to make such Restricted Payment, no Default or Event of Default has occurred and is continuing (or would result therefrom), Restricted Payments (including, for the avoidance of doubt, in the form of notes, warrants or similar Indebtedness and including loans or advances) in an aggregate amount outstanding at the time made not to exceed the greater of (x) \$50.0 million and (y) an amount equal to 6.0% of the Borrower's Consolidated Net Tangible Assets determined as of the end of the Borrower's most recently completed fiscal quarter for which internal financial statements are available, and (ii) any Restricted Payments, so long as, immediately after giving pro forma effect to the payment of any such Restricted Payment and the incurrence of any Indebtedness the net proceeds of which are used to make such Restricted Payment, (A) no Default or Event of Default has occurred and is continuing (or would result therefrom) and (B) the Total Net Leverage Ratio shall be no greater than 1.50 to 1.00; *provided, however*, in the case of this clause (13), the Borrower shall be in pro forma compliance with the Financial Covenants upon giving effect thereto;

(14) payments or distributions to dissenting stockholders pursuant to applicable law (including in connection with, or as a result of, exercise of dissenters' or appraisal rights and the settlement of any claims or action (whether actual, contingent or potential)), pursuant to or in connection with a merger, amalgamation, consolidation or transfer of assets that complies with Section 7.04;

(15) any Restricted Payment made in connection with a Permitted Intercompany Activity or related transactions; *provided* that Restricted Payments in connection with Permitted Intercompany Activities between the Borrower and Restricted Subsidiaries that are Loan Parties, on the one hand, and Restricted Subsidiaries that are not Loan Parties or any other Person, on the other hand, shall only be permitted so long as an Event of Default has not occurred and is continuing (other than, for the avoidance of doubt, Permitted Intercompany Activities in accordance with clause (A)(i) of the definition thereof); and

(16) the making of (i) cash payments made by the Borrower or any of its Restricted Subsidiaries in satisfaction of the conversion obligation upon conversion into the Borrower equity of convertible Indebtedness issued in a convertible notes offering (it being understood that the satisfaction of such conversion obligation in cash shall not increase the Available Amount) and (ii) any payments by the Borrower or any of its Restricted Subsidiaries pursuant to the initiation, exercise, settlement or termination of any Hedge Agreement (clauses (i) and (ii)), a **"Conversion Settlement"**).

"Permitted Plan" means any employee benefits plan of the Borrower or any of its Affiliates and any Person acting in its capacity as trustee, agent or other fiduciary or administrator of any such plan.

"Permitted Reflagging Transaction" means any transaction or action by a Loan Party resulting in (i) the Vessel Collateral being reflagged under the laws of another Approved Flag Jurisdiction so long as no less than five (5) Business Days prior written notice has been provided to the Administrative Agent (or such shorter period as the Administrative Agent shall agree in its discretion) and either (A) such Vessel would thereafter constitute an Excluded Foreign Flag Vessel or (B) the Required Lenders have provided their consent thereto (such consent not to be unreasonably withheld, conditioned or delayed) or (ii) any Excluded Vessel being reflagged (x) from a non-Approved Flag Jurisdiction to another non-Approved Flag Jurisdiction or to an Approved Flag Jurisdiction or (x) from an Approved Flag Jurisdiction to another Approved Flag Jurisdiction.

"Permitted Tax Amount" means for any taxable year (or portion thereof) in which Borrower is a member of a group filing a consolidated, combined group, affiliated, unitary or similar Tax return with any Parent Entity that is a parent of such group, any dividends or other distributions to fund any income taxes for which such Parent Entity is liable up to an amount not to exceed the amount of any such Taxes that the Borrower and its subsidiaries would have been required to pay on a separate company basis or on a consolidated basis calculated as if the Borrower and its subsidiaries had paid Tax on a consolidated, combined, group, affiliated, unitary or similar basis on behalf of a consolidated, combined affiliated, unitary or similar group consisting only of the Borrower and its subsidiaries with the Borrower treated as the parent corporation for U.S. federal income tax purposes, taking into account any net operating losses or other attributes of the Borrower and its subsidiaries, less any amounts paid directly by the Borrower and its subsidiaries with respect to such income taxes; provided that in the case of any such amounts attributable to any Taxes of any Unrestricted Subsidiaries, the Borrower shall use commercially reasonable efforts to cause such Unrestricted Subsidiary (or any other Unrestricted Subsidiary) to make cash distributions to such Borrower or its Restricted Subsidiaries in an aggregate amount that the Borrower determines in its reasonable discretion equals the Tax liability of the Unrestricted Subsidiary had such Unrestricted Subsidiary been required to pay Taxes on a separate company basis.

“Permitted Unsecured Refinancing Debt” means any Second Lien Credit Agreement Refinancing Indebtedness that is unsecured debt.

“Person” means any natural person, corporation, limited liability company, trust, joint venture, association, company, partnership, Governmental Authority or other entity.

“Plan” means any material “employee benefit plan” (as such term is defined in Section 3(3) of ERISA) established, sponsored, maintained or contributed to (or required to be contributed to) by any Loan Party or, with respect to any such plan that (i) is subject to Section 412 of the Code, Section 302 of ERISA or Title IV of ERISA or (ii) for which any Loan Party has liability under ERISA or the Code as a result of being in a “controlled group” with any of their respective ERISA Affiliates.

“Platform” has the meaning specified in Section 6.02.

“Pledged Collateral” has the meaning specified in the Collateral Agreement.

“Pledged Equity” has the meaning specified in the Collateral Agreement.

“Pre-Approved Lender” means each bank or financial institution set forth on a list agreed to between the Borrower and the Administrative Agent and distributed to the Lenders prior to the date of this Agreement.

“Preferred Stock” as applied to the Equity Interests of any Person, means Equity Interests of any class or classes (however designated) which is preferred as to the payment of dividends or as to the distribution of assets upon any voluntary or involuntary liquidation or dissolution of such Person, over shares of Equity Interests of any other class of such Person.

“Prepayment Date” has the meaning specified in Section 2.07(b)(iii).

“Prepayment Notice” means a written notice made pursuant to Section 2.07(a)(i) substantially in the form of Exhibit J.

“Prime Rate” means the rate of interest last quoted by The Wall Street Journal as the “Prime Rate” in the U.S. or, if The Wall Street Journal ceases to quote such rate, the highest *per annum* interest rate published by the Federal Reserve Board in Federal Reserve Statistical Release H.15 (519) (Selected Interest Rates) as the “bank prime loan” rate or, if such rate is no longer quoted therein, any similar rate quoted therein (as determined by the Administrative Agent) or any similar release by the Federal Reserve Board (as determined by the Administrative Agent).

“**Priority Waterfall**” means the provisions of Section 9.03.

“**Private-Side Information**” means any information with respect to the Borrower and its Subsidiaries that is not Public-Side Information.

“**Pro Forma Basis**” and “**Pro Forma Effect**” mean, with respect to compliance with any test or covenant or calculation hereunder, the determination or calculation of such test, covenant or ratio in accordance with the definition of “Consolidated Adjusted EBITDA”, the definition of “Fixed Charge Coverage Ratio” and Section 1.08.

“**Pro Rata Share**” means (a) with respect to all payments, computations and other matters relating to the Commitment of any Lender at any time a fraction (expressed as a percentage, carried out to the ninth decimal place), the numerator of which is the unused Commitment of that Lender and the denominator of which is the aggregate unused Commitments of all Lenders at such time and (b) with respect to all payments, computations and other matters relating to the Revolving Loans of any Lender and any Letters of Credit issued or participations purchased therein by any Lender (expressed as a percentage, carried out to the ninth decimal place), the numerator of which is the amount of the Revolving Exposure of that Lender and the denominator of which is the aggregate Revolving Exposure of all Lenders at such time.

“**PTE**” means a prohibited transaction class exemption issued by the U.S. Department of Labor, as any such exemption may be amended from time to time.

“**Public Company Costs**” means, as to any Person, costs associated with, or in anticipation of, or preparation for, compliance with the requirements of the Sarbanes-Oxley Act of 2002 and the rules and regulations promulgated in connection therewith and costs relating to compliance with the provisions of the Securities Act and the Exchange Act or any other comparable body of laws, rules or regulations, as companies with listed equity, directors’ compensation, fees and expense reimbursement, costs relating to enhanced accounting functions and investor relations, stockholder meetings and reports to stockholders, directors’ and officers’ insurance and other executive costs, legal and other professional fees, listing fees and other transaction costs, in each case to the extent arising solely by virtue of the listing of such Person’s equity securities on a national securities exchange or issuance of public debt securities.

“**Public Lenders**” means Lenders that do not wish to receive Private-Side Information.

“**Public-Side Information**” means (a) at any time prior to a Parent Entity or the Borrower or any of their respective Subsidiaries becoming the issuer of any Traded Securities, information that the Borrower determines (i) would be required by applicable Law to be publicly disclosed in connection with an issuance by such Parent Entity or the Borrower or any of their respective Subsidiaries of its debt or equity securities pursuant to a registered public offering made at such time or (ii) not material to make an investment decision with respect to securities of such Parent Entity or the Borrower or any of their respective Subsidiaries (for purposes of United States federal, state or other applicable securities laws), and (b) at any time on or after such Parent Entity or the Borrower or any of their respective Subsidiaries becoming the issuer of any Traded Securities, information that does not constitute material non-public information (within the meaning of United States federal, state or other applicable securities laws) with respect to such Parent Entity or the Borrower or any of their respective Subsidiaries or any of their respective securities.

“Purchase Money Obligations” means any Indebtedness incurred to finance or refinance the acquisition, leasing, expansion, construction, installation, replacement, repair or improvement of property (real or personal), equipment or assets (including Equity Interests), and whether acquired through the direct acquisition of such property or assets, or the acquisition of the Equity Interests of any Person owning such property or assets, or otherwise.

“QFC” has the meaning assigned to the term “qualified financial contract” in, and shall be interpreted in accordance with, 12 U.S.C. 5390(c)(8)(D).

“QFC Credit Support” has the meaning specified in Section 11.26(a).

“QSC Adjustment” has the meaning specified in the definition of “Consolidated Adjusted EBITDA”.

“Qualified Equity Interests” means any Equity Interests that are not Disqualified Equity Interests.

“Qualified Securitization Financing” means any Securitization Facility that meets the following conditions: (i) the Board of Directors shall have determined in good faith that such Securitization Facility (including financing terms, covenants, termination events and other provisions) is in the aggregate economically fair and reasonable to the Borrower and its Restricted Subsidiaries, (ii) all sales of Securitization Assets and related assets by the Borrower or any Restricted Subsidiary to the Securitization Subsidiary or any other Person are made for fair consideration (as determined in good faith by the Borrower) and (iii) the financing terms, covenants, termination events and other provisions thereof shall be fair and reasonable terms (as determined in good faith by the Borrower) and may include Standard Securitization Undertakings.

“Qualified Services Contract” means, with respect to any newly delivered, acquired or reactivated Specified Vessel (including, without limitation, offshore supply vessel, offshore service vessel, multi-purpose support vessels, service operation vessels, commissioning service operation vessels, other offshore wind-related vessels, construction support offshore vessels, flotels, other specialty vessels, other construction vessels, crewboats, fast supply vessels, anchor handling and towing supply vessels, tankers, tugs and tank barges) within 365 days of such vessel’s original delivery date, acquisition date or reactivation date, as applicable, a contract that the Board of Directors, acting in good faith, designates as a “Qualified Services Contract”, which contract: (a) provides for services to be performed by the Borrower or one of its Restricted Subsidiaries involving the use of such vessel or a charter (bareboat or otherwise) of such vessel by the Borrower or one of its Restricted Subsidiaries, in either case for a minimum period of at least 3 months; and (b) provides for a fixed or minimum dayrate or fixed or minimum volume or freight rates (including, if applicable, lay time and demurrage) for such vessel.

“Qualifying IPO” means (a) an underwritten public Equity Offering of the Borrower or any Parent Entity or (b) a transaction where the Equity Interests of the Borrower or any Parent Entity thereof is listed on any United States national securities exchange.

“RCF Collateral Coverage Ratio” means, as of any Measurement Date, the ratio of (a) Collateral Value Amount to (b) Consolidated Total Debt outstanding under the Facility (including for the avoidance of doubt, under any Incremental Facilities), net of unrestricted cash and Cash Equivalents of up to \$25 million, in each case, as of such date of determination.

“RCF Collateral Release Ratio” means the ratio of (i) the Vessel Collateral Value Amount (as determined, if the Borrower so elects, by the most recent appraisals required to be delivered under Section 6.02(b) or otherwise delivered hereunder) in respect of Vessels which are not Stacked Vessels, to (ii) the aggregate principal amount of Commitments under the Facility (including for the avoidance of doubt, under any Incremental Facilities).

“Receivables Assets” means (a) any accounts receivable (including, but not limited to, trade receivables from customers and non-trade receivables, such as tax receivables from government or quasi-government agencies) owed to the Borrower or a Restricted Subsidiary subject to a Receivables Facility and the proceeds thereof and (b) all collateral securing such accounts receivable, all contracts and contract rights, guarantees or other obligations in respect of such accounts receivable, all records with respect to such accounts receivable and any other assets customarily transferred together with accounts receivable in connection with a non-recourse accounts receivable factoring arrangement.

“Receivables Facility” means an arrangement between the Borrower or a Subsidiary and a commercial bank, an asset based lender or other financial institution or an Affiliate thereof pursuant to which (a) the Borrower or such Subsidiary, as applicable, sells (directly or indirectly) to such commercial bank, asset based lender or other financial institution (or such Affiliate) Receivables Assets and (b) the obligations of the Borrower or such Restricted Subsidiary, as applicable, thereunder are non-recourse (except for Securitization Repurchase Obligations) to the Borrower and such Subsidiary and (c) the financing terms, covenants, termination events and other provisions thereof shall be on market terms (as determined in good faith by the Borrower) and may include Standard Securitization Undertakings, and shall include any guaranty in respect of such arrangements.

“Recipient” means (a) any Agent, (b) any Lender and (c) any Issuing Bank, as applicable.

“Reference Time” with respect to any setting of the then-current Benchmark means the time determined by the Administrative Agent in its reasonable discretion.

“Refinance” means, in respect of any Indebtedness, to refinance, extend, renew, defease, amend, increase, modify, supplement, restructure, refund, replace or repay, or to issue other indebtedness or enter into alternative financing arrangements, in exchange or replacement for such indebtedness, including by adding or replacing lenders, creditors, agents, borrowers and/or guarantors, and including in each case, but not limited to, after the original instrument giving rise to such indebtedness has been terminated. **“Refinanced”** and **“Refinancing”** have correlative meanings.

“**Refinanced Debt**” has the meaning assigned to such term in the definition of “Second Lien Credit Agreement Refinancing Indebtedness.”

“**Refinancing Amendment**” means an amendment to this Agreement executed by each of (a) the Borrower, (b) the Administrative Agent and (c) each Additional Lender and Lender that agrees to provide any portion of the Refinancing Indebtedness being incurred pursuant thereto, in accordance with Section 2.17.

“**Refinancing Commitments**” means one or more Classes of Revolving Loan commitments hereunder that result from a Refinancing Amendment.

“**Refinancing Indebtedness**” means Indebtedness that is incurred to refund, refinance, replace, exchange, renew, repay or extend (including pursuant to any defeasance or discharge mechanism) any Indebtedness (or unutilized commitment in respect of Indebtedness) existing on the Closing Date or incurred (or established) in compliance with this Agreement (including Indebtedness of the Borrower that refinances Indebtedness of any Restricted Subsidiary and Indebtedness of any Restricted Subsidiary that refinances Indebtedness of the Borrower or another Restricted Subsidiary) including Indebtedness that refinances Refinancing Indebtedness, and Indebtedness incurred pursuant to a commitment that refinances any Indebtedness or unutilized commitment; *provided, however*, that

(i) (a) such Refinancing Indebtedness has a Weighted Average Life to Maturity at the time such Refinancing Indebtedness is incurred that is not less than the remaining Weighted Average Life to Maturity of the Indebtedness being refunded, refinanced, replaced, exchanged, renewed, repaid or extended (or requires no or nominal payments in cash (other than interest payments) prior to the date that is ninety-one (91) days after the Maturity Date); and (b) to the extent such Refinancing Indebtedness refinances Subordinated Indebtedness, such Refinancing Indebtedness is Subordinated Indebtedness, respectively, and, in the case of Subordinated Indebtedness, is subordinated to the Obligations on terms at least as favorable to the Lenders as those contained in the documentation governing the Indebtedness being refinanced,

(ii) Refinancing Indebtedness shall not include Indebtedness of a Subsidiary of the Borrower that is not a Guarantor that refinances Indebtedness of the Borrower or a Guarantor (unless such Subsidiary was an obligor in respect of the Indebtedness so refinanced) or (b) Indebtedness of the Borrower or a Restricted Subsidiary that refinances Indebtedness of an Unrestricted Subsidiary; and

(iii) such Refinancing Indebtedness is incurred in an aggregate principal amount (or if issued with original issue discount, an aggregate issue price) that is equal to or less than the sum of (x) the aggregate principal amount (or if issued with original issue discount, the aggregate accreted value) then outstanding of the Indebtedness being Refinanced, *plus* (y) an amount equal to any unutilized commitment relating to the Indebtedness being refinanced or otherwise then outstanding under a financing arrangement being refinanced to the extent the unutilized commitment being refinanced could be drawn in compliance with Section 7.03 immediately prior to such refinancing, *plus* (z) accrued and unpaid interest, dividends, premiums (including tender premiums), defeasance costs, underwriting discounts, fees, costs and expenses (including original issue discount, upfront fees or similar fees) in connection with such refinancing. Refinancing Indebtedness in respect of any Indebtedness may be incurred from time to time after the termination, discharge or repayment of any such Indebtedness.

Refinancing Indebtedness will be deemed to include any Registered Equivalent Notes issued in exchange therefor.

“**Refinancing Loans**” means one or more Classes of Revolving Loans that result from a Refinancing Amendment.

“**Refunding Equity Interests**” has the meaning specified in the definition of “Permitted Payments.”

“**Register**” has the meaning specified in Section 11.07(c).

“**Registered Equivalent Notes**” means, with respect to any notes originally issued in a Rule 144A or other private placement transaction under the Securities Act, substantially identical notes (having the same Guarantees) issued in a dollar-for-dollar exchange therefor pursuant to an exchange offer registered with the SEC.

“**Regulated Entity**” means (a) any swap dealer registered with the U.S. Commodity Futures Trading Commission or security-based swap dealer registered with the U.S. Securities and Exchange Commission, as applicable; or (b) any commercial bank with a consolidated combined capital and surplus of at least \$5,000,000,000 that is (i) a U.S. depository institution the deposits of which are insured by the Federal Deposit Insurance Corporation; (ii) a corporation organized under Section 25A of the U.S. Federal Reserve Act of 1913; (iii) a branch, agency or commercial lending company of a foreign bank operating pursuant to approval by and under the supervision of the Board under 12 C.F.R. part 211; (iv) a non-U.S. branch of a foreign bank managed and controlled by a U.S. branch referred to in clause (iii); or (v) any other U.S. or non-U.S. depository institution or any branch, agency or similar office thereof supervised by a bank regulatory authority in any jurisdiction.

“**Regulation U**” means Regulation U of the FRB as from time to time in effect and all official rulings and interpretations thereunder or thereof, or any successor thereto.

“**Reimbursement Obligations**” has the meaning specified in Section 2.04(c)(i).

“**Related Indemnified Person**” of an Indemnatee means (a) any controlling person or controlled affiliate of such Indemnatee, (b) the respective directors, partners, officers, or employees of such Indemnatee or any of its controlling persons or controlled affiliates and (c) the respective agents of such Indemnatee or any of its controlling persons or controlled affiliates, in the case of this clause (c), acting at the instructions of such Indemnatee, controlling person or such controlled affiliate; *provided* that each reference to a controlled affiliate or controlling person in this definition shall pertain to a controlled affiliate or controlling person involved in the negotiation or syndication of the Facility.

“**Related Taxes**” means (i) any franchise and excise taxes, and other fees and expenses, required to maintain a Parent Entity’s corporate existence and good standing under applicable law (including any such Taxes, fees and expenses (such as any corporate operating and overhead expenses) attributable to the ownership or operation of the Borrower and its Subsidiaries); and (ii) any Permitted Tax Amount.

“**Release Actions**” has the meaning specified in Section 10.11.

“**Release Certificate**” has the meaning specified in Section 10.11.

“**Release/Subordination Event**” has the meaning specified in Section 10.11.

“**Relevant Governmental Body**” means the Federal Reserve Board and/or the NYFRB, or a committee officially endorsed or convened by the Federal Reserve Board and/or the NYFRB or, in each case, any successor thereto.

“**Relevant Person**” means:

- (a) the Borrower and each of its Subsidiaries; and
- (b) each of their directors, officers and employees.

“**Reorganization Transactions**” any reorganizations and other activities in connection with or related to a Qualifying IPO of the Borrower or any Parent Entity (including, for the avoidance of doubt, any transfer (including by contribution, merger or otherwise) of interests in the Borrower to a wholly owned domestic subsidiary of a Parent Entity).

“**Reportable Event**” means, with respect to any Pension Plan, any of the events set forth in Section 4043(c) of ERISA or the regulations issued thereunder, other than events for which the 30 day notice period has been waived by applicable regulation.

“**Required Lenders**” means, as of any date of determination, Lenders having or holding more than 50.1% of the sum of the aggregate Revolving Exposure of all Lenders; *provided* that the aggregate Revolving Exposure of or held by any Defaulting Lender shall be excluded for purposes of making a determination of Required Lenders; *provided, further*, that, at any time there are three or more Lenders (who are not Affiliates of one another), “Required Lenders” must include at least two Lenders (who are not Affiliates of one another). The Commitment and Loans of any Defaulting Lender shall be disregarded in determining Required Lenders at any time.

“**Resolution Authority**” means an EEA Resolution Authority or, with respect to any UK Financial Institution, a UK Resolution Authority.

“**Responsible Officer**” means the executive chairman, chief executive officer, president, executive vice president, senior vice president (finance), vice president (finance), chief financial officer, chief accounting officer, treasurer or assistant treasurer or other similar officer or Person performing similar functions of a Loan Party and, as to any document delivered on the Closing Date, any secretary or assistant secretary of a Loan Party. Any document delivered hereunder that is signed by a Responsible Officer of a Loan Party shall be conclusively presumed to have been authorized by all necessary corporate, partnership and/or other action on the part of such Loan Party and such Responsible Officer shall be conclusively presumed to have acted on behalf of such Loan Party. Unless otherwise specified, all references herein to a “Responsible Officer” shall refer to a Responsible Officer of the Borrower.

“**Restricted**” means, when referring to cash or Cash Equivalents of the Borrower or any of the Restricted Subsidiaries, that such cash or Cash Equivalents appear (or would be required by GAAP to appear) as “restricted” on a consolidated balance sheet of such Borrower or such Restricted Subsidiary (unless such appearance is related to a restriction in favor of the Administrative Agent).

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

“**Restricted Party**” means a Person that is (a) listed on any Sanctions List or targeted by Sanctions (whether designated by name or by reason of being included in a class of person), (b) located in or incorporated under the laws of any country or territory that is the target of comprehensive, country- or territory-wide Sanctions (at the time of this Agreement, the so - called Donetsk People’s Republic, the so- called Luhansk People’s Republic, the Crimea Region of Ukraine, Cuba, Iran, North Korea and Syria), or (c) directly or indirectly owned or controlled (as such terms are defined in applicable Sanctions) by, or acting on behalf, at the direction, or for the benefit, of a person referred to in (a) and/or (to the extent relevant under Sanctions) (b) above.

“**Restricted Payment**” has the meaning specified in [Section 7.06](#).

“**Restricted Subsidiary**” means any Subsidiary of the Borrower other than an Unrestricted Subsidiary.

“**Revolving Credit Facility Net Leverage Ratio**” means, with respect to any Test Period, the ratio of (a) (i) the principal amount of the Loans outstanding under this Agreement as of the last day of such Test Period *minus* (ii) the aggregate amount of cash and Cash Equivalents of the Borrower and the Restricted Subsidiaries as of such date that is not Restricted in an amount not to exceed \$25,000,000 to (b) Consolidated Adjusted EBITDA of the Borrower for such Test Period.

“**Revolving Exposure**” means, with respect to any Lender as of any date of determination, (a) prior to the termination of the Commitments, that Lender’s Commitment; and (b) after the termination of the Commitments, the sum of (i) the aggregate outstanding principal amount of the Revolving Loans of that Lender, (ii) in the case of each Issuing Bank, the aggregate Letter of Credit Usage in respect of all Letters of Credit issued by that Lender (net of any participations by Lenders in such Letters of Credit) and (iii) the aggregate amount of all participations by that Lender in any outstanding Letters of Credit or any unreimbursed drawing under any Letter of Credit.

“**Revolving Lender**” means a Lender having a Commitment or other Revolving Exposure.

“**Revolving Loan Note**” means a promissory note in the form of [Exhibit B](#), as it may be amended, restated, amended and restated, supplemented or otherwise modified from time to time.

“**Revolving Loans**” has the meaning specified in [Section 2.02\(a\)](#).

“**S&P**” means S&P Global Ratings, and any successor thereto.

“**Sale Leaseback Transaction**” means a sale leaseback transaction with respect to all or any portion of any real property owned by a Loan Party or other property customarily included in such transactions.

“**Same Day Funds**” means disbursements and payments in immediately available funds.

“**Sanctions**” means any applicable (to any Relevant Person and/or Loan Party as the context provides) laws, regulations or orders concerning any trade, economic or financial sanctions or embargoes imposed, administered or enforced from time to time by a Sanctions Authority.

“**Sanctions Authority**” means the Norwegian State, the United Nations, the European Union, the United Kingdom, the United States of America (including the Office of Foreign Assets Control of the U.S. Department of the Treasury or the U.S. Department of State), and any of their respective legislative, executive, enforcement and/or regulatory authorities or bodies acting in connection with Sanctions.

“**Sanctions List**” means: (a) the lists of Sanctions designations and/or targets maintained by any Sanctions Authority and/or (b) any other Sanctions designation or target listed and/or adopted by a Sanctions Authority, in each case, as amended, supplemented or replaced from time to time.

“**SEC**” means the Securities and Exchange Commission, or any Governmental Authority succeeding to any of its principal functions.

“**Second Lien Agent**” has the meaning specified in the definition of “Existing Junior Lien Intercreditor Agreement.”

“**Second Lien Credit Agreement**” means that certain Second Lien Term Loan Credit Agreement, dated as of September 4, 2020, among the Borrower, as parent borrower, Hornbeck Offshore Services, LLC, as co-borrower, Wilmington Trust, National Association, as administrative agent and as collateral agent, and the lenders party thereto from time to time as amended, restated, supplemented or modified from time to time.

“**Second Lien Credit Agreement Refinancing Indebtedness**” means Indebtedness of a Borrower or any Restricted Subsidiary in the form of term loans, notes or revolving commitments; *provided that*:

- (a) such Indebtedness is incurred or otherwise obtained (including by means of the extension or renewal of existing Indebtedness) in exchange for, or to extend, renew, upsize, replace, or refinance, in whole or part, Indebtedness under the Second Lien Credit Agreement or constituting Second Lien Credit Agreement Refinancing Indebtedness (“**Refinanced Debt**”);
- (b) (i) the Weighted Average Life to Maturity of such Indebtedness is equal to or longer than the remaining Weighted Average Life to Maturity of the Refinanced Debt, and (ii) the final maturity date of such Second Lien Credit Agreement Refinancing Indebtedness may not be earlier than ninety-one (91) days after the latest Maturity Date then in effect; and

- (c) the Second Lien Credit Agreement Refinancing Indebtedness shall be either (i) secured by the Collateral on a first lien basis with the Obligations and subject to an Equal Priority Intercreditor Agreement or on a junior lien basis with the Collateral and subject to a Junior Lien Intercreditor Agreement; *provided, however*, in the event any assets securing such Second Lien Credit Agreement Refinancing Indebtedness do not constitute Collateral, the Borrower shall be required to offer the Collateral Agent such additional assets as Collateral and notify the Administrative Agent of such offer, and if the Administrative Agent so requests, take all such actions required to so provide such Collateral to the Collateral Agent for the benefit of the Secured Parties or (ii) unsecured.

“**Secured Hedge Agreement**” means any Hedge Agreement that is entered into by and between any Loan Party and any Hedge Bank and designated in writing by the Hedge Bank and the Borrower to the Administrative Agent as a “Secured Hedge Agreement.”

“**Secured Net Leverage Ratio**” means, with respect to any Test Period, the ratio of (a) Consolidated Secured Net Debt outstanding as of the last day of such Test Period to (b) Consolidated Adjusted EBITDA of the Borrower for such Test Period.

“**Secured Parties**” means, collectively, the Administrative Agent, the Collateral Agent, the Lenders, each Issuing Bank, each Hedge Bank, each Cash Management Bank, the Supplemental Administrative Agent and each co-agent or sub-agent appointed by the Administrative Agent from time to time pursuant to Section 10.05 and Section 10.12.

“**Securities Account**” has the meaning specified in the Uniform Commercial Code.

“**Securities Act**” means the U.S. Securities Act of 1933, as amended.

“**Securitization Assets**” means (a) any accounts receivable (whether trade or non-trade receivables), mortgage receivables, loan receivables, royalty, franchise fee, license fee, patent or other revenue streams and other rights to payment or related assets and the proceeds thereof and (b) all collateral securing such receivable or asset, all contracts and contract rights (including licenses and leases), guarantees or other obligations in respect of such receivable or asset, lockbox accounts and records with respect to such account or asset and any other assets customarily transferred (or in respect of which security interests are customarily granted) together with accounts or assets in connection with a securitization, factoring or receivable sale transaction.

“**Securitization Facility**” means any of one or more securitization, financing, factoring or sales transactions, as amended, supplemented, modified, extended, renewed, restated or refunded from time to time, pursuant to which the Borrower or any of the Restricted Subsidiaries sells, transfers, pledges or otherwise conveys any Securitization Assets (whether now existing or arising in the future) to a Securitization Subsidiary or any other Person.

“**Securitization Fees**” means distributions or payments made directly or by means of discounts with respect to any Securitization Asset or Receivables Asset or participation interest therein issued or sold in connection with, and other fees, expenses and charges (including commissions, yield, interest expense and fees and expenses of legal counsel) paid in connection with, any Qualified Securitization Financing or Receivables Facility.

“**Securitization Financing**” means any transaction or series of transactions that may be entered into by the Borrower or any of its Subsidiaries pursuant to which such Borrower or any of its Subsidiaries may sell, convey or otherwise transfer to (a) a Securitization Subsidiary (in the case of a transfer by the Borrower or any of its Subsidiaries) or (b) any other Person (in the case of a transfer by a Securitization Subsidiary), or may grant a security interest in, any Securitization Assets of such Borrower or any of its Subsidiaries, and any assets related thereto, including all collateral securing such Securitization Assets, all contracts and all guarantees or other obligations in respect of such Securitization Assets, proceeds of such Securitization Assets and other assets that are customarily transferred or in respect of which security interests are customarily granted in connection with asset securitization transactions involving Securitization Assets.

“**Securitization Repurchase Obligation**” means any obligation of a seller of Securitization Assets or Receivables Assets in a Qualified Securitization Financing or a Receivables Facility to repurchase or otherwise make payments with respect to Securitization Assets arising as a result of a breach of a representation, warranty or covenant or otherwise, including as a result of a receivable or portion thereof becoming subject to any asserted defense, dispute, offset or counterclaim of any kind as a result of any action taken by, any failure to take action by or any other event relating to the seller.

“**Securitization Subsidiary**” means any Subsidiary of the Borrower in each case formed for the purpose of and that solely engages in one or more Qualified Securitization Financings or Receivables Facilities and other activities reasonably related thereto or another Person formed for this purpose.

“**Senior Indebtedness**” has the meaning specified in Section 11.02(b)(viii).

“**Settlement**” means the transfer of cash or other property with respect to any credit or debit card charge, check or other instrument, electronic funds transfer, or other type of paper-based or electronic payment, transfer, or charge transaction for which a Person acts as a processor, remitter, funds recipient or funds transmitter in the ordinary course of its business.

“**Settlement Asset**” means any cash, receivable or other property, including a Settlement Receivable, due or conveyed to a Person in consideration for a Settlement made or arranged, or to be made or arranged, by such Person or an Affiliate of such Person.

“**Settlement Indebtedness**” means any payment or reimbursement obligation in respect of a Settlement Payment.

“**Settlement Lien**” means any Lien relating to any Settlement or Settlement Indebtedness (and may include, for the avoidance of doubt, the grant of a Lien in or other assignment of a Settlement Asset in consideration of a Settlement Payment, Liens securing intraday and overnight overdraft and automated clearing house exposure, and similar Liens).

“**Settlement Payment**” means the transfer, or contractual undertaking (including by automated clearing house transaction) to effect a transfer, of cash or other property to effect a Settlement.

“**Settlement Receivable**” means any general intangible, payment intangible, or instrument representing or reflecting an obligation to make payments to or for the benefit of a Person in consideration for a Settlement made or arranged, or to be made or arranged, by such Person.

“**Shipowner**” means each Loan Party that owns a Vessel that is Vessel Collateral.

“**Short Term Advances**” has the meaning specified in the definition of “Indebtedness.”

“**Similar Business**” means (a) any businesses, services or activities engaged in by the Borrower or any of its Subsidiaries or any Associates on the Closing Date, (b) any businesses, services and activities engaged in by the Borrower or any of its Subsidiaries or any Associates that are related, complementary, incidental, ancillary or similar to any of the foregoing or are extensions or developments of any thereof, and (c) a Person conducting a business, service or activity specified in clauses (a) and (b), and any Subsidiary thereof. For the avoidance of doubt, any Person that invests in or owns Equity Interests or Indebtedness of another Person that is engaged in a Similar Business shall be deemed to be engaged in a Similar Business.

“**SOFR**” means, with respect to any Business Day, a rate *per annum* equal to the secured overnight financing rate for such Business Day published by the SOFR Administrator on the SOFR Administrator’s Website at approximately 8:00 a.m. (New York City time) on the immediately succeeding Business Day.

“**SOFR Administrator**” means the NYFRB (or a successor administrator of the secured overnight financing rate).

“**SOFR Administrator’s Website**” means the NYFRB’s website, currently at <http://www.newyorkfed.org>, or any successor source for the secured overnight financing rate identified as such by the SOFR Administrator from time to time.

“**SOFR Rate Loan**” means a Loan, denominated in Dollars, that bears interest at the applicable Adjusted Term SOFR.

“**Solvent**” and “**Solvency**” mean, with respect to any Person on any date of determination, that on such date (a) the fair value of the assets of such Person, on a consolidated basis with its Subsidiaries, exceeds its debts and liabilities, subordinated, contingent or otherwise, on a consolidated basis, (b) the present fair saleable value of the property of such Person, on a consolidated basis with its Subsidiaries, is greater than the amount that will be required to pay the probable liability of its debts and other liabilities, subordinated, contingent or otherwise, on a consolidated basis, as such debts and other liabilities become absolute and matured, (c) such Person, on a consolidated basis with its Subsidiaries, is able to pay its debts and liabilities, subordinated, contingent or otherwise, on a consolidated basis, as such liabilities become absolute and matured and (d) such Person, on a consolidated basis with its Subsidiaries, is not engaged in, and is not about to engage in, business for which it has unreasonably small capital. The amount of any contingent liability at any time shall be computed as the amount that would reasonably be expected to become an actual and matured liability.

“SPC” has the meaning specified in Section 11.07(g).

“**Specified Event of Default**” means an Event of Default pursuant to Section 9.01(a) or an Event of Default pursuant to Section 9.01(f).

“**Specified Qualified Appraisers**” means DLS Marine Survey and Appraisal, Clarksons, Fearnleys, Pareto, Seabrokers Group, S&P Global, Arctic Offshore or Dufour Laskay & Strouse Inc (or any successor thereof) and other appraisers with the prior consent of the Administrative Agent (such consent not to be unreasonably withheld, conditioned or delayed).

“**Specified Vessel**” has the meaning specified in the definition of “Consolidated Adjusted EBITDA”.

“**Sponsors**” means, individually or collectively, any fund, partnership, co-investment vehicles and/or similar vehicles or accounts, in each case managed or advised by Ares Management Corp., Whitebox Advisors LLC or Highbridge Capital Management, LLC or any of their respective Affiliates, or any of their respective successors.

“**Stacked Vessel**” means a Vessel that has been temporarily or permanently removed from service in the exercise of the Borrower’s reasonable judgment consistent with reasonable business practices in light of the facts known at the time the decision was made (including, without limitation, operating costs and available marketing opportunities) or in the case of any after-acquired Vessel (whether by acquiring the Vessel or the entity that owns such Vessel) that was stacked at the time of its acquisition or thereafter.

“**Standard Securitization Undertakings**” means representations, warranties, covenants, guarantees and indemnities entered into by the Borrower or any Subsidiary of the Borrower which the Borrower has determined in good faith to be customary in a Securitization Facility or Receivables Facility, including those relating to the servicing of the assets of a Securitization Subsidiary, it being understood that any Securitization Repurchase Obligation shall be deemed to be a Standard Securitization Undertaking or, in the case of a Receivables Facility, a non-credit related recourse accounts receivable factoring arrangement.

“**Stated Amount**” means, with respect to any Letter of Credit at any time, the aggregate amount available to be drawn thereunder at such time (regardless of whether any conditions for drawing could then be met).

“**Subordinated Indebtedness**” means, with respect to any person, any Indebtedness (whether outstanding on the Closing Date or thereafter incurred) which is expressly subordinated in right of payment to the Loans pursuant to a written agreement (but excluding any First Lien Debt).

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

(1) any corporation, association, or other business entity (other than a partnership, joint venture, limited liability company or similar entity) of which more than 50% of the total voting power of shares of Equity Interests entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers or trustees thereof is at the time of determination owned or controlled, directly or indirectly, by such Person or one or more of the other Subsidiaries of that Person or a combination thereof;

(2) any partnership, joint venture, limited liability company or similar entity of which:

(a) more than 50% of the capital accounts, distribution rights, total equity and voting interests or general or limited partnership interests, as applicable, are owned or controlled, directly or indirectly, by such Person or one or more of the other Subsidiaries of that Person or a combination thereof whether in the form of membership, general, special or limited partnership interests or otherwise; and

(b) such Person or any Subsidiary of such Person is a controlling general partner or otherwise controls such entity; or

(3) at the election of the Borrower, any partnership, joint venture, limited liability company or similar entity of which such Person or any Subsidiary of such Person is a controlling general partner or otherwise controls such entity.

provided, that, notwithstanding the foregoing, “Subsidiary” shall not include Hornbeck Offshore Services de Mexico, S. de R.L. de C.V. or Hornbeck Offshore (Trinidad & Tobago), Ltd.

“**Subsidized Indebtedness Specified Cash**” has the meaning specified in Section 7.01.

“**Successor Person**” has the meaning specified in Section 7.04(b)(i).

“**Super-Priority Debt**” means First Lien Debt that has the same payment priority as the Obligations pursuant to Section 2.01 (or equivalent section) of the Equal Priority Intercreditor Agreement.

“**Supplemental Administrative Agent**” and “**Supplemental Administrative Agents**” have the meanings specified in Section 10.12(a).

“**Supported QFC**” has the meaning specified in Section 11.26(a).

“**Swap Obligations**” means, with respect to any Person, the obligations of such Person under any interest rate swap agreement, interest rate cap agreement, interest rate collar agreement, commodity swap agreement, commodity cap agreement, commodity collar agreement, foreign exchange contracts, currency swap agreement or similar agreement providing for the transfer or mitigation of interest rate, commodity price or currency risks either generally or under specific contingencies.

“**Taxes**” has the meaning specified in Section 3.01(a).

“**Term SOFR**” means, for the applicable Corresponding Tenor as of the applicable Reference Time, the forward-looking term rate based on SOFR that has been selected or recommended by the Relevant Governmental Body; *provided*, that “Term SOFR” with respect to any Revolving Loans shall in no event be less than 0.00% *per annum*.

“**Term SOFR Adjustment**” means a rate *per annum* equal to 0.10%.

“**Term SOFR Notice**” means a notification by the Administrative Agent to the Lenders and the Borrower of the occurrence of a Term SOFR Transition Event.

“**Term SOFR Transition Event**” means the determination by the Administrative Agent that (a) Term SOFR has been recommended for use by the Relevant Governmental Body, (b) the administration of Term SOFR is administratively feasible for the Administrative Agent and (c) a Benchmark Transition Event has previously occurred resulting in a Benchmark Replacement in accordance with this Section 3.09 that is not Adjusted Term SOFR.

“**Termination Conditions**” means, collectively, (a) the payment in full in cash of the Obligations (other than (i) contingent indemnification obligations as to which no claim has been asserted, (ii) Obligations under Secured Hedge Agreements as to which alternative arrangements acceptable to the Hedge Bank thereunder have been made and (iii) Cash Management Obligations) and (b) the termination of the Commitments and the termination or expiration of all Letters of Credit under this Agreement (unless backstopped or Cash Collateralized in an amount equal to 105% of the maximum drawable amount of any such Letter of Credit or otherwise in an amount and/or in a manner reasonably acceptable to the Issuing Banks).

“**Test Period**” in effect at any time means the most recent period of four consecutive fiscal quarters of the Borrower ended on or prior to such time (taken as one accounting period) in respect of which financial statements for each quarter or fiscal year in such period are available or, in the case of Article VIII, are required to be delivered pursuant to Section 6.01(a) or 6.01(b) (which may be internal financial statements except (i) to the extent this Agreement otherwise expressly states that the Test Period is specified in a Compliance Certificate, in which case such financial statements shall have been delivered pursuant to Section 6.01(a) or (b) for the Test Period set forth in such Compliance Certificate or (ii) for purposes of Article VIII). A Test Period may be designated by reference to the last day thereof (i.e., the “December 31st Test Period” of a particular year refers to the period of four consecutive fiscal quarters of the Borrower ended on December 31st of such year), and a Test Period shall be deemed to end on the last day thereof.

“**Testing Date**” has the meaning assigned to such term in Section 8.01.

“**Threshold Amount**” means \$25.0 million.

“**Total Assets**” means, as of any date, the total consolidated assets of the Borrower and its Restricted Subsidiaries on a consolidated basis, as shown on the most recent consolidated balance sheet of the Borrower and its Restricted Subsidiaries, determined in accordance with GAAP.

“**Total Net Leverage Ratio**” means, with respect to any Test Period, the ratio of (a) Consolidated Net Debt as of the last day of such Test Period to (b) Consolidated Adjusted EBITDA of the Borrower for such Test Period.

“**Total Utilization of Commitments**” means, as of any date of determination, the sum of (i) the aggregate principal amount of all outstanding Revolving Loans other than Revolving Loans made for the purpose of reimbursing the Issuing Banks for any amount drawn under any Letter of Credit, but not yet so applied, and (ii) the Letter of Credit Usage.

“**Traded Securities**” means any debt or equity securities issued pursuant to a public offering or Rule 144A offering.

“**Transaction Expenses**” means any fees or expenses incurred or paid by the Borrower or any of its Subsidiaries in connection with the Transactions, this Agreement and the other Loan Documents and the transactions contemplated hereby and thereby, including any amortization thereof in any period.

“**Transactions**” means, collectively, (a) the occurrence of the Closing Date under this Agreement and (b) the payment of the Transaction Expenses.

“**Treasury Equity Interests**” has the meaning specified in the definition of “Permitted Payment.”

“**TTM Consolidated Adjusted EBITDA**” means, as of any date of determination, the Consolidated Adjusted EBITDA of the Borrower and the Restricted Subsidiaries, determined on a Pro Forma Basis, for the four consecutive fiscal quarters most recently ended prior to such date for which financial statements are internally available.

“**Type**” means, with respect to a Loan, its character as a Base Rate Loan or a SOFR Rate Loan.

“**U.S. Government Securities Business Day**” means any day except for (a) a Saturday, (b) a Sunday or (c) a day on which the Securities Industry and Financial Markets Association recommends that the fixed income departments of its members be closed for the entire day for purposes of trading in U.S. government securities.

“**U.S. Lender**” has the meaning specified in [Section 3.01\(e\)](#).

“**U.S. Tax Compliance Certificate**” has the meaning specified in [Section 3.01\(b\)](#).

“**UK Financial Institution**” means any BRRD Undertaking (as such term is defined under the PRA Rulebook (as amended from time to time) promulgated by the United Kingdom Prudential Regulation Authority) or any person falling within IFPRU 11.6 of the FCA Handbook (as amended from time to time) promulgated by the United Kingdom Financial Conduct Authority, which includes certain credit institutions and investment firms, and certain Affiliates of such credit institutions or investment firms.

“**UK Resolution Authority**” means the Bank of England or any other public administrative authority having responsibility for the resolution of any UK Financial Institution.

“**Ultra High Specification**” or “**Ultra High-Spec**” means, when referring to Vessels, Vessels with cargo-carrying capacity of greater than 5,000 DWT (i.e., 300 class OSV notations or higher), and dynamic-positioning systems with a DP-2 classification or higher. For the avoidance of doubt, any MPSV of greater than 5,000 DWT is an Ultra High-Spec Vessel.

“**Unadjusted Benchmark Replacement**” means the applicable Benchmark Replacement excluding the related Benchmark Replacement Adjustment.

“**Undisclosed Administration**” means, in relation to a Lender or its direct or indirect parent entity, the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian, or other similar official by a supervisory authority or regulator under or based on the law in the country where such Lender or such parent entity is subject to home jurisdiction supervision, if applicable law requires that such appointment not be disclosed.

“**Unfunded Advances/Participations**” means (a) with respect to the Administrative Agent, the aggregate amount, if any (i) made available to the Borrower on the assumption that each Lender has made available to the Administrative Agent such Lender’s share of the applicable Borrowing available to the Administrative Agent as contemplated by Section 2.02(b)(ii) and (ii) with respect to which a corresponding amount shall not in fact have been returned to the Administrative Agent by such Borrower or made available to the Administrative Agent by any such Lender and (b) with respect to the Issuing Banks, the aggregate amount, if any, of amounts drawn under Letters of Credit in respect of which a Revolving Lender shall have failed to make amounts available to the applicable Issuing Banks pursuant to Section 2.04(c).

“**Uniform Commercial Code**” means the Uniform Commercial Code or any successor provision thereof as the same may from time to time be in effect in the State of New York or the Uniform Commercial Code or any successor provision thereof (or similar code or statute) of another jurisdiction, to the extent it may be required to apply to any item or items of Collateral.

“**United States**” and “**U.S.**” mean the United States of America.

“**Unrestricted Lender**” means any Regulated Entity, any Revolving Lender as of the Closing Date, any Lead Arranger or any of their respective Affiliates (other than, for the avoidance of doubt, any participants of any such Persons unless such participants constitute an Unrestricted Lender).

“**Unrestricted Subsidiary**” means (a) each Securitization Subsidiary and (b) any Subsidiary of the Borrower designated by the Board of Directors of the Borrower as an Unrestricted Subsidiary pursuant to Section 6.13 subsequent to the date hereof, in each case, until such Person ceases to be an Unrestricted Subsidiary of the Borrower in accordance with Section 6.13 or ceases to be a Subsidiary of the Borrower.

“**USA PATRIOT Act**” means The Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (Title III of Public Law No. 107-56 (signed into law October 26, 2001)), as amended or modified from time to time.

“**Vessel Collateral**” means, collectively, each of the Vessels set forth on Schedule 5.15, any Vessel subject to a Vessel Mortgage pursuant to Section 6.11(d), (i), and any other Vessel over which a Loan Party has, by its sole election, granted a Vessel Mortgage, in each case, until such Vessel is released from Vessel Collateral in accordance with the terms hereof; *provided*, that, for the avoidance of doubt, the Borrower shall not be restricted in its ability, at its sole election, to designate any Vessel Collateral as Stacked Vessels following the Closing Date.

“**Vessel Collateral Value Amount**” means the fair market value of each Vessel constituting Collateral (calculated in the aggregate), as determined by (a) VesselsValueTM (or any successor thereof) or (b) at the Borrower’s sole election, a Specified Qualified Appraiser; *provided* that, (i) if VesselsValueTM ceases to exist, (ii) if access to such information originating from VesselsValueTM becomes (x) commercially unavailable or impractical to obtain or (y) otherwise materially more costly to obtain, then the Borrower shall (or, with respect to clause (ii)(y), may at its sole election) select a Specified Qualified Appraiser or another appraiser that is reasonably acceptable to the Administrative Agent to determine the Vessel Collateral Value Amount in place of VesselsValueTM.

“**Vessel Mortgage**” means a first preferred single vessel mortgage or fleet mortgage, as applicable, in substantially the form of Exhibit M, as the same may be amended, modified or supplemented from time to time.

“**Vessels**” means marine vessels (other than recreational vessels), and “**Vessel**” shall mean any of such Vessels.

“**Voting Stock**” of a Person means all classes of Equity Interests of such Person then outstanding and normally entitled to vote in the election of directors.

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

- (a) the sum of the products obtained by multiplying (i) the number of years (calculated to the nearest one-twelfth) from the date of determination to the date of each successive scheduled principal payment of such Indebtedness or redemption or similar payment with respect to such Disqualified Equity Interests or Preferred Stock, by (ii) the amount of such payment, by
- (b) the sum of all such payments; provided that, for purposes of determining the Weighted Average Life to Maturity of any Indebtedness, the effects of any prepayments or amortization made on such Indebtedness prior to the date of such determination will be disregarded;

provided that for purposes of determining the Weighted Average Life to Maturity of (i) any Refinanced Debt or (ii) any Indebtedness that is being modified, refinanced, refunded, renewed, replaced or extended (in any such case, the “**Applicable Indebtedness**”), the effects of any amortization payments or other prepayments made on such Applicable Indebtedness (including the effect of any prepayment on remaining scheduled amortization) prior to the date of the applicable modification, refinancing, refunding, renewal, replacement, extension or incurrence shall be disregarded.

“**wholly-owned**” means, with respect to a Subsidiary of a Person, a Subsidiary of such Person all of the outstanding Equity Interests of which (other than (a) director’s qualifying shares and (b) nominal shares issued to foreign nationals to the extent required by applicable Law) are owned by such Person and/or by one or more wholly-owned Subsidiaries of such Person.

“**Withdrawal Liability**” means the liability to a Multiemployer Plan as a result of a complete or partial withdrawal from such Multiemployer Plan, as such term is defined in Part I of Subtitle E of Title IV of ERISA.

“**Withholding Agent**” means the Borrower, any Guarantor or the Administrative Agent.

“**Write-Down and Conversion Powers**” means, (a) with respect to any EEA Resolution Authority, the write-down and conversion powers of such EEA Resolution Authority from time to time under the Bail-In Legislation for the applicable EEA Member Country, which write-down and conversion powers are described in the EU Bail-In Legislation Schedule, and (b) with respect to the United Kingdom, any powers of the applicable Resolution Authority under the Bail-In Legislation to cancel, reduce, modify or change the form of a liability of any UK Financial Institution or any contract or instrument under which that liability arises, to convert all or part of that liability into shares, securities or obligations of that person or any other person, to provide that any such contract or instrument is to have effect as if a right had been exercised under it or to suspend any obligation in respect of that liability or any of the powers under that Bail-In Legislation that are related to or ancillary to any of those powers.

SECTION 1.02 Other Interpretive Provisions. With reference to this Agreement and each other Loan Document, unless otherwise specified herein or in such other Loan Document:

(a) The meanings of defined terms are equally applicable to the singular and plural forms of the defined terms.

(b) (i) The words “herein,” “hereto,” “hereof” and “hereunder” and words of similar import when used in any Loan Document shall refer to such Loan Document as a whole and not to any particular provision thereof; (ii) references in this Agreement to an Exhibit, Schedule, Article, Section, clause or sub-clause refer (A) to the appropriate Exhibit or Schedule to, or Article, Section, clause or sub-clause in this Agreement or (B) to the extent such references are not present in this Agreement, to the Loan Document in which such reference appears; (iii) the term “including” is by way of example and not limitation; (iv) the term “documents” includes any and all instruments, documents, agreements, certificates, notices, reports, financial statements and other writings, however evidenced, whether in physical or electronic form; (v) the term “continuing” means, with respect to a Default or Event of Default, that it has not been cured or waived; and (vi) in the computation of periods of time from a specified date to a later specified date, the word “from” means “from and including,” the words “to” and “until” each mean “to but excluding,” and the word “through” means “to and including.”

(c) Section headings herein and in the other Loan Documents are included for convenience of reference only and shall not affect the interpretation of this Agreement or any other Loan Document.

(d) For all purposes under the Loan Documents, in connection with any division or plan of division under Delaware law (or any comparable event under a different jurisdiction’s laws) (a “**Division**”), if (a) any asset, right, obligation or liability of any Person becomes the asset, right, obligation or liability of a different Person, then it shall be deemed to have been transferred from the original Person to the subsequent Person, and (b) any new Person comes into existence, such new Person shall be deemed to have been organized on the first date of its existence by the holders of its Equity Interests at such time.

SECTION 1.03 Accounting and Finance Terms; Accounting Periods; Unrestricted Subsidiaries. All accounting terms, financial terms or components of such terms not specifically or completely defined herein shall be construed in conformity with GAAP to the extent GAAP defines such term or a component of such term. To the extent GAAP does not define such term or a component of such term, such term shall be calculated by the Borrower in good faith. For purposes of calculating any consolidated amounts necessary to determine compliance by any Person and, if applicable, its Restricted Subsidiaries with any ratio or other financial covenant in this Agreement, Unrestricted Subsidiaries shall be excluded. Unless the context indicates otherwise, any reference to a “fiscal year” shall refer to a fiscal year of the Borrower ending December 31, and any reference to a “fiscal quarter” shall refer to a fiscal quarter of the Borrower ending March 31, June 30, September 30 or December 31.

SECTION 1.04 Rounding. Any financial ratios required to be satisfied in order for a specific action to be permitted under this Agreement or any other Loan Document shall be calculated by dividing the appropriate component by the other component, carrying the result to one decimal place more than the number of decimal places by which such ratio is expressed herein (the “**applicable decimal place**”) and rounding the result up or down to the applicable decimal place.

SECTION 1.05 References to Agreements, Laws, Etc. Unless otherwise expressly provided herein, (a) references to Organization Documents, agreements (including the Loan Documents) and other contractual instruments shall be deemed to include all subsequent amendments, restatements, extensions, supplements and other modifications thereto, but only to the extent that such amendments, restatements, extensions, supplements and other modifications are not prohibited by any Loan Document; and (b) references to any Law shall include all statutory and regulatory provisions consolidating, amending, replacing, supplementing or interpreting such Law.

SECTION 1.06 Times of Day. Unless otherwise specified, all references herein to times of day shall be references to New York City time (daylight or standard, as applicable).

SECTION 1.07 [Reserved].

SECTION 1.08 Pro Forma Calculations; Limited Condition Transactions; Basket and Ratio Compliance.

(a) Notwithstanding anything to the contrary herein, the Revolving Credit Facility Net Leverage Ratio, the Collateral Coverage Ratio, the RCF Collateral Coverage Ratio, the Total Net Leverage Ratio, the Fixed Charge Coverage Ratio and the Secured Net Leverage Ratio shall be calculated in the manner prescribed by this Section 1.08; *provided*, that notwithstanding anything to the contrary in clauses (b), (c) or (d) of this Section 1.08, when calculating the Revolving Credit Facility Net Leverage Ratio, the Collateral Coverage Ratio and the RCF Collateral Coverage Ratio, in each case, for purposes of Section 8.01, the events described in this Section 1.08 that occurred subsequent to the end of the applicable Test Period shall not be given *pro forma* effect.

(b) For purposes of calculating the Revolving Credit Facility Net Leverage Ratio, the Collateral Coverage Ratio, the RCF Collateral Coverage Ratio, the Total Net Leverage Ratio, the Fixed Charge Coverage Ratio and the Secured Net Leverage Ratio, in addition to the adjustments provided for in the definition of “Consolidated Adjusted EBITDA” and “Fixed Charge Coverage Ratio” (including any QSC Adjustment), (i) any transaction or series of related transactions that results in a Person becoming a Restricted Subsidiary, (ii) any designation of a Subsidiary as a Restricted Subsidiary or an Unrestricted Subsidiary, (iii) any transaction or series of related transactions that results in a Restricted Subsidiary ceasing to be a Subsidiary of the Borrower, (iv) any acquisition or disposition of any assets constituting a business unit, line of business or division of another Person or a facility or an acquisition or disposition of any Vessel, (v) any incurrence or repayment of Indebtedness and (vi) any payment or Investment permitted by Section 7.06 that have been made or occurred (i) during the applicable Test Period or (ii) (other than for purposes of calculating the Financial Covenants pursuant to Section 8.01), subsequent to such Test Period and prior to or simultaneously with the event for which the calculation of any such ratio is made shall be calculated on a *pro forma* basis assuming that all such transactions (and any increase or decrease in Consolidated Adjusted EBITDA and the component financial definitions used therein attributable to any such transaction) had occurred on the first day of the applicable Test Period.

(c) In the event that the Borrower or any Restricted Subsidiary incurs (including by assumption or guarantees) or repays (including by redemption, repayment, retirement or extinguishment) any Indebtedness included in the calculations of the Revolving Credit Facility Net Leverage Ratio, the Collateral Coverage Ratio, the RCF Collateral Coverage Ratio, the Fixed Charge Coverage Ratio, the Total Net Leverage Ratio and the Secured Net Leverage Ratio, as the case may be (in each case, other than, except for purposes of Article VIII), (i) during the applicable Test Period or (ii) subsequent to the end of the applicable Test Period and prior to or simultaneously with the event for which the calculation of any such ratio is made, then the Revolving Credit Facility Net Leverage Ratio, the Collateral Coverage Ratio, the RCF Collateral Coverage Ratio, the Fixed Charge Coverage Ratio, the Total Net Leverage Ratio and the Secured Net Leverage Ratio shall be calculated giving *pro forma* effect to such incurrence or repayment of Indebtedness, to the extent required, as if the same had occurred on the last day of the applicable Test Period with respect to leverage ratios or the first day of such Test Period with respect to the Fixed Charge Coverage Ratio.

(d) Notwithstanding anything to the contrary in this Agreement or any classification under GAAP of any Person, business, assets or operations in respect of which a definitive agreement for the disposition thereof has been entered into as discontinued operations, no *pro forma* effect shall be given to any discontinued operations (and the Consolidated Adjusted EBITDA attributable to any such Person, business, assets or operations shall not be excluded for any purposes hereunder) until such disposition shall have been consummated.

(e) Notwithstanding anything in this Agreement or any Loan Document to the contrary,

(i) the Borrower may rely on more than one basket or exception hereunder (including both ratio-based and non-ratio based baskets and exceptions, and including partial reliance on different baskets that, collectively, permit the entire proposed transaction) at the time of any proposed transaction, and the Borrower may, in their sole discretion, at any later time divide, classify or reclassify such transaction (or any portion thereof) in any manner that complies with the available baskets and exceptions hereunder at such later time (*provided* that with respect to reclassification of Indebtedness and Liens, any such reclassification shall be subject to the parameters of Sections 7.01 and 7.03, as applicable),

(ii) unless the Borrower elects otherwise, if the Borrower or its Restricted Subsidiaries in connection with any transaction or series of related transactions (A) incurs Indebtedness, creates Liens, makes Dispositions, makes Investments, designates any Subsidiary as restricted or unrestricted or repays any Indebtedness or takes any other action under or as permitted by a ratio-based basket and (B) incurs Indebtedness, creates Liens, makes Dispositions, makes Investments, designates any Subsidiary as restricted or unrestricted or repays any Indebtedness or takes any other action under a non-ratio-based basket (which shall occur within five Business Days of the events in clause (A) above), then the applicable ratio will be calculated with respect to any such action under the applicable ratio-based basket without regard to any such action under such non-ratio-based basket made in connection with such transaction or series of related transactions,

(iii) if the Borrower or its Restricted Subsidiaries enters into any revolving, delayed draw or other committed debt facility, the Borrower may elect by written notice to the Administrative Agent (or shall be deemed to have elected with respect to any Incremental Loans) to determine compliance of such debt facility (including the incurrence of Indebtedness and Liens from time to time in connection therewith) with this Agreement and each other Loan Document on the date commitments with respect thereto are first received, assuming the full amount of such facility is incurred (and any applicable Liens are granted) on such date, in which case such committed amount may thereafter be borrowed or reborrowed, in whole or in part, from time to time, without further compliance with such applicable ratio-based basket hereunder, in lieu of determining such compliance on any subsequent date (including any date on which Indebtedness is incurred pursuant to such facility); *provided* that, in each case, any future calculation of such ratio-based basket shall only include amounts borrowed and outstanding as of such date of determination, and

(iv) if the Borrower or any Restricted Subsidiary incurs Indebtedness under a ratio-based basket, such ratio-based basket (together with any other ratio-based basket utilized in connection therewith, including in respect of other Indebtedness, Liens, Dispositions, Investments, Permitted Payments or other transactions permitted by Section 7.06 or payments in respect of Junior Financing) will be calculated excluding the cash proceeds of such Indebtedness for netting purposes (i.e., such cash proceeds shall not reduce the Borrower's Consolidated Net Debt or Consolidated Secured Net Debt pursuant to clause (b) of the definition of such terms), *provided* that the actual application of such proceeds may reduce Indebtedness for purposes of determining compliance with any such applicable ratio-based basket.

(f) Notwithstanding anything in this Agreement or any Loan Document to the contrary, when calculating the availability under any basket or ratio under this Agreement or compliance with any provision of this Agreement in connection with any Limited Condition Transaction and any actions or transactions related thereto (including acquisitions, Investments, the incurrence, issuance or assumption of Indebtedness and the use of proceeds thereof, the incurrence or creation of Liens, repayments, Restricted Payments and Dispositions), in each case, at the option of the Borrower (the Borrower's election to exercise such option, an "**LCT Election**"), the date of determination for availability under any such basket or ratio and whether any such action or transaction is permitted (or any requirement or condition therefor is complied with or satisfied (including as to the absence of any continuing Default or Event of Default)) under this Agreement shall be deemed to be the date (the "**LCT Test Date**") the definitive agreement for such Limited Condition Transaction is entered into (or, if applicable, the date of delivery of an irrevocable declaration of a Restricted Payment or similar event) in respect of a target of a Limited Condition Transaction and, in each case, if, after giving pro forma effect to the Limited Condition Transaction and any actions or transactions related thereto (including acquisitions, Investments, the incurrence, issuance or assumption of Indebtedness and the use of proceeds thereof, the incurrence or creation of Liens, repayments, Restricted Payments and Dispositions) and any related pro forma adjustments, the Borrower or any of its Restricted Subsidiaries would have been permitted to take such actions or consummate such transactions on the relevant LCT Test Date in compliance with such ratio, test or basket (and any related requirements and conditions), such ratio, test or basket (and any related requirements and conditions) shall be deemed to have been complied with (or satisfied) for all purposes (in the case of Indebtedness, for example, whether such Indebtedness is committed, issued, assumed or incurred at the LCT Test Date or at any time thereafter); *provided*, that (a) if financial statements for one or more fiscal quarters shall have subsequently become available, the Borrower may elect, in its sole discretion, to redetermine all such ratios, tests or baskets on the basis of such financial statements, in which case, such date of redetermination shall thereafter be the applicable LCT Test Date for purposes of such ratios, tests or baskets, (b) except as contemplated in the foregoing clause (a), compliance with such ratios, test or baskets (and any related requirements and conditions) shall not be determined or tested at any time after the applicable LCT Test Date for such Limited Condition Transaction and any actions or transaction related thereto (including acquisitions, Investments, the incurrence, issuance or assumption of Indebtedness and the use of proceeds thereof, the incurrence or creation of Liens, repayments, Restricted Payments and Dispositions) and (c) Consolidated Interest Expense for purposes of the Fixed Charge Coverage Ratio will be calculated using an assumed interest rate as reasonably determined by the Borrower.

(g) For purposes of determining the maturity date of any Indebtedness, customary bridge loans that are subject to customary conditions (including no payment or bankruptcy event of default) that would either automatically be extended as, converted into or required to be exchanged for permanent refinancing shall be deemed to have the maturity date as so extended, converted or exchanged.

SECTION 1.09 Currency Equivalents Generally.

(a) For purposes of determining compliance with Sections 7.01 and 7.03 with respect to any amount of Lien, Indebtedness or Investment in a currency other than Dollars, no Default or Event of Default shall be deemed to have occurred solely as a result of changes in rates of currency exchange occurring after the time such Lien, Indebtedness or Investment is incurred (so long as such Indebtedness or Investment, at the time incurred, made or acquired, was permitted hereunder).

(b) For purposes of this Agreement and the other Loan Documents, where the permissibility of a transaction or determinations of required actions or circumstances depend upon compliance with, or are determined by reference to, amounts stated in Dollars, any requisite currency translation shall be based on the rate of exchange between the applicable currency and Dollars as reasonably determined by the Borrower, in each case in effect on the Business Day immediately preceding the date of such transaction or determination (subject to clauses (c) and (d) below) and shall not be affected by subsequent fluctuations in exchange rates. For the avoidance of doubt, the Financial Covenants, the Revolving Credit Facility Net Leverage Ratio, Collateral Coverage Ratio, the RCF Collateral Coverage Ratio, the Total Net Leverage Ratio, the Secured Net Leverage Ratio and the Fixed Charge Coverage Ratio, including Consolidated Adjusted EBITDA, shall not be recalculated following any such fluctuation in exchange rate to provide for additional Dollar-equivalent principal amount of Indebtedness to be incurred or otherwise affected by subsequent fluctuations in exchange rates to provide for additional basket capacity.

(c) For purposes of determining compliance with any Dollar-denominated restriction on the incurrence of Indebtedness, the Dollar-equivalent principal amount of Indebtedness denominated in a foreign currency shall be calculated based on the Exchange Rate in effect on the date such Indebtedness was incurred, in the case of term debt, or first committed, in the case of revolving credit debt (or, in the case of an LCT Election, on the date of the applicable LCT Test Date); *provided that*, if such Indebtedness is incurred to refinance other Indebtedness denominated in a foreign currency, and such refinancing would cause the applicable Dollar-denominated restriction to be exceeded if calculated at the Exchange Rate in effect on the date of such refinancing, such Dollar-denominated restriction shall be deemed not to have been exceeded so long as the principal amount of such Indebtedness so refinanced does not exceed the principal amount of such Indebtedness being refinanced. Notwithstanding the foregoing, the principal amount of any Indebtedness incurred to refinance other Indebtedness, if incurred in a different currency from the Indebtedness being refinanced, shall be calculated based on the Exchange Rate that is in effect on the date of such refinancing.

(d) For purposes of determining the Revolving Credit Facility Net Leverage Ratio, Collateral Coverage Ratio, the RCF Collateral Coverage Ratio, the Total Net Leverage Ratio, the Secured Net Leverage Ratio, the Total Net Leverage Ratio and the Fixed Charge Coverage Ratio, including Consolidated Adjusted EBITDA when calculating such ratios, all amounts denominated in a currency other than Dollars will be converted to Dollars for any purpose (including testing the any financial maintenance covenant) at the effective rate of exchange in respect thereof reflected in the consolidated financial statements of the Borrower for the applicable Test Period for which such measurement is being made, and will reflect the currency translation effects, determined in accordance with GAAP, of Hedge Agreements permitted hereunder for currency exchange risks with respect to the applicable currency in effect on the date of determination of the Dollar equivalent of such Indebtedness.

ARTICLE II

The Commitments and Borrowings

SECTION 2.01 [Reserved].

SECTION 2.02 Revolving Loans.

(a) Revolving Loan Commitment. During the Commitment Period, subject to the terms and conditions hereof, each Lender severally agrees to make revolving loans to the Borrower from time to time on any Business Day in Dollars (“**Revolving Loans**”) in an aggregate amount up to but not exceeding such Lender’s Commitment; *provided*, that after giving effect to the making of any Revolving Loans in no event shall the Total Utilization of Commitments exceed the Commitments then in effect. Amounts borrowed pursuant to this Section 2.02(a) may be repaid and reborrowed during the Commitment Period. Each Lender’s Commitment shall expire on the Commitment Termination Date, and all Revolving Loans and all other amounts owed hereunder with respect to the Revolving Loans and the Commitments shall be paid in full no later than the Maturity Date.

(b) Borrowing Mechanics for Revolving Loans.

(i) Subject to Article IV, each Borrowing of Revolving Loans shall be made upon the Borrower’s irrevocable notice to the Administrative Agent, which may only be given in writing. Each such notice must be received by the Administrative Agent not later than (A) 1:00 p.m. three Business Days prior to the requested date of any Borrowing of SOFR Rate Loans, and (B) 1:00 p.m. one Business Day prior to the requested date of any Borrowing of Base Rate Loans. Each notice by the Borrower pursuant to this Section 2.02(b) must be delivered to the Administrative Agent in the form of a Committed Loan Notice, appropriately completed and signed by a Responsible Officer of the Borrower. Each Borrowing of SOFR Rate Loans shall be in a minimum principal amount of \$500,000 or a whole multiple of \$100,000 in excess thereof. Each Borrowing of Base Rate Loans shall be in a minimum principal amount of \$500,000 or a whole multiple of \$100,000 in excess thereof. Each Committed Loan Notice shall specify (1) the requested date of the Borrowing (which shall be a Business Day), (2) the principal amount of Revolving Loans to be borrowed, (3) the Type of Revolving Loans to be borrowed and (4) if applicable, the duration of the Interest Period with respect thereto. If the Borrower fails to specify a Type of Revolving Loan in a Committed Loan Notice, then in the case of Revolving Loans, the applicable Revolving Loans shall be made as Base Rate Loans. If the Borrower requests a Borrowing of SOFR Rate Loans in any such Committed Loan Notice, but fails to specify an Interest Period for such SOFR Rate Loans, the Borrower will be deemed to have specified an Interest Period of one month.

(ii) Following receipt of a Committed Loan Notice, the Administrative Agent shall promptly notify each Lender of the amount of its Pro Rata Share of the applicable Revolving Loans. In the case of each Borrowing, each Appropriate Lender shall make the amount of its Revolving Loan available to the Administrative Agent in Same Day Funds at the Administrative Agent’s Office not later than 1:00 p.m., on the Business Day specified in the applicable Committed Loan Notice. Upon satisfaction of the applicable conditions set forth in Article IV, the Administrative Agent shall make all funds so received available to the Borrower in like funds as received by the Administrative Agent by wire transfer of such funds, in each case in accordance with instructions provided to (and reasonably acceptable to) the Administrative Agent by the Borrower; *provided, however*, that if, on the date the Committed Loan Notice with respect to such Borrowing is given by the Borrower, there are Reimbursement Obligations outstanding, then the proceeds of such Borrowing shall be applied, first, to the payment in full of any such Reimbursement Obligations, and second, to the Borrower as provided above.

(iii) The failure of any Lender to make the Revolving Loan to be made by it as part of any Borrowing shall not relieve any other Lender of its obligation, if any, hereunder to make its Revolving Loan on the date of such Borrowing, but no Lender shall be responsible for the failure of any other Lender to make the Revolving Loan to be made by such other Lender on the date of any Borrowing.

SECTION 2.03 [Reserved].

SECTION 2.04 Issuance of Letters of Credit and Purchase of Participations Therein.

(a) Letter of Credit Commitment.

(i) Subject to the terms and conditions set forth herein, (A) each Issuing Bank agrees, in reliance upon the agreements of the Revolving Lenders set forth in this Section 2.04, (1) from time to time on any Business Day during the Commitment Period on or prior to the fifth Business Day prior to the Commitment Termination Date, to issue Letters of Credit for the account of the Borrower, subject to satisfactory receipt of such information and documentation reasonably requested by the Administrative Agent or any Lender in order to comply with applicable “know your customer” and anti-money laundering rules and regulations, including the USA PATRIOT Act or a Restricted Subsidiary (*provided* that any Letter of Credit issued for the benefit of any Restricted Subsidiary shall be issued for the account of the Borrower but such Letter of Credit shall indicate that it is being issued for the benefit of such Restricted Subsidiary, as applicable) and to amend, renew or extend Letters of Credit previously issued by it, in accordance with Section 2.04(b) and (2) to honor drawings under the Letters of Credit; and (B) the Revolving Lenders severally agree to participate in such Letters of Credit and any drawings thereunder; *provided* that the Issuing Banks shall not be obligated to make any Letter of Credit Extension if, as of the date of such Letter of Credit Extension, (1) the Total Utilization of Commitments would exceed the Commitments, (2) the Total Utilization of Commitments of any Revolving Lender would exceed such Lender’s Commitment, (3) the Letter of Credit Usage would exceed the Letter of Credit Sublimit or (4) the Letter of Credit Usage with respect to Letters of Credit issued by such Issuing Bank would exceed the amount of such Issuing Bank’s Letter of Credit Percentage of the Letter of Credit Sublimit. Within the foregoing limits, and subject to the terms and conditions hereof, the Borrower’s ability to obtain Letters of Credit shall be fully revolving, and accordingly the Borrower may, during the foregoing period, obtain Letters of Credit to replace Letters of Credit that have expired or that have been drawn upon and reimbursed. On and after the Closing Date, each Existing Letter of Credit shall be deemed to be a Letter of Credit issued hereunder on the Closing Date for all purposes under this Agreement and the other Loan Documents.

(ii) An Issuing Bank shall not be under any obligation to issue any Letter of Credit if:

(A) any order, judgment or decree of any Governmental Authority or arbitrator shall by its terms purport to enjoin or restrain such Issuing Bank from issuing such Letter of Credit, or any Law applicable to such Issuing Bank or any request or directive (whether or not having the force of law) from any Governmental Authority with jurisdiction over such Issuing Bank shall prohibit, or request that such Issuing Bank refrain from, the issuance of letters of credit generally or such Letter of Credit in particular or shall impose upon such Issuing Bank with respect to such Letter of Credit any restriction, reserve or capital requirement (for which such Issuing Bank is not otherwise compensated hereunder) not in effect on the Closing Date, or shall impose upon such Issuing Bank any unreimbursed loss, cost or expense which was not applicable on the Closing Date and which such Issuing Bank in good faith deems material to it (for which such Issuing Bank is not otherwise compensated hereunder);

(B) the issuance of such Letter of Credit would violate one or more policies of such Issuing Bank applicable to letters of credit generally;

(C) except as otherwise agreed by the Administrative Agent and such Issuing Bank, such Letter of Credit is in an initial stated amount less than \$10,000;

(D) [reserved];

(E) such Letter of Credit contains any provisions for automatic reinstatement of the stated amount after any drawing thereunder; and

(F) any Revolving Lender is at such time a Defaulting Lender, unless such Issuing Bank has entered into arrangements, including reallocation of such Lender's Pro Rata Share of the outstanding Letter of Credit Obligations pursuant to Section 2.20(a)(iii) or the delivery of Cash Collateral, satisfactory to such Issuing Bank (in its sole discretion) with the Borrower or such Lender to eliminate such Issuing Bank's actual or potential Fronting Exposure (after giving effect to Section 2.20(a)(iii)) with respect to such Lender arising from either the Letter of Credit then proposed to be issued or such Letter of Credit and all other Letter of Credit Obligations as to which such Issuing Bank has actual or potential Fronting Exposure, as it may elect in its sole discretion.

(iii) No Issuing Bank shall be under any obligation to amend or extend any Letter of Credit if (A) such Issuing Bank would have no obligation at such time to issue the Letter of Credit in its amended form under the terms hereof or (B) the beneficiary of such Letter of Credit does not accept the proposed amendment thereto.

(iv) Unless Cash Collateralized or backstopped pursuant to arrangements reasonably acceptable to the applicable Issuing Bank, each standby Letter of Credit shall expire at or prior to the close of business on the earlier of (A) the date twelve months after the date of issuance of such Letter of Credit (or, in the case of any Auto-Renewal Letter of Credit, twelve months after the then current expiration date of such Letter of Credit) and (B) the Letter of Credit Expiration Date (unless arrangements reasonably satisfactory to the Issuing Banks have been entered into).

(b) Procedures for Issuance and Amendment of Letters of Credit; Auto Renewal Letters of Credit.

(i) Each Letter of Credit shall be issued or amended, as the case may be, upon the request of the Borrower delivered to the applicable Issuing Bank (with a copy to the Administrative Agent) in the form of a Letter of Credit Application, appropriately completed and signed by a Responsible Officer of the Borrower. Such Letter of Credit Application must be received by the applicable Issuing Bank and the Administrative Agent not later than 1:00 p.m. at least five Business Days (or such shorter period as the applicable Issuing Bank and the Administrative Agent may agree in a particular instance in their sole discretion) prior to the proposed issuance date or date of amendment, as the case may be. In the case of a request for an initial issuance of a Letter of Credit, such Letter of Credit Application shall specify in form and detail reasonably satisfactory to the applicable Issuing Bank (A) the proposed issuance date of the requested Letter of Credit (which shall be a Business Day); (B) the amount thereof; (C) the expiry date thereof; (D) the name and address of the beneficiary thereof; (E) the documents to be presented by such beneficiary in case of any drawing thereunder; (F) the full text of any certificate to be presented by such beneficiary in case of any drawing thereunder; (G) the currency in which the requested Letter of Credit will be denominated (which must be Dollars or any other currency agreed to by the Borrower and the applicable Issuing Bank in its sole discretion) and (H) such other matters as the applicable Issuing Bank may reasonably request. In the case of a request for an amendment of any outstanding Letter of Credit, the Letter of Credit Application shall specify in form and detail reasonably satisfactory to the applicable Issuing Bank (1) the Letter of Credit to be amended; (2) the proposed date of amendment thereof (which shall be a Business Day); and (3) the nature of the proposed amendment. Additionally, the Borrower shall furnish to the applicable Issuing Bank and the Administrative Agent such other documents and information pertaining to such requested Letter of Credit issuance or amendment, including any Letter of Credit Documents, as the applicable Issuing Bank or the Administrative Agent may reasonably require.

(ii) Promptly after receipt of any Letter of Credit Application, the applicable Issuing Bank will confirm with the Administrative Agent that the Administrative Agent has received a copy of such Letter of Credit Application from the Borrower and, if not, the applicable Issuing Bank will provide the Administrative Agent with a copy thereof. Upon receipt by the applicable Issuing Bank of confirmation from the Administrative Agent that the requested issuance or amendment is permitted in accordance with the terms hereof, then, subject to the terms and conditions set forth herein, such Issuing Bank shall, on the requested date, issue a Letter of Credit for the account of the Borrower or enter into the applicable amendment, as the case may be. Immediately upon the issuance of each Letter of Credit, each Revolving Lender shall be deemed to, and hereby irrevocably and unconditionally agrees to, purchase from the applicable Issuing Bank a participation in such Letter of Credit in an amount equal to such Lender's Pro Rata Share of the amount of such Letter of Credit.

(iii) If the Borrower so requests in any applicable Letter of Credit Application for a standby Letter of Credit, the applicable Issuing Bank may, in its reasonable discretion, agree to issue a standby Letter of Credit that has automatic renewal provisions (each, an “**Auto-Renewal Letter of Credit**”); *provided* that any such Auto-Renewal Letter of Credit shall permit such Issuing Bank to prevent any such renewal at least once in each twelve-month period (commencing with the date of issuance of such Letter of Credit) by giving prior notice to the beneficiary thereof not later than a day (the “**Nonrenewal Notice Date**”) in each such twelve-month period to be agreed upon at the time such Letter of Credit is issued. Unless otherwise directed by the applicable Issuing Bank, the Borrower shall not be required to make a specific request to such Issuing Bank for any such renewal. Once an Auto-Renewal Letter of Credit has been issued, the Revolving Lenders shall be deemed to have authorized (but may not require) the applicable Issuing Bank to permit the renewal of such Letter of Credit at any time to an expiry date not later than the Letter of Credit Expiration Date; *provided, however*, that no Issuing Bank shall (A) permit any such renewal if (1) such Issuing Bank has determined that it would not be permitted at such time to issue such Letter of Credit in its renewed form under the terms hereof (by reason of the provisions of clause (ii) or (iii) of Section 2.04(a) or otherwise) or (2) it has received written notice on or before the day that is seven Business Days before the Nonrenewal Notice Date from the Administrative Agent that the Required Lenders have elected not to permit such renewal or (B) be obligated to permit such renewal if it has received written notice on or before the day that is seven Business Days before the Nonrenewal Notice Date from the Administrative Agent, any Revolving Lender or the Borrower that one or more of the applicable conditions set forth in Section 4.03 is not then satisfied, and in each such case directing the applicable Issuing Bank not to permit such renewal.

(iv) Promptly after its delivery of any Letter of Credit or any amendment to a Letter of Credit to an advising bank with respect thereto or to the beneficiary thereof, the applicable Issuing Bank will also deliver to the Borrower and the Administrative Agent a true and complete copy of such Letter of Credit or amendment.

(c) Drawings and Reimbursement; Funding of Participations.

(i) Upon receipt from the beneficiary of any Letter of Credit of any notice of a drawing under such Letter of Credit, the applicable Issuing Bank shall notify the Borrower and the Administrative Agent thereof, and such Issuing Bank shall, within a reasonable time following its receipt thereof, examine all documents purporting to represent a demand for payment under such Letter of Credit. If an Issuing Bank notifies the Borrower of any payment by such Issuing Bank under a Letter of Credit, then the Borrower shall reimburse such Issuing Bank in an amount equal to the amount of such drawing not later than 3:00 p.m. on the next succeeding Business Day. If the Borrower fails to so reimburse such Issuing Bank by such time, such Issuing Bank shall promptly notify the Administrative Agent of such failure and the Administrative Agent shall promptly thereafter notify each Revolving Lender of such payment date, the amount of the unreimbursed drawing (the “**Reimbursement Obligations**”) and the amount of such Lender’s Pro Rata Share thereof. In such event, the Borrower shall be deemed to have requested a Revolving Loan Borrowing of Base Rate Loans to be disbursed on such date in an amount equal to such Reimbursement Obligation, without regard to the minimum and multiples specified in Section 2.02(b) for the principal amount of Base Rate Loans to be disbursed on such date in an amount equal to the Dollar Amount of such Reimbursement Obligation. Any notice given by an Issuing Bank or the Administrative Agent pursuant to this clause (i) shall be given in writing.

(ii) Each Revolving Lender (including each Revolving Lender acting as an Issuing Bank) shall upon any notice pursuant to Section 2.04(c)(i) make funds available (and the Administrative Agent may apply Cash Collateral provided for this purpose) for the account of the applicable Issuing Bank, in Dollars at the Administrative Agent's Office in an amount equal to its Pro Rata Share of the relevant Reimbursement Obligation not later than 3:00 p.m. on the Business Day specified in such notice by the Administrative Agent, whereupon, subject to the provisions of Section 2.04(c)(iii), each Revolving Lender that so makes funds available shall be deemed to have made a Revolving Loan that is in the case of a Letters of Credit denominated in Dollars or a Base Rate Loan. The Administrative Agent shall remit the funds so received to the applicable Issuing Bank in accordance with the instructions provided to the Administrative Agent by such Issuing Bank (which instructions may include standing payment instructions, which may be updated from time to time by such Issuing Bank, *provided* that, unless the Administrative Agent shall otherwise agree, any such update shall not take effect until the Business Day immediately following the date on which such update is provided to the Administrative Agent).

(iii) With respect to any Reimbursement Obligation that is not fully refinanced by a Revolving Loan Borrowing of Base Rate Loans for Letters of Credit denominated in Dollars because the conditions set forth in Section 4.03 cannot be satisfied or for any other reason, the Borrower shall be deemed to have incurred from the applicable Issuing Bank a Letter of Credit Borrowing in the amount of the Reimbursement Obligation that is not so refinanced. In such event, each Revolving Lender's payment to the Administrative Agent for the account of such Issuing Bank pursuant to Section 2.04(c)(i) shall be deemed payment in respect of its participation in such Letter of Credit Borrowing and shall constitute a Letter of Credit Advance from such Lender in satisfaction of its participation obligation under this Section.

(iv) Until each Revolving Lender funds its Revolving Loan or Letter of Credit Advance to reimburse the applicable Issuing Bank for any amount drawn under any Letter of Credit, interest in respect of such Lender's Pro Rata Share of such amount shall be solely for the account of such Issuing Bank.

(v) Each Revolving Lender's obligations to make Revolving Loans or Letter of Credit Advances to reimburse an Issuing Bank for amounts drawn under Letters of Credit, as contemplated by this Section 2.04(c), shall be absolute and unconditional and shall not be affected by any circumstance, including (A) any setoff, counterclaim, recoupment, defense or other right which such Lender may have against such Issuing Bank, the Borrower or any other Person for any reason whatsoever; (B) the occurrence or continuance of a Default; or (C) any other occurrence, event or condition, whether or not similar to any of the foregoing; *provided* that each Revolving Lender's obligation to make Revolving Loans pursuant to this paragraph (c) is subject to the conditions set forth in Section 4.03. No such funding of a participation in any Letter of Credit shall relieve or otherwise impair the obligation of the Borrower to reimburse an Issuing Bank for the amount of any payment made by such Issuing Bank under such Letter of Credit, together with interest as provided herein.

(vi) If any Revolving Lender fails to make available to the Administrative Agent for the account of the applicable Issuing Bank any amount required to be paid by such Lender pursuant to the foregoing provisions of this paragraph (c) by the time specified in Section 2.04(c)(ii), then, without limiting the other provisions of this Agreement, such Issuing Bank shall be entitled to recover from such Lender (acting through the Administrative Agent), on demand, such amount with interest thereon for the period from the date such payment is required to the date on which such payment is immediately available to such Issuing Bank at a rate *per annum* equal to the greater of the Federal Funds Rate from time to time in effect and a rate determined by such Issuing Bank in accordance with banking industry rules on interbank compensation, *plus* any reasonable administrative, processing or similar fees customarily charged by such Issuing Bank in connection with the foregoing. If such Lender pays such amount (with interest and fees as aforesaid), the amount so paid shall constitute such Lender's Revolving Loan included in the relevant Borrowing or Letter of Credit Advance in respect of the relevant Letter of Credit Borrowing, as the case may be. A certificate of the applicable Issuing Bank submitted to any Revolving Lender (through the Administrative Agent) with respect to any amounts owing under this clause (vi) shall be conclusive absent manifest error.

(d) Repayment of Participations.

(i) If, at any time after the applicable Issuing Bank has made payment in respect of any drawing under any Letter of Credit issued by it and has received from any Revolving Lender its Letter of Credit Advance in respect of such payment in accordance with Section 2.04(c), the Administrative Agent receives for the account of such Issuing Bank any payment in respect of the related Reimbursement Obligation, the Administrative Agent will distribute to such Lender its Pro Rata Share thereof (appropriately adjusted, in the case of interest payments, to reflect the period of time during which such Lender's Letter of Credit Advance was outstanding) in like funds as received by the Administrative Agent.

(ii) If any payment received by the Administrative Agent for the account of the applicable Issuing Bank pursuant to Section 2.04(c)(i) is required to be returned under any of the circumstances described in Section 11.06 (including pursuant to any settlement entered into by such Issuing Bank in its discretion), each Revolving Lender shall pay to the Administrative Agent for the account of such Issuing Bank its Pro Rata Share thereof on demand of the Administrative Agent, *plus* interest thereon from the date of such demand to the date such amount is returned by such Lender at a rate *per annum* equal to the Federal Funds Rate from time to time in effect. The obligations of the Revolving Lenders under this clause (ii) shall survive the payment in full of the Obligations and the termination of this Agreement.

(e) Obligations Absolute. The obligation of the Borrower to reimburse the Issuing Banks for each drawing under each Letter of Credit and to repay each Letter of Credit Borrowing shall be absolute, unconditional and irrevocable, and shall be paid strictly in accordance with the terms of this Agreement under all circumstances, including the following:

(i) any lack of validity or enforceability of such Letter of Credit or any term or provision thereof, any Loan Document, or any other agreement or instrument relating thereto;

(ii) the existence of any claim, counterclaim, setoff, defense or other right that the Borrower may have at any time against any beneficiary or any transferee of such Letter of Credit (or any Person for whom any such beneficiary or any such transferee may be acting), the Issuing Banks or any other Person, whether in connection with this Agreement, the transactions contemplated hereby or by such Letter of Credit or any agreement or instrument relating thereto, or any unrelated transaction;

(iii) any draft, demand, certificate or other document presented under such Letter of Credit proving to be forged, fraudulent, invalid or insufficient in any respect or any statement therein being untrue or inaccurate in any respect; or any loss or delay in the transmission or otherwise of any document required in order to make a drawing under such Letter of Credit;

(iv) any payment by an Issuing Bank under such Letter of Credit against presentation of documents that do not comply strictly with the terms of such Letter of Credit; or any payment made by an Issuing Bank under such Letter of Credit to any Person purporting to be a trustee in bankruptcy, debtor in possession, assignee for the benefit of creditors, liquidator, receiver or other representative of or successor to any beneficiary or any transferee of such Letter of Credit, including arising in connection with any proceeding under any Debtor Relief Law;

(v) any exchange, release or non-perfection of any collateral, or any release or amendment or waiver of or consent to departure from any guarantee, for all or any of the Obligations of the Borrower in respect of such Letter of Credit; or

(vi) any other circumstance or happening whatsoever, whether or not similar to any of the foregoing, including any other circumstance that might otherwise constitute a defense available to, or a discharge of, the Borrower.

The Borrower shall promptly examine a copy of each Letter of Credit and each amendment thereto that is delivered to it and, in the event of any claim of noncompliance with the Borrower's instructions or other irregularity, the Borrower will promptly notify the applicable Issuing Bank. The Borrower shall be conclusively deemed to have waived any such claim against any Issuing Bank and its correspondents unless such notice is given as aforesaid.

(f) Role of Issuing Banks. Each Revolving Lender and the Borrower agrees that, in paying any drawing under a Letter of Credit, the Issuing Banks shall not have any responsibility to obtain any document (other than any sight draft, certificates and documents expressly required by such Letter of Credit) or to ascertain or inquire as to the validity or accuracy of any document or the authority of the Person executing or delivering any document. None of any Issuing Bank, any Agent Affiliate nor any of the respective correspondents, participants or assignees of any Issuing Bank shall be liable to any Revolving Lender for (i) any action taken or omitted in connection herewith at the request or with the approval of the requisite Revolving Lenders; (ii) any action taken or omitted in the absence of gross negligence or willful misconduct; or (iii) the due execution, effectiveness, validity or enforceability of any document or instrument related to any Letter of Credit or Letter of Credit Application. The Borrower hereby assumes all risks of the acts of omissions of any beneficiary or transferee with respect to its use of any Letter of Credit; *provided* that this assumption is not intended to, and shall not, preclude the Borrower from pursuing such rights and remedies as it may have against the beneficiary or transferee at law or under any other agreement. None of the Issuing Banks, any Agent Affiliate nor any of the respective correspondents, participants or assignees of the Issuing Banks shall be liable or responsible for any of the matters described in Section 2.04(e); *provided* that, notwithstanding anything in such clauses to the contrary, the Borrower may have a claim against an Issuing Bank, and an Issuing Bank may be liable to the Borrower, to the extent, but only to the extent, of any direct (as opposed to indirect, special, punitive, consequential or exemplary) damages suffered by the Borrower which a court of competent jurisdiction determines in a final non-appealable judgment were caused by such Issuing Bank's gross negligence or willful misconduct or such Issuing Bank's willful or grossly negligent failure to pay under any Letter of Credit after the presentation to it by the beneficiary of a document(s) strictly complying with the terms and conditions of a Letter of Credit. In furtherance and not in limitation of the foregoing, the applicable Issuing Bank may accept documents that appear on their face to be in order, without responsibility for further investigation, regardless of any notice or information to the contrary, and the Issuing Banks shall not be responsible for the validity or sufficiency of any instrument transferring or assigning or purporting to transfer or assign a Letter of Credit or the rights or benefits thereunder or proceeds thereof, in whole or in part, which may prove to be invalid or ineffective for any reason. The Issuing Banks may send a Letter of Credit or conduct any communication to or from the beneficiary via the Society for Worldwide Interbank Financial Telecommunication (SWIFT) message or overnight courier, or any other commercially reasonable means of communication with a beneficiary.

(g) Applicability of ISP. Unless otherwise expressly agreed by the applicable Issuing Bank and the Borrower when a standby Letter of Credit is issued, the rules of the "International Standby Practices 1998" published by the Institute of International Banking Law & Practice (or such later version thereof as may be in effect at the time of issuance) shall apply to such standby Letter of Credit.

(h) Conflict with Letter of Credit Application. In the event of any conflict between the terms of this Agreement and the terms of any Letter of Credit Application, the terms hereof shall control.

(i) Reporting. No later than the third Business Day following the last day of each month, (or at such other intervals as the Administrative Agent and the applicable Issuing Bank shall agree), the applicable Issuing Bank shall provide to the Administrative Agent a schedule of the Letters of Credit issued by it, in form and substance reasonably satisfactory to the Administrative Agent, showing the date of issuance of each Letter of Credit, the account party, the original face amount (if any), the expiration date, and the reference number of any Letter of Credit outstanding at any time during such month, and showing the aggregate amount (if any) payable by the Borrower to such Issuing Bank during such month.

(j) [Reserved].

(k) Resignation and Removal of an Issuing Bank. Any Issuing Bank may resign as an Issuing Bank upon sixty (60) days' prior written notice to the Administrative Agent, the Lenders and the Borrower. Any Issuing Bank may be replaced at any time by written agreement among the Borrower, the Administrative Agent, the Issuing Bank being replaced (*provided* that no consent will be required if the Issuing Bank being replaced has no Letters of Credit or Reimbursement Obligations with respect thereto outstanding) and the successor Issuing Bank. The Administrative Agent shall notify the Lenders of any such replacement of an Issuing Bank. At the time any such replacement or resignation shall become effective, the Borrower shall pay all unpaid fees accrued for the account of the replaced Issuing Bank. From and after the effective date of any such replacement or resignation, (i) any successor Issuing Bank shall have all the rights and obligations of an Issuing Bank under this Agreement with respect to Letters of Credit to be issued thereafter and (ii) references herein to the term "**Issuing Bank**" shall be deemed to refer to such successor or to any previous Issuing Bank, or to such successor and all previous Issuing Banks, as the context shall require. After the replacement or resignation of an Issuing Bank hereunder, the replaced or resigning Issuing Bank shall remain a party hereto to the extent that Letters of Credit issued by it remain outstanding and shall continue to have all the rights and obligations of an Issuing Bank under this Agreement with respect to Letters of Credit issued by it prior to such replacement or resignation, but shall not be required to issue additional Letters of Credit.

(l) Cash Collateral Account. At any time and from time to time (i) after the occurrence and during the continuance of an Event of Default, the Administrative Agent, at the direction or with the consent of the Required Lenders, may require the Borrower to deliver to the Administrative Agent such amount of cash as is equal to 105% of the aggregate Stated Amount of all Letters of Credit at any time outstanding (whether or not any beneficiary under any Letter of Credit shall have drawn or be entitled at such time to draw thereunder) and (ii) in the event of a prepayment under Section 2.07(b)(i) or Section 2.07(b)(ii), as contemplated by Section 2.07(d), the Administrative Agent will retain such amount as may then be required to be retained, such amounts in each case under clauses (i) and (ii) above to be held by the Administrative Agent in a Cash Collateral Account. The Borrower hereby grants (or, if registration thereof is required in any applicable jurisdiction, shall grant) to the Administrative Agent, for the benefit of the Issuing Banks and the Revolving Lenders, a Lien upon and security interest in the Cash Collateral Account and all amounts held therein from time to time as security for Letter of Credit Usage, and for application to the Borrower's Letter of Credit Obligations as and when the same shall arise. The Administrative Agent shall have exclusive dominion and control, including the exclusive right of withdrawal, over such account. Other than any interest on the investment of such amounts in Cash Equivalents, which investments shall be made at the direction of the Borrower (unless an Event of Default shall have occurred and be continuing, in which case the determination as to investments shall be made at the option and in the discretion of the Administrative Agent), amounts in the Cash Collateral Account shall not bear interest. Interest and profits, if any, on such investments shall accumulate in such account. In the event of a drawing, and subsequent payment by the applicable Issuing Bank, under any Letter of Credit at any time during which any amounts are held in the Cash Collateral Account, the Administrative Agent will deliver to such Issuing Bank an amount equal to the Reimbursement Obligation created as a result of such payment (or, if the amounts so held are less than such Reimbursement Obligation, all of such amounts) to reimburse such Issuing Bank therefor. Any amounts remaining in the Cash Collateral Account after the expiration of all Letters of Credit and reimbursement in full of each Issuing Bank for all of its obligations thereunder shall be held by the Administrative Agent, for the benefit of the Borrower, to be applied against the Obligations in such order and manner as the Administrative Agent may direct. If the Borrower is required to provide Cash Collateral pursuant to this Section 2.04(l), such amount (to the extent not applied as aforesaid) shall be returned to the Borrower on demand, *provided* that after giving effect to such return (A) the sum of (1) the aggregate principal dollar amount of all Revolving Loans outstanding at such time and (2) the aggregate Letter of Credit Usage at such time would not exceed the aggregate Commitments at such time and (B) no Event of Default shall have occurred and be continuing at such time. If the Borrower is required to provide Cash Collateral pursuant to Section 2.07(b)(i) or Section 2.07(b)(ii), as contemplated by Section 2.07(d), such amount shall be returned to the Borrower on demand; *provided* that, after giving effect to such return, all outstanding Letters of Credit shall have expired and each Issuing Bank shall have been reimbursed in full for all of its obligations thereunder. If the Borrower is required to provide Cash Collateral as a result of an Event of Default, such amount (to the extent not applied as aforesaid) shall be returned to the Borrower within three Business Days after all Events of Default have been cured or waived.

(m) Addition of an Issuing Bank. One or more Revolving Lenders (other than a Defaulting Lender) selected by the Borrower that agrees to act in such capacity and reasonably acceptable to the Administrative Agent may become an additional Issuing Bank hereunder pursuant to a written agreement in form and substance reasonably satisfactory to the Administrative Agent among the Borrower, the Administrative Agent and such Revolving Lender. The Administrative Agent shall notify the Revolving Lenders of any such additional Issuing Bank.

SECTION 2.05 Conversion/Continuation.

(a) Each conversion of Loans from one Type to another, and each continuation of SOFR Rate Loans shall be made upon the Borrower's irrevocable notice to the Administrative Agent, which may only be given in writing. Each such notice must be received by the Administrative Agent not later than 1:00 p.m. one Business Day prior to the date of any conversion of SOFR Rate Loans to Base Rate Loans and not later than 1:00 p.m. three Business Days prior to the requested date of continuation of any SOFR Rate Loans or any conversion of Base Rate Loans to SOFR Rate Loans. Each notice by the Borrower pursuant to this Section 2.05(a) must be delivered to the Administrative Agent in the form of a Conversion/Continuation Notice, appropriately completed and signed by a Responsible Officer of such Borrower. Each conversion to or continuation of SOFR Rate Loans shall be in a minimum principal amount of \$500,000 or a whole multiple of \$100,000 in excess thereof. Each conversion to Base Rate Loans shall be in a minimum principal amount of \$500,000 or a whole multiple of \$100,000 in excess thereof. Each Conversion/Continuation Notice shall specify (i) whether the Borrower is requesting a conversion of Loans from one Type to the other, or a continuation of SOFR Rate Loans, (ii) the requested date of the conversion or continuation, as the case may be (which shall be a Business Day), (iii) the principal amount and currency of Loans to be converted or continued, (iv) the Class of Loans to be converted or continued, (v) the Type of Loans to which such existing Loans are to be converted, if applicable, and (vi) if applicable, the duration of the Interest Period with respect thereto. If with respect to any SOFR Rate Loans, the Borrower fails to give a timely notice requesting a conversion or continuation, then the applicable Loans shall be converted to Base Rate Loans. Any such automatic conversion or continuation pursuant to the immediately preceding sentence shall be effective as of the last day of the Interest Period then in effect with respect to the applicable SOFR Rate Loans. If the Borrower requests a conversion to, or continuation of SOFR Rate Loans in any such Conversion/Continuation Notice, but fails to specify an Interest Period, it will be deemed to have specified an Interest Period of one month.

(b) Following receipt of a Conversion/Continuation Notice, the Administrative Agent shall promptly notify each applicable Lender of its Pro Rata Share of the applicable Class of Loans, and if no timely notice of a conversion or continuation is provided by the Borrower, the Administrative Agent shall notify each Lender of the details of any automatic conversion to Base Rate Loans or continuation of Loans described in Section 2.05(a).

(c) Except as otherwise provided herein, a SOFR Rate Loan may be continued or converted only on the last day of an Interest Period for such SOFR Rate Loan. Upon the occurrence and during the continuation of an Event of Default, the Administrative Agent or the Required Lenders may require by notice to the Borrower that no Loans denominated in Dollars may be converted to or continued as SOFR Rate Loans.

SECTION 2.06 Availability. Unless the Administrative Agent shall have received notice from a Lender prior to the date of any Borrowing that such Lender will not make available to the Administrative Agent such Lender's Pro Rata Share of such Borrowing, the Administrative Agent may, in its sole discretion, assume that such Lender has made such Pro Rata Share available to the Administrative Agent on the date of such Borrowing, and the Administrative Agent may in its sole discretion, in reliance upon such assumption, make available to the Borrower on such date a corresponding amount. If the Administrative Agent shall have so made funds available, then, to the extent that such Lender shall not have made such portion available to the Administrative Agent, each of such Lender and such Borrower severally agrees to repay to the Administrative Agent forthwith on demand such corresponding amount together with interest thereon, for each day from the date such amount is made available to such Borrower until the date such amount is repaid to the Administrative Agent at (a) in the case of such Borrower, the interest rate applicable at the time to the applicable Loans comprising such Borrowing and (b) in the case of such Lender, the Overnight Rate *plus* any administrative, processing, or similar fees customarily charged by the Administrative Agent in accordance with the foregoing. A certificate of the Administrative Agent submitted to any Lender with respect to any amounts owing under this Section 2.06 shall be conclusive in the absence of manifest error. If such Borrower and such Lender shall pay such interest to the Administrative Agent for the same or an overlapping period, the Administrative Agent shall promptly remit to such Borrower the amount of such interest paid by such Borrower for such period. If such Lender pays its share of the applicable Borrowing to the Administrative Agent, then the amount so paid shall constitute such Lender's applicable Loan included in such Borrowing. Any payment by the Borrower shall be without prejudice to any claim such Borrower may have against a Lender that shall have failed to make such payment to the Administrative Agent. A notice of the Administrative Agent to any Lender or the Borrower with respect to any amount owing under this Section 2.06 shall be conclusive, absent manifest error.

SECTION 2.07 Prepayments.

(a) Optional.

(i) The Borrower may, upon written notice to the Administrative Agent in the form of a Prepayment Notice, at any time or from time to time, voluntarily prepay the Loans in whole or in part without premium or penalty; *provided* that:

(A) such Prepayment Notice must be received by the Administrative Agent not later than 1:00 p.m. three Business Days prior to any date of prepayment of SOFR Rate Loans or Base Rate Loans;

(B) any prepayment of SOFR Rate Loans shall be in a minimum principal amount of \$1,000,000 or a whole multiple of \$100,000 in excess thereof; and

(C) any prepayment of Base Rate Loans shall be in a minimum principal amount of \$1,000,000 or a whole multiple of \$100,000 in excess thereof.

Each Prepayment Notice shall specify the date, amount and currency of such prepayment and the Class(es) and Type(s) of Loans to be prepaid, and the payment amount specified in each Prepayment Notice shall be due and payable on the date specified therein. The Administrative Agent will promptly notify each Appropriate Lender of its receipt of a Prepayment Notice and of the amount of such Lender's Pro Rata Share of such prepayment; *provided*, "non-consenting" Lenders may be repaid in full in an amount equal to the amount outstanding under such Non-Consenting Lenders' Commitments on a non-pro rata basis in connection with an Extension Offer or a Refinancing Amendment. Any prepayment of Loans shall be subject to Section 2.07(c). Revolving Loans and Incremental Loans prepaid pursuant to this subsection (a) may be reborrowed, subject to the terms and conditions of this Agreement.

(ii) Notwithstanding anything to the contrary contained in this Agreement, the Borrower may rescind, in whole or in part, any notice of prepayment under Section 2.07(a)(i), if such prepayment would have resulted from a refinancing of all or a portion of the applicable Facility, which refinancing shall not be consummated or shall otherwise be delayed.

(iii) Voluntary prepayments of Revolving Loans permitted hereunder shall be applied in a manner determined at the discretion of the Borrower and specified in the notice of prepayment (and absent such direction, in direct order of maturity).

(b) Mandatory.

(i) The Borrower shall from time to time prepay the Revolving Loans to the extent necessary so that the Total Utilization of Commitments shall not at any time exceed the Commitments then in effect; *provided* that, to the extent such excess amount is greater than the aggregate principal amount of Revolving Loans outstanding immediately prior to the application of such prepayment, the amount so prepaid shall be retained by the Administrative Agent and held in the Cash Collateral Account as cover for Letter of Credit Usage, as more particularly described in Section 2.04(l), and thereupon such cash shall be deemed to reduce the aggregate Letter of Credit Usage by an equivalent amount.

(ii) To the extent the Financial Covenants set forth in Section 8.01(b) and/or Section 8.01(c) are not satisfied as of any Measurement Date as set forth in any Compliance Certificate delivered in accordance with Section 6.02(a), the Borrower shall prepay the Revolving Loans in accordance with clause (iii) below within ten (10) Business Days of the date of delivery of such Compliance Certificate to the extent necessary such that the Financial Covenants set forth in Section 8.01(b) and/or Section 8.01(c) would, if recalculated to give Pro Forma Effect to such repayment, be satisfied as of such Measurement Date (or, if less, the remaining outstanding principal balance of the Facility) and, as long as such payment is made as of such date, no Default or Event of Default shall occur in respect of such breach.

(iii) The Borrower shall give notice to the Administrative Agent of any mandatory prepayment of the Loans pursuant to Section 2.07(b)(i) or Section 2.07(b)(ii) by 11:00 a.m. at least three Business Days prior to the date on which such payment is due. Such notice shall state that the Borrower is offering to make or will make such mandatory prepayment on or before the date specified in Section 2.07(b)(i) or Section 2.07(b)(ii) (a “**Prepayment Date**”). Once given, such notice shall be irrevocable (*provided* that the Borrower may rescind any notice of prepayment if such prepayment would have resulted from a refinancing of all or any portion of the Facility or been made in connection with a Disposition, which refinancing or Disposition shall not be consummated or shall otherwise be delayed) and all amounts subject to such notice shall be due and payable on the Prepayment Date (except as otherwise provided in the last sentence of this Section 2.07(b)(iii)). Upon receipt by the Administrative Agent of such notice, the Administrative Agent shall immediately give notice to each Lender of the prepayment, the Prepayment Date and of such Lender’s Pro Rata Share of the prepayment. Each Lender may elect (in its sole discretion) to decline all (but not less than all) of its Pro Rata Share of any mandatory prepayment by giving notice of such election in writing to the Administrative Agent by 11:00 a.m., on the date that is one Business Day prior to such prepayment. If a Lender fails to deliver a notice of election declining receipt of its Pro Rata Share of such mandatory prepayment to the Administrative Agent within the time frame specified above, any such failure will be deemed to constitute an acceptance of such Lender’s Pro Rata Share of the total amount of such mandatory prepayment of Loans. Upon receipt by the Administrative Agent of such notice, the Administrative Agent shall immediately notify the Borrower of such election. Any amount so declined by any Lender shall be retained by the Borrower and the Restricted Subsidiaries and/or applied by the Borrower or any of the Restricted Subsidiaries in any manner not inconsistent with the terms of this Agreement.

(c) Interest, Funding Losses, Etc. All prepayments under this Section 2.07 shall be accompanied by all accrued interest thereon, together with, in the case of any such prepayment of a SOFR Rate Loan on a date prior to the last day of an Interest Period therefor, any amounts owing in respect of such SOFR Rate Loan pursuant to Section 3.05.

(d) Application of Prepayment Amounts. In the event that the Borrower elects to prepay the Loans pursuant to subsection (a) above or the obligations of the Borrower to prepay the Loans arise pursuant to subsection (b) above:

(i) *first*, the Borrower shall prepay the outstanding principal amount of the Revolving Loans, without a corresponding permanent reduction to the Commitments; and

(ii) *second*, to the extent of any excess remaining after application as provided in clause (i) above, the Borrower shall pay any outstanding Reimbursement Obligations, and thereafter the Borrower shall Cash Collateralize the Letter of Credit Usage pursuant to Section 2.04(1).

Each payment or prepayment pursuant to the provisions of this Section 2.07(d) shall be applied ratably among the Lenders of each Class holding the Loans being prepaid, in proportion to the principal amount held by each.

(e) Interest Period Deferrals. Notwithstanding any of the other provisions of this Section 2.07, so long as no Event of Default shall have occurred and be continuing, if any prepayment of SOFR Rate Loans is required to be made under this Section 2.07 prior to the last day of the Interest Period therefor, in lieu of making any payment pursuant to this Section 2.07 in respect of any such SOFR Rate Loan, prior to the last day of the Interest Period therefor, the Borrower may, in their sole discretion, deposit an amount sufficient to make any such prepayment otherwise required to be made thereunder together with accrued interest to the last day of such Interest Period into a Cash Collateral Account until the last day of such Interest Period, at which time the Administrative Agent shall be authorized (without any further action by or notice to or from the Borrower or any other Loan Party) to apply such amount to the prepayment of such Loans in accordance with this Section 2.07. Upon the occurrence and during the continuance of any Event of Default, the Administrative Agent shall also be authorized (without any further action by or notice to or from the Borrower or any other Loan Party) to apply such amount to the prepayment of the outstanding Loans in accordance with the relevant provisions of this Section 2.07.

SECTION 2.08 Termination or Reduction of Commitments.

(a) Optional. The Borrower may, upon written notice to the Administrative Agent, terminate the unused Commitments of any Class, or from time to time permanently reduce the unused Commitments of any Class, in each case without premium or penalty; *provided* that (i) any such notice shall be received by the Administrative Agent three (3) Business Days prior to the date of termination or reduction, (ii) any such partial reduction shall be in an aggregate amount of \$1,000,000 or any whole multiple of \$1,000,000 in excess thereof or, if less, the entire remaining amount thereof and (iii) the Borrower shall not terminate or reduce (A) the Commitments if, after giving effect to any concurrent prepayment of the Revolving Loans in accordance with Section 2.07, the Total Utilization of Commitments would exceed the total Commitments, or (B) the Letter of Credit Sublimit if, after giving effect thereto, (1) the Letter of Credit Usage not fully Cash Collateralized hereunder at 105% of the maximum face amount of any such Letters of Credit would exceed the Letter of Credit Sublimit or (2) the Letter of Credit Usage with respect to Letters of Credit issued by an applicable Issuing Bank not fully Cash Collateralized hereunder at 105% of the maximum face amount of any such Letters of Credit would exceed the amount of such Issuing Bank's Letter of Credit Percentage of the Letter of Credit Sublimit. Notwithstanding the foregoing, the Borrower may rescind or postpone any notice of termination of the Commitments if such termination would have resulted from a refinancing of all or a portion of the applicable Facility, which refinancing shall not be consummated or otherwise shall be delayed.

(b) Mandatory.

(i) the Commitments shall terminate on the Commitment Termination Date.

(ii) If after giving effect to any reduction or termination of Commitments under this Section 2.08, the Letter of Credit Sublimit exceeds the amount of the Commitments at such time, the Letter of Credit Sublimit shall be automatically reduced by the amount of such excess.

(c) Effect of Termination or Reduction. Any termination or reduction of the Commitments of any Class shall be permanent. Each reduction of Commitments of any Class shall be made ratably among the Lenders in accordance with their respective Pro Rata Share of Commitments of such Class.

SECTION 2.09 Repayment of Loans.

(a) [Reserved].

(b) The Borrower shall repay to the Administrative Agent for the ratable account of the Appropriate Lenders the outstanding principal amount of the Revolving Loans on the Maturity Date.

SECTION 2.10 Interest.

(a) Subject to the provisions of Section 2.10(b), (i) each SOFR Rate Loan shall bear interest on the outstanding principal amount thereof for each Interest Period at a rate *per annum* equal to SOFR for such Interest Period plus the Applicable Rate and (ii) each Base Rate Loan shall bear interest on the outstanding principal amount thereof from the applicable Borrowing date at a rate *per annum* equal to the Base Rate plus the Applicable Rate.

(b) If any amount of principal of any Loan is not paid when due (without regard to any applicable grace periods), whether at stated maturity, by acceleration or otherwise, such amount shall thereafter bear interest at a fluctuating interest rate *per annum* at all times equal to the Default Rate to the fullest extent permitted by applicable Laws.

(c) If any amount (other than principal of any Loan) payable by the Borrower under any Loan Document is not paid when due (without regard to any applicable grace periods), whether at stated maturity, by acceleration or otherwise, then upon the request of the Required Lenders (or, after the occurrence of an actual or deemed entry of an order for relief with respect to the Borrower under any Debtor Relief Law, automatically and without further action by the Administrative Agent or any Lender) such amount shall thereafter bear interest at a fluctuating interest rate *per annum* at all times equal to the Default Rate to the fullest extent permitted by applicable Laws.

(d) Accrued and unpaid interest on the principal amount of all outstanding past due Obligations (including interest on past due interest) shall be due and payable upon demand (or, after the occurrence of an actual or deemed entry of an order for relief with respect to the Borrower under any Debtor Relief Law, automatically and without further action by the Administrative Agent or any Lender).

(e) Interest on each Loan shall be due and payable (i) with respect to Base Rate Loans, in arrears on each Interest Payment Date applicable thereto and at such other times as may be specified herein and (ii) with respect to SOFR Rate Loans, at the end of each Interest Period, and, if an Interest Period exceeds three months, every three months. Interest hereunder shall be due and payable in accordance with the terms hereof before and after judgment, and before and after the commencement of any proceeding, under any Debtor Relief Law.

(f) The Administrative Agent shall promptly notify the Borrower and the Lenders of the interest rate applicable to any Interest Period for any SOFR Rate Loans upon determination of such interest rate. The determination of SOFR by the Administrative Agent shall be conclusive in the absence of manifest error. At any time when Base Rate Loans are outstanding, the Administrative Agent shall notify the Borrower and the Lenders of any change in the “prime rate” used in determining the Base Rate promptly following the public announcement of such change.

(g) After giving effect to all Borrowings, all conversions of Loans from one Type to the other, and all continuations of Loans as the same Type, there shall not be more than ten Interest Periods in effect unless otherwise agreed between the Borrower and the Administrative Agent; *provided* that after the establishment of any new Class of Loans pursuant to a Refinancing Amendment or Extension, the number of Interest Periods otherwise permitted by this Section 2.10(g) shall increase by three Interest Periods for each applicable Class so established.

SECTION 2.11 Fees.

(a) The Borrower shall pay to the Agents such fees as shall have been separately agreed upon in writing (including pursuant to the Fee Letter) in the amounts and at the times so specified. Such fees shall be fully earned when paid and shall not be refundable for any reason whatsoever (except as expressly agreed between the Borrower and the applicable Agent).

(b) The Borrower agrees to pay to Lenders having Revolving Exposure:

(i) if, for any day in each calendar quarter for the period from and including the Closing Date to and including the Commitment Termination Date, (I) the daily unpaid balance of the sum of the aggregate principal amount of all outstanding Revolving Loans *plus* (II) the Letter of Credit Usage (such sum, the “**Usage Amount**”) does not equal the Commitments, a fee at a rate equal to the Applicable Commitment Fee *per annum* for each such day on the amount by which the Commitments on such day exceeds such Usage Amount (the “**Unused Line Fee**”). The Unused Line Fee shall be payable to Lenders having Revolving Exposure in arrears on the first Business Day of each calendar quarter with respect to each day in the previous calendar quarter and on the Commitment Termination Date with respect to the period ending on the Commitment Termination Date; and

(ii) letter of credit fees with respect to all Letters of Credit (the “L/C Fee”) equal to (A) the Applicable Rate for Revolving Loans that are SOFR Rate Loans, times (B) the average aggregate daily maximum amount available to be drawn under all Letters of Credit (regardless of whether any conditions for drawing could then be met and determined as of the close of business on any date of determination and whether or not such maximum amount is then in effect under such Letter of Credit if such maximum amount increases periodically pursuant to the terms of such Letter of Credit).

All fees referred to in this Section 2.11(b) shall be paid to the Administrative Agent at the Administrative Agent’s Office and upon receipt, the Administrative Agent shall promptly distribute to each Lender its Pro Rata Share thereof.

(c) The Borrower agrees to pay directly to the applicable Issuing Bank, for its own account, the following fees:

(i) a fronting fee in an amount equal to 0.25% *per annum times* the daily maximum amount then available to be drawn under such Letter of Credit (whether or not such maximum amount is then in effect under such Letter of Credit if such maximum amount increases periodically pursuant to the terms of such Letter of Credit) determined as of the close of business on any date of determination; and

(ii) such documentary and processing charges for any issuance, amendment, transfer or payment of a Letter of Credit as are in accordance with such Issuing Bank’s standard schedule for such charges and as in effect at the time of such issuance, amendment, transfer or payment, as the case may be, which fees, costs and charges shall be payable to such Issuing Bank within three Business Days after its demand therefor and are nonrefundable.

(d) All fees referred to in Sections 2.11(b) and 2.11(c)(i) shall be payable quarterly in arrears on the last Business Day of each fiscal quarter of each year during the Commitment Period, commencing with the first full fiscal quarter ending after the Closing Date, and on the Commitment Termination Date; *provided* that any such fees accruing after the Commitment Termination Date shall be payable on demand.

(e) [Reserved].

SECTION 2.12 Computation of Interest and Fees.

(a) All computations of interest for Base Rate Loans calculated by reference to the “prime rate” or Federal Funds Rate shall be made on the basis of a year of 365 days or 366 days, as the case may be, and actual days elapsed. All other computations of fees and interest shall be made on the basis of a 360-day year and actual days elapsed (which results in more fees or interest, as applicable, being paid than if computed on the basis of a 365-day year). Interest shall accrue on each Loan for the day on which the Loan is made, and shall not accrue on a Loan, or any portion thereof, for the day on which the Loan or such portion is paid; *provided* that any Loan that is repaid on the same day on which it is made shall, subject to Section 2.10(a), bear interest for one day. Each determination by the Administrative Agent of an interest rate or fee hereunder shall be conclusive and binding for all purposes, absent manifest error.

(b) [Reserved].

SECTION 2.13 Evidence of Indebtedness.

(a) The Borrowings made by each Lender shall be evidenced by one or more accounts or records maintained by such Lender and evidenced by one or more entries in the Register maintained by the Administrative Agent, acting solely for purposes of Treasury Regulation Section 5f.103-1(c), as non-fiduciary agent for the Borrower, in each case in the ordinary course of business. The accounts or records maintained by the Administrative Agent and each Lender shall be *prima facie* evidence absent manifest error of the amount of the Borrowings made by the Lenders to the Borrower and the interest and payments thereon. Any failure to so record or any error in doing so shall not, however, limit or otherwise affect the obligation of the Borrower hereunder to pay any amount owing with respect to the Obligations. In the event of any conflict between the accounts and records maintained by any Lender and the accounts and records of the Administrative Agent in respect of such matters, the accounts and records of the Administrative Agent shall control in the absence of manifest error.

Upon the request of any Lender, the Borrower shall execute and deliver to such Lender (through the Administrative Agent) a Revolving Loan Note payable to such Lender, which shall evidence the relevant Class of such Lender's Loans in addition to such accounts or records. Each Lender may attach schedules to its Revolving Loan Note and endorse thereon the date, Type (if applicable), amount and maturity of its Loans and payments with respect thereto.

(b) Entries made in good faith by the Administrative Agent in the Register pursuant to Section 2.13(a), and by each Lender in its account or accounts pursuant to Section 2.13(a), shall be *prima facie* evidence of the amount of principal and interest due and payable or to become due and payable from the Borrower to, in the case of the Register, each Lender and, in the case of such account or accounts, such Lender, under this Agreement and the other Loan Documents, absent manifest error; *provided* that the failure of the Administrative Agent or such Lender to make an entry, or any finding that an entry is incorrect, in the Register or such account or accounts shall not limit or otherwise affect the obligations of the Borrower under this Agreement and the other Loan Documents.

SECTION 2.14 Payments Generally.

(a) All payments to be made by the Borrower shall be made on the date when due, in immediately available funds without condition or deduction for any counterclaim, defense, recoupment or setoff. Except as otherwise expressly provided herein, all payments by the Borrower hereunder shall be made to the Administrative Agent, for the account of the respective Lenders to which such payment is owed, at the applicable Administrative Agent's Office for payment and in Same Day Funds not later than 1:00 p.m. (unless otherwise agreed by the Administrative Agent) on the date specified herein. The Administrative Agent will promptly distribute to each Appropriate Lender its Pro Rata Share (or other applicable share as provided herein) of such payment in like funds as received by wire transfer to such Lender's Lending Office; *provided* that the proceeds of any borrowing of Revolving Loans to finance the reimbursement of a drawn Letter of Credit as provided in Section 2.04(c) shall be remitted by the Administrative Agent to the applicable Issuing Bank. All payments received by the Administrative Agent after 1:00 p.m. (or such other time as agreed by the Administrative Agent) may in each case be deemed received on the next succeeding Business Day and any applicable interest or fee shall continue to accrue.

(b) If any payment to be made by the Borrower shall come due on a day other than a Business Day, payment shall be made on the next following Business Day, and such extension of time shall be reflected in computing interest or fees, as the case may be.

(c) Unless the Borrower has notified the Administrative Agent, prior to the date any payment is required to be made by the Borrower to the Administrative Agent hereunder for the account of any Lender or any Issuing Bank, as applicable, that the Borrower will not make such payment, the Administrative Agent may assume that the Borrower has timely made such payment and may (but shall not be so required to), in reliance thereon, make available a corresponding amount to such Lender or such Issuing Bank. If and to the extent that such payment was not in fact made to the Administrative Agent in Same Day Funds, then such Lender or such Issuing Bank, as applicable, shall forthwith on demand repay to the Administrative Agent the portion of such assumed payment that was made available to such Lender or such Issuing Bank in Same Day Funds, together with interest thereon in respect of each day from and including the date such amount was made available by the Administrative Agent to such Lender or such Issuing Bank, as applicable, to the date such amount is repaid to the Administrative Agent in Same Day Funds at the applicable Overnight Rate from time to time in effect.

(d) If any Lender makes available to the Administrative Agent funds for any Loan to be made by such Lender as provided in the foregoing provisions of this Article II, and such funds are not made available to the Borrower by the Administrative Agent because the conditions to the Borrowing set forth in Article IV are not satisfied or waived in accordance with the terms hereof, the Administrative Agent shall return such funds (in like funds as received from such Lender) to such Lender, without interest.

(e) The obligations of the Lenders hereunder to make Loans, to fund participations in Letters of Credit and to make payments pursuant to Section 10.07 are several and not joint. The failure of any Lender to make any Loan on any date required hereunder shall not relieve any other Lender of its corresponding obligation to do so on such date, and no Lender shall be responsible for the failure of any other Lender to so make its Loan or purchase its participation.

(f) Nothing herein shall be deemed to obligate any Lender to obtain the funds for any Loan in any particular place or manner or to constitute a representation by any Lender that it has obtained or will obtain the funds for any Loan in any particular place or manner.

(g) Whenever any payment received by the Administrative Agent under this Agreement or any of the other Loan Documents is insufficient to pay in full all amounts due and payable to the Administrative Agent and the Lenders under or in respect of this Agreement and the other Loan Documents on any date, such payment shall be distributed by the Administrative Agent and applied by the Administrative Agent and the Lenders in the order of priority set forth in Section 9.03. If the Administrative Agent receives funds for application to the Obligations of the Loan Parties under or in respect of the Loan Documents under circumstances for which the Loan Documents do not specify the manner in which such funds are to be applied, the Administrative Agent may, but shall not be obligated to, elect to distribute such funds to each of the Lenders in accordance with such Lender's Pro Rata Share of such of the outstanding Loans or other Obligations then owing to such Lender.

(h) If any Lender shall fail to make any payment required to be made by it pursuant to Section 2.04(c), 2.06, 2.15 or 10.07, then the Administrative Agent may, in its discretion and notwithstanding any contrary provision hereof, (i) apply any amounts thereafter received by the Administrative Agent for the account of such Lender for the benefit of the Administrative Agent or the Issuing Banks, as applicable, to satisfy such Lender's obligations to the Administrative Agent and the Issuing Banks until all such unsatisfied obligations are fully paid and/or (ii) hold any such amounts in a segregated account as cash collateral for, and application to, any future funding obligations of such Lender under any such Section, in the case of each of clauses (i) and (ii) above, in any order as determined by the Administrative Agent in its discretion.

SECTION 2.15 Sharing of Payments, Etc. If, other than as expressly provided elsewhere herein, any Lender shall obtain payment in respect of any principal of or interest on account of the Loans of a particular Class made by it (whether voluntary, involuntary, through the exercise of any right of setoff, or otherwise) in excess of its ratable share (or other share contemplated hereunder) thereof, such Lender shall immediately (a) notify the Administrative Agent of such fact, and (b) purchase from the other Lenders such participations in the Loans made by them and/or such sub-participations in the participations in L/C obligations held by them, as the case may be, as shall be necessary to cause such purchasing Lender to share the excess payment in respect of such Loans or such participations, as the case may be, pro rata with each of them; *provided* that if all or any portion of such excess payment is thereafter recovered from the purchasing Lender under any of the circumstances described in Section 11.06 (including pursuant to any settlement entered into by the purchasing Lender in its discretion), such purchase shall to that extent be rescinded and each relevant Lender shall repay to the purchasing Lender the purchase price paid therefor, together with an amount equal to such paying Lender's ratable share (according to the proportion of (i) the amount of such paying Lender's required repayment to (ii) the total amount so recovered from the purchasing Lender) of any interest or other amount paid or payable by the purchasing Lender in respect of the total amount so recovered, without further interest thereon. The provisions of this paragraph shall not be construed to apply to (A) any payment made by the Borrower pursuant to and in accordance with the express terms of this Agreement as in effect from time to time (including 11.07), (B) any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Loans to any assignee or participant permitted hereunder or (C) any payment received by such Lender not in its capacity as a Lender. The Borrower agrees that any Lender so purchasing a participation from another Lender may, to the fullest extent permitted by applicable Law, exercise all its rights of payment (including the right of setoff, but subject to Section 11.09) with respect to such participation as fully as if such Lender were the direct creditor of the Borrower in the amount of such participation. The Administrative Agent will keep records (which shall be conclusive and binding in the absence of manifest error) of participations purchased under this Section 2.15 and will in each case notify the Lenders following any such purchases or repayments. Each Lender that purchases a participation pursuant to this Section 2.15 shall from and after such purchase have the right to give all notices, requests, demands, directions and other communications under this Agreement with respect to the portion of the Obligations purchased to the same extent as though the purchasing Lender were the original owner of the Obligations purchased.

SECTION 2.16 Incremental Borrowings.

(a) Notice. At any time and from time to time, on one or more occasions, the Borrower may, by notice to the Administrative Agent increase the aggregate principal amount of Commitments under the Loan Documents (the “**Incremental Facilities**”, and the revolving loans and other extensions of credit made thereunder, the “**Incremental Loans**”) ; *provided*, that (i) if a Default or Event of Default has occurred and is continuing that (A) is a Specified Event of Default or (B) would require the consent of each of the Lenders to waive or otherwise consent to waive, the consent of each of the Lenders hereto shall be required to make notice of such Incremental Facilities and (ii) if a Default or Event of Default has occurred and is continuing that is not of the type described in the foregoing clause (i), the consent of the Required Lenders hereto shall be required to make notice of such Incremental Facilities.

(b) Ranking. Incremental Facilities (i) may rank either junior in right of payment with the existing Revolving Loans or *pari passu* in right of payment with the existing Revolving Loans, (ii) may either be unsecured or secured (on a junior basis or on a *pari passu* basis) by the Collateral (or assets that become Collateral substantially concurrently with the incurrence of such Incremental Facility) (*provided* that such Incremental Facilities shall only be permitted to be secured on a *pari passu* basis by the Collateral to the extent the relevant parties have entered in to a Junior Lien Intercreditor Agreement in substantially the form of Exhibit K-2 or Existing Junior Lien Intercreditor Agreement has either (A) been amended to increase the amount of the “Maximum First Lien Obligations Amount” to accommodate such *pari passu* liens or (B) terminated on or prior to the date of incurrence of such Incremental Facility) and (iii) may be guaranteed solely by the Loan Parties (or Persons that become Loan Parties substantially concurrently with the incurrence of such Incremental Facility).

(c) Size and Currency. The aggregate principal amount of Incremental Facilities on any date Indebtedness thereunder is first incurred, together with the aggregate principal amount of any Incremental Facilities outstanding on such date, will not exceed \$50,000,000 or such greater amount as consented to by all Lenders (the “**Incremental Amount**”). Each Incremental Facility will be in an integral multiple of \$1,000,000 and in an aggregate principal amount that is not less than \$5,000,000 (or such lesser minimum amount approved by the Administrative Agent in its reasonable discretion); *provided* that such amount may be less than such minimum amount or integral multiple amount if such amount represents all the remaining availability under the Incremental Amount at such time. Any Incremental Facility may be denominated in Dollars, and the minimum amount and integral multiples shall be a Dollar Amount of \$5,000,000 or \$1,000,000, respectively (or, in each case, such lesser minimum amount approved by the Administrative Agent in its reasonable discretion).

(d) Incremental Lenders. Incremental Facilities may be provided by any existing Lender (it being understood that no existing Lender shall have an obligation to make, or provide commitments with respect to, an Incremental Loan) or by any Additional Lender. While existing Lenders may (but are not obligated to) participate in any syndication of an Incremental Facility and may (but are not obligated to) become lenders with respect thereto; *provided* that (x) the opportunity to provide any Incremental Facility shall first be offered to the then-existing Revolving Lenders before being offered to Additional Lenders and (y) if the then-existing Revolving Lenders decline to provide all or any portion of such Incremental Facility, the Additional Lender(s) providing all or any portion of such Incremental Facility shall be subject to the consent of the Required Lenders (such consent not to be unreasonably withheld, delayed or conditioned), which may include any Lenders that decline to provide a commitment to an Incremental Loan. Final allocations in respect of Incremental Facilities will be made by the Borrower together with the arrangers thereof, if any, in their discretion, on the terms permitted by this Section 2.16; *provided* that the lenders providing the Incremental Facilities will be reasonably acceptable to (i) the Borrower, (ii) the Administrative Agent and (iii) each Issuing Bank (except that, in the case of clauses (ii) and (iii), only to the extent such Person otherwise would have a consent right to an assignment of such loans or commitments to such lender in accordance with Section 11.05) and if any then-existing Revolving Lenders elect to participate, they will be allocated (at their election) at least their pro rata share of the Incremental Facilities.

(e) Incremental Facility Amendments; Use of Proceeds. Each Incremental Facility will become effective pursuant to an amendment (each, an “**Incremental Amendment**”) to this Agreement and, as appropriate, the other Loan Documents, executed by the Borrower and each Person providing such Incremental Facility and the Administrative Agent. The Administrative Agent will promptly notify each Lender as to the effectiveness of each Incremental Amendment. Incremental Amendments may, without the consent of any other Lenders, effect such amendments to this Agreement and the other Loan Documents as may be necessary or appropriate, in the reasonable opinion of the Borrower in consultation with the Administrative Agent, to effect the provisions of this Section 2.16 and, to the extent practicable, to make an Incremental Loan fungible (including for Tax purposes) with other Loans (subject to the limitations under sub-clauses (g) and (h) of this Section) to the extent practicable. Each of the parties hereto hereby agrees that, upon the effectiveness of any Incremental Amendment, this Agreement and the other Loan Documents, as applicable, will be amended to the extent necessary to reflect the existence and terms of the Incremental Facility and the Incremental Loans evidenced thereby. This Section 2.16 shall supersede any provisions in Section 2.15 or 11.01 to the contrary. The Borrower may use the proceeds of the Incremental Loans for any purpose not prohibited by this Agreement.

(f) Conditions. The availability of Incremental Facilities under this Agreement will be subject solely to the following conditions and any other conditions required by the Lenders providing such Incremental Facility, subject, for the avoidance of doubt, to Section 1.08, measured on the date of the initial borrowing under such Incremental Facility:

(i) no Event of Default shall have occurred and be continuing or would result therefrom; *provided* that the condition set forth in this clause (i) may be waived or not required (other than with respect to Specified Events of Default) by the Persons providing such Incremental Facilities if the proceeds of the initial Borrowings under such Incremental Facilities will be used to finance, in whole or in part, a Permitted Investment or other acquisition permitted hereunder; and

(ii) the representations and warranties in the Loan Documents will be true and correct in all material respects (except for representations and warranties that are already qualified by materiality, which representations and warranties will be true and correct in all respects) immediately prior to, and after giving effect to, the incurrence of such Incremental Facility; *provided* that the condition set forth in this clause (ii) may be waived or not required by the Persons providing such Incremental Facilities if the proceeds of the initial Borrowings under such Incremental Facilities will be used to finance, in whole or in part, a Permitted Investment or other acquisition permitted hereunder.

(g) Terms. Each Incremental Amendment will set forth the amount and terms of the relevant Incremental Facility. The terms of each Incremental Facility will be as agreed between the Borrower and the Persons providing such Incremental Facility; *provided* that:

(i) (A) to the extent secured, such Incremental Facilities shall not be secured by any Lien on any property or asset of the Borrower or any Guarantor that does not also secure the Revolving Loans at the time of such incurrence (except (1) customary cash collateral in favor of an agent, letter of credit issuer or similar “fronting” lender, (2) Liens on property or assets applicable only to periods after the Latest Maturity Date of the Revolving Loans at the time of incurrence and (3) any Liens on property or assets to the extent that a Lien on such property or asset is also added for the benefit of the Lenders under the Revolving Loans) and (B) to the extent guaranteed, such Incremental Facilities shall not be incurred or guaranteed by any Loan Party other than the Borrower and the Guarantors (including any Person required to be a Guarantor) (except (1) for guarantees by other Persons that are applicable only to periods after the Latest Maturity Date of the Revolving Loans at the time of incurrence and (2) any such Person incurring or guaranteeing such Incremental Facilities, as applicable, that also guarantees the Revolving Loans);

(ii) [reserved];

(iii) if such Incremental Loans are *Pari Passu* Lien Debt, unless otherwise consented to by the Lenders, payments in respect of such Incremental Loans shall be subject to the Priority Waterfall or another agreement with substantially equivalent provisions; and

(iv) except as otherwise set forth herein, all terms of any Incremental Facility shall be on terms and pursuant to documentation applicable to the Facility and all other terms of any Incremental Facility shall be on terms (including subordination terms, if applicable) and pursuant to documentation to be determined by the Borrower and the providers of the Incremental Facility; *provided* that the operational and agency provisions contained in such documentation shall be reasonably satisfactory to the Administrative Agent and the Borrower.

(h) Pricing. The pricing terms in respect of Incremental Facilities that are *pari passu* in right of payment and *pari passu* in lien priority with the existing Revolving Loan (including the rate of interest, timing of payments, and amount of fees due thereunder) shall be on the same terms as the Obligations unless the Required Lenders otherwise agree; *provided*, that the maturity date and timing of any interest and principal payments due with respect to such Incremental Facilities shall be on the same terms as the Facility.

(i) Adjustments to Revolving Loans. Upon each increase in the Commitments pursuant to this Section 2.16,

(i) each Revolving Lender immediately prior to such increase will automatically and without further act be deemed to have assigned to each lender providing a portion of such increase (each an “**Incremental Facility Lender**”), and each such Incremental Facility Lender will automatically and without further act be deemed to have assumed, a portion of such Revolving Lender’s participations hereunder in outstanding Letters of Credit such that, after giving effect to each such deemed assignment and assumption of participations, the percentage of the aggregate outstanding participations hereunder in Letters of Credit held by each Revolving Lender will equal the percentage of the aggregate Commitments of all Lenders represented by such Revolving Lender’s Commitments; and

(ii) if, on the date of such increase, there are any Revolving Loans outstanding, such Revolving Loans shall on or prior to the effectiveness of such Incremental Facility be prepaid from the proceeds of Incremental Loans made hereunder (reflecting such increase in Commitments), which prepayment shall be accompanied by accrued interest on the Revolving Loans being prepaid and any costs incurred by any Revolving Lender in accordance with Section 3.05.

(j) The Administrative Agent and the Lenders hereby agree that the minimum borrowing, *pro rata* borrowing and *pro rata* payment requirements contained elsewhere in this Agreement shall not apply to the transactions effected pursuant to this Section 2.16.

SECTION 2.17 Refinancing Amendments.

(a) Refinancing Loans. The Borrower may obtain, from any Lender or any Additional Lender, Refinancing Indebtedness in respect of all or any portion of the Revolving Loans, in the form of Refinancing Loans or Refinancing Commitments made pursuant to a Refinancing Amendment.

(b) Refinancing Amendments. The effectiveness of any Refinancing Amendment will be subject only to the satisfaction on the date thereof of such conditions as may be requested by the providers of applicable Refinancing Loans or Refinancing Commitments. The Administrative Agent will promptly notify each Lender as to the effectiveness of each Refinancing Amendment. Each of the parties hereto hereby agrees that, upon the effectiveness of any Refinancing Amendment, this Agreement will be deemed amended to the extent (but only to the extent) necessary to reflect the existence and terms of the Refinancing Loans and Refinancing Commitments incurred pursuant thereto (including any amendments necessary to treat the Revolving Loans subject thereto as Refinancing Revolving Loans, respectively). Each Refinancing Amendment shall be subject to the provisions of Section 11.01(b), and no Refinancing Amendment shall materially adversely and directly affect any Lender which does not agree to make a Refinancing Loan or maintain Refinancing Commitment without such Lender’s consent (including but not limited to, a subordination of such Lender’s rights, or any dilution of such Lender’s existing Commitments or Loans while they are outstanding).

(c) Required Consents. Any Refinancing Amendment may, without the consent of any Person other than the Administrative Agent, the Borrower and the Persons providing the applicable Refinancing Loans, effect such amendments to this Agreement and the other Loan Documents as may be necessary or appropriate, in the reasonable opinion of the Administrative Agent and the Borrower, to effect the provisions of this Section 2.17. This Section 2.17 supersedes any provisions in Section 11.01 to the contrary; *provided, however*, no amendment or modification shall be effective against any Lender to the extent such amendment or modification would otherwise require such Lender’s consent under Section 11.01(b) on account of such Lender being directly and adversely affected thereby; *provided*, Non-Consenting Lenders may be repaid on a non-*pro rata* basis in connection with an Extension Offer or a Refinancing Amendment without such Lender’s consent.

(d) Providers of Refinancing Loans. Refinancing Loans may be provided by any existing Lender (it being understood that no existing Lender shall have an obligation to make all or any portion of any Refinancing Loan) or by any Additional Lender (subject to Section 11.07(h)); *provided* that the opportunity to provide any Refinancing Revolving Loans shall be offered to all then-existing Revolving Lenders. The lenders providing the Refinancing Loans will be reasonably acceptable to the (i) Borrower, (ii) the Administrative Agent and (iii) solely with respect to any Refinancing Revolving Loans, each Issuing Bank (except that, in the case of clauses (ii) and (iii), only to the extent such Person otherwise would have a consent right to an assignment of such loans or commitments to such lender, such consent not to be unreasonably withheld, conditioned or delayed).

SECTION 2.18 Extensions of Loans

(a) Extension Offers. Pursuant to one or more offers (each, an “**Extension Offer**”) made from time to time by the Borrower to all Lenders holding Loans and/or Commitments of a particular Class with a like Maturity Date, such Borrower(s) may extend such Maturity Date and otherwise modify the terms of such Loans and/or Commitments pursuant to the terms set forth in an Extension Offer (each, an “**Extension**”). Each Extension Offer will specify the minimum amount of Loans and/or Commitments with respect to which an Extension Offer may be accepted, which will be an integral multiple of \$1,000,000 and an aggregate principal amount that is not less than \$5,000,000, or, if less, (i) the aggregate principal amount of such Class of Loans outstanding or (ii) such lesser minimum amount as is approved by the Administrative Agent, such approval not to be unreasonably withheld, conditioned or delayed. Extension Offers will be made on a *pro rata* basis to all Lenders holding Loans and/or Commitments of a particular Class with a like Maturity Date. If the aggregate outstanding principal amount of such Loans (calculated on the face amount thereof) and/or Commitments in respect of which Lenders have accepted an Extension Offer exceeds the maximum aggregate principal amount of Loans and/or Commitments offered to be extended pursuant to such Extension Offer, then the Loans and/or Commitments of such Lenders will be extended ratably up to such maximum amount based on the respective principal amounts (but not to exceed actual holdings of record) with respect to which such Lenders have accepted such Extension Offer. There is no requirement that any Extension Offer or Extension Amendment (defined as follows) be subject to any “most favored nation” pricing provisions. The terms of an Extension Offer shall be determined by the Borrower, and Extension Offers may contain one or more conditions to their effectiveness, including a condition that a minimum amount of Loans and/or Commitments of any or all applicable tranches be tendered.

(b) Extension Amendments. The Lenders hereby irrevocably authorize the Administrative Agent to enter into amendments to this Agreement and the other Loan Documents (an “**Extension Amendment**”) as may be necessary or appropriate in order to establish new tranches in respect of Extended Loans and Extended Commitments and such amendments as permitted by clause (c) below as may be necessary or appropriate in the reasonable opinion of the Borrower, in consultation with the Administrative Agent, in connection with the establishment of such new tranches of Loans. This Section 2.18 shall supersede any provisions in Section 2.15 or 11.01 to the contrary; *provided, however*, no amendment or modification shall be effective against any Lender to the extent such amendment or modification would otherwise require such Lender’s consent under Section 11.01(b) on account of such Lender being directly and adversely affected thereby. Except as otherwise set forth in an Extension Offer, there will be no conditions to the effectiveness of an Extension Amendment. Extensions will not constitute a voluntary or mandatory payment or prepayment for purposes of this Agreement. Each Extension Amendment shall be subject to the provisions of Section 11.01(b), and no Extension Amendment shall materially adversely and directly affect any Lender which does not agree to make a extend its Loan or Commitment without such Lender’s consent (including but not limited to, a subordination of such Lender’s rights, or any dilution of such Lender’s Commitments or Loans while they are outstanding).

(c) Terms of Extension Offers and Extension Amendments. The terms of any Extended Loans and Extended Commitments will be set forth in an Extension Offer and as agreed between the Borrower and the Extending Lenders accepting such Extension Offer; *provided* that the final maturity date of such Extended Loans and Extended Commitments will be no earlier than the Latest Maturity Date applicable to the Loans and/or Commitments subject to such Extension Offer.

Any Extended Loans will constitute a separate tranche of Revolving Loans from the Revolving Loans held by Lenders that did not accept the applicable Extension Offer.

(d) Extension of Commitments. In the case of any Extension of Commitments and/or Revolving Loans, the following shall apply:

(i) all borrowings and all prepayments of Revolving Loans shall continue to be made on a ratable basis among all Revolving Lenders, based on the relative amounts of their Commitments, until the repayment of the Revolving Loans attributable to the non-extended Commitments on the relevant Maturity Date;

(ii) the allocation of the participation exposure with respect to any then-existing or subsequently issued Letter of Credit as between the Commitments of such new tranche and the remaining Commitments shall be made on a ratable basis in accordance with the relative amounts thereof until the Maturity Date relating to such non-extended Commitments has occurred;

(iii) no termination of extended Commitments and no repayment of extended Loans accompanied by a corresponding permanent reduction in extended Commitments shall be permitted unless such termination or repayment (and corresponding reduction) is accompanied by at least a *pro rata* termination or permanent repayment (and corresponding *pro rata* permanent reduction), as applicable, of each other tranche of Revolving Loans and Commitments (or each other tranche of Commitments and Revolving Loans shall have otherwise been terminated and repaid in full);

(iv) the Maturity Date with respect to the Commitments may not be extended without the prior written consent of each Issuing Bank; and

(v) at no time shall there be more than five different tranches of Commitments.

If the Total Utilization of Commitments exceeds the Commitment as a result of the occurrence of the Maturity Date with respect to any tranche of Commitments while an extended tranche of Commitments remains outstanding, the Borrower shall make such payments as are necessary in order to eliminate such excess on such Maturity Date.

(e) Required Consents. No consent of any Lender or any other Person will be required to effectuate any Extension, other than the consent of the Administrative Agent (such consent not to be unreasonably withheld, delayed or conditioned), the Borrower and the applicable Extending Lender. The transactions contemplated by this Section 2.18 (including, for the avoidance of doubt, payment of any interest, fees or premium in respect of any Extended Loans on such terms as may be set forth in the relevant Extension Offer) will not require the consent of any other Lender or any other Person, and the requirements of any provision of this Agreement or any other Loan Document that may otherwise prohibit any such Extension or any other transaction contemplated by this Section 2.18 will not apply to any of the transactions effected pursuant to this Section 2.18. Notwithstanding the foregoing clause (e), no amendment or modification shall be effective against any Lender to the extent such amendment or modification would otherwise require such Lender's consent under Section 11.01(b) on account of such Lender being directly and adversely affected thereby.

SECTION 2.19 [Reserved].

SECTION 2.20 Defaulting Lenders.

(a) Defaulting Lender Adjustments. Notwithstanding anything to the contrary contained in this Agreement, if any Lender becomes a Defaulting Lender, then, until such time as such Lender is no longer a Defaulting Lender, to the extent permitted by applicable law:

(i) Defaulting Lender Waterfall. Any payment of principal, interest, fees or other amounts received by the Administrative Agent for the account of such Defaulting Lender (whether voluntary or mandatory, at maturity, pursuant to Article IX or otherwise) or received by the Administrative Agent from a Defaulting Lender pursuant to Section 11.09 shall be applied at such time or times as may be determined by the Administrative Agent as follows: *first*, to the payment of any amounts owing by such Defaulting Lender to the Administrative Agent hereunder; *second*, to the payment on a pro rata basis of any amounts owing by such Defaulting Lender to each Issuing Bank hereunder; *third*, to Cash Collateralize each Issuing Bank's Fronting Exposure with respect to such Defaulting Lender with respect to outstanding Letters of Credit (in an amount equal to 105% of the maximum face amount of all outstanding Letters of Credit) in accordance with Section 2.20(d); *fourth*, as the Borrower may request (so long as no Event of Default shall have occurred and be continuing), to the funding of any Loan in respect of which such Defaulting Lender has failed to fund its portion thereof as required by this Agreement, as determined by the Administrative Agent; *fifth*, if so determined by the Administrative Agent and the Borrower, to be held in a Cash Collateral Account and released *pro rata* in order to (A) satisfy such Defaulting Lender's potential future funding obligations with respect to Loans under this Agreement and (B) Cash Collateralize each Issuing Bank's (in an amount equal to 105% of the maximum face amount of all outstanding Letters of Credit) with respect to future Letters of Credit issued under this Agreement, in accordance with Section 2.20(d); *sixth*, to the payment of any amounts owing to the Lenders or the Issuing Banks as a result of any judgment of a court of competent jurisdiction obtained by any Lender or any Issuing Bank against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; *seventh*, so long as no Event of Default shall have occurred and be continuing, to the payment of any amounts owing to the Borrower as a result of any judgment of a court of competent jurisdiction obtained by the Borrower against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; and *eighth*, to such Defaulting Lender or as otherwise directed by a court of competent jurisdiction; *provided* that if (1) such payment is a payment of the principal amount of any Loans or Reimbursement Obligations in respect of which such Defaulting Lender has not fully funded its appropriate share, and (2) such Loans were made or the related Letters of Credit were issued at a time when the conditions set forth in Section 4.03 were satisfied or waived, such payment shall be applied solely to pay the Loans of, and Reimbursement Obligations owed to, all Non-Defaulting Lenders on a *pro rata* basis prior to being applied to the payment of any Loans of, or Reimbursement Obligations owed to, such Defaulting Lender until such time as all Loans and funded and unfunded participations in Letters of Credit are held by the Lenders pro rata in accordance with the applicable Commitments without giving effect to Section 2.20(a)(iii). Any payments, prepayments or other amounts paid or payable to a Defaulting Lender that are applied (or held) to pay amounts owed by a Defaulting Lender or to post Cash Collateral pursuant to this Section 2.20(a)(i) shall be deemed paid to and redirected by such Defaulting Lender, and each Lender irrevocably consents hereto.

(ii) Certain Fees.

(A) No Defaulting Lender shall be entitled to receive any fee pursuant to Section 2.11(b) for any period during which that Lender is a Defaulting Lender (and the Borrower shall not be required to pay any such fee that otherwise would have been required to have been paid to that Defaulting Lender); *provided* such Defaulting Lender shall be entitled to receive fees pursuant to Section 2.11(b)(ii) for any period during which that Lender is a Defaulting Lender only to the extent allocable to its Pro Rata Share of the Stated Amount of Letters of Credit for which it has provided Cash Collateral pursuant to Section 2.04.

(B) With respect to any fees not required to be paid to any Defaulting Lender pursuant to clause (A) above, the Borrower shall (1) pay to each Non-Defaulting Lender that portion of any such fee otherwise payable to such Defaulting Lender with respect to such Defaulting Lender's participation in Letters of Credit that has been reallocated to such Non-Defaulting Lender pursuant to clause (iii) below, (2) pay to each Issuing Bank the amount of any such fee otherwise payable to such Defaulting Lender to the extent allocable to such Issuing Bank's Fronting Exposure to such Defaulting Lender, and (3) not be required to pay the remaining amount of any such fee.

(iii) Reallocation of Participations to Reduce Fronting Exposure. All or any part of such Defaulting Lender's participation in Letters of Credit shall be reallocated among the Non-Defaulting Lenders in accordance with their respective Pro Rata Shares (calculated without regard to such Defaulting Lender's Commitment) but only to the extent that (A) the conditions set forth in Section 4.03 are satisfied at the time of such reallocation (and, unless the Borrower shall have otherwise notified the Administrative Agent at such time, the Borrower shall be deemed to have represented and warranted that such conditions are satisfied at such time), and (B) such reallocation does not cause the aggregate Revolving Exposure of any Non-Defaulting Lender to exceed such Non-Defaulting Lender's Commitment. Subject to Section 11.25, no reallocation hereunder shall constitute a waiver or release of any claim of any party hereunder against a Defaulting Lender arising from that Lender having become a Defaulting Lender, including any claim of a Non-Defaulting Lender as a result of such Non-Defaulting Lender's increased exposure following such reallocation.

(iv) Cash Collateral. If the reallocation described in clause (iii) above cannot, or can only partially, be effected, the Borrower shall, without prejudice to any right or remedy available to it hereunder or under law, Cash Collateralize Issuing Bank's Fronting Exposure (in an amount equal to 105% of the maximum face amount of all outstanding Letters of Credit) in accordance with the procedures set forth in Section 2.04.

(b) Defaulting Lender Cure. If the Borrower, the Administrative Agent and each Issuing Bank agree in writing that a Lender is no longer a Defaulting Lender, the Administrative Agent will so notify the parties hereto, whereupon as of the effective date specified in such notice and subject to any conditions set forth therein (which may include arrangements with respect to any Cash Collateral), that Lender will, to the extent applicable, purchase at par that portion of outstanding Loans of the other Lenders or take such other actions as the Administrative Agent may determine to be necessary to cause the Loans and funded and unfunded participations in Letters of Credit to be held pro rata by the Lenders in accordance with the applicable Commitments (without giving effect to Section 2.04) whereupon such Lender will cease to be a Defaulting Lender; *provided* that no adjustments will be made retroactively with respect to fees accrued or payments made by or on behalf of the Borrower while that Lender was a Defaulting Lender; *provided further*, that except to the extent otherwise expressly agreed by the affected parties, no change hereunder from Defaulting Lender to Lender will constitute a waiver or release of any claim of any party hereunder arising from that Lender having been a Defaulting Lender.

(c) New Letters of Credit. So long as any Revolving Lender is a Defaulting Lender, no Issuing Bank shall be required to issue, extend or amend any Letter of Credit unless it is satisfied that it will have no Fronting Exposure after giving effect thereto.

(d) Cash Collateral. At any time that there shall exist a Defaulting Lender and Section 2.20(a)(iv) is applicable, within one Business Day following the written request of the Administrative Agent or any Issuing Bank (with a copy to the Administrative Agent), the Borrower shall Cash Collateralize the applicable Issuing Bank's Fronting Exposure with respect to such Defaulting Lender (determined after giving effect to Section 2.04 and any Cash Collateral provided by such Defaulting Lender) in an amount not less than the Minimum L/C Collateral Amount.

(i) Grant of Security Interest. The Borrower, and to the extent provided by any Defaulting Lender, such Defaulting Lender, hereby grants to the Administrative Agent, for the benefit of the Issuing Banks and the Revolving Lenders, and agrees to maintain, a first priority security interest in all such Cash Collateral as security for the Defaulting Lender's obligation to fund participations in respect of Letters of Credit, to be applied pursuant to clause (ii) below. If at any time the Administrative Agent determines that the Cash Collateral is subject to any right or claim of any Person other than the Administrative Agent, the Issuing Banks or the Revolving Lenders as herein provided, or that the total amount of such Cash Collateral is less than the Minimum L/C Collateral Amount, the Borrower will, promptly upon demand by the Administrative Agent, pay or provide to the Administrative Agent additional Cash Collateral in an amount sufficient to eliminate such deficiency (after giving effect to any Cash Collateral provided by the Defaulting Lender).

(ii) Application. Notwithstanding anything to the contrary contained in this Agreement, Collateral provided under this Section 2.20 in respect of Letters of Credit shall be applied to the satisfaction of the Defaulting Lender's obligation to fund participations in respect of Letters of Credit (including, as to Cash Collateral provided by a Defaulting Lender, any interest accrued on such obligation) for which the Cash Collateral was so provided, prior to any other application of such property as may otherwise be provided for herein.

(iii) Termination of Requirement. Cash Collateral (or the appropriate portion thereof) provided to reduce any Issuing Bank's Fronting Exposure shall no longer be required to be held as Cash Collateral pursuant to this Section 2.20 following (A) the elimination of the applicable Fronting Exposure (including by the termination of Defaulting Lender status of the applicable Lender) or (B) the determination by the Administrative Agent or the applicable Issuing Bank that there exists excess Cash Collateral; *provided* that, subject to the other provisions of this Section 2.20, the Person providing Cash Collateral and the applicable Issuing Bank may agree that the Cash Collateral shall be held to support future anticipated Fronting Exposure or other obligations; *provided further* that to the extent that such Cash Collateral was provided by the Borrower, such Cash Collateral shall remain subject to the security interest granted pursuant to the Loan Documents.

(e) Hedge Banks. So long as any Lender is a Defaulting Lender, such Lender shall not be a Hedge Bank with respect to any Secured Hedge Agreement entered into while such Lender was a Defaulting Lender.

SECTION 2.21 Judgment Currency.

(a) If, for the purpose of obtaining judgment in any court, it is necessary to convert a sum owing hereunder in one currency into another currency, each party hereto (and by its acceptance of its appointment in such capacity, each Lead Arranger) agrees, to the fullest extent that it may effectively do so, that the rate of exchange used shall be that at which, in accordance with normal banking procedures in the relevant jurisdiction, the first currency could be purchased with such other currency on the Business Day immediately preceding the day on which final judgment is given.

(b) The obligations of the Borrower in respect of any sum due to any party hereto or any holder of the obligations owing hereunder (the “**Applicable Creditor**”) shall, notwithstanding any judgment in a currency (the “**Judgment Currency**”) other than the currency in which such sum is stated to be due hereunder (the “**Agreement Currency**”), be discharged only to the extent that, on the Business Day following receipt by the Applicable Creditor of any sum adjudged to be so due in the Judgment Currency, the Applicable Creditor may in accordance with normal banking procedures in the relevant jurisdiction purchase the Agreement Currency with the Judgment Currency; if the amount of the Agreement Currency so purchased is less than the sum originally due to the Applicable Creditor in the Agreement Currency, the Borrower as a separate obligation and notwithstanding any such judgment, agree to indemnify the Applicable Creditor against such loss. The obligations of the Borrower contained in this Section shall survive the termination of this Agreement and the payment of all other amounts owing hereunder.

ARTICLE III

Taxes, Increased Costs Protection and Illegality

SECTION 3.01 **Taxes**.

(a) Except as required by applicable Law, any and all payments by the Borrower or any Guarantor to or for the account of any Agent, Lender or Issuing Bank under any Loan Document shall be made free and clear of and without deduction for any and all present or future taxes, duties, levies, imposts, deductions, assessments, fees, withholdings or similar charges imposed by any Governmental Authority, and all additions to tax, penalties and interest with respect thereto (“**Taxes**”). If an applicable Withholding Agent is required to deduct any Taxes from or in respect of any sum payable under any Loan Document to any Agent, Lender or Issuing Bank, (i) if such Taxes are Indemnified Taxes, the sum payable shall be increased as necessary so that after making all required deductions (including deductions applicable to additional sums payable under this Section 3.01(a)(i)), each of such Agent, Lender or Issuing Bank receives an amount equal to the sum it would have received had no such deductions for Indemnified Taxes been made, (ii) the applicable Withholding Agent shall make such deductions, (iii) the applicable Withholding Agent shall pay the full amount deducted to the relevant taxing authority, and (iv) as soon as practicable after any such payment by the Borrower or any Guarantor, the Borrower or applicable Guarantor shall furnish to such Agent, Lender or Issuing Bank (as the case may be) the original or a facsimile copy of a receipt evidencing payment thereof to the extent such a receipt has been made available to the Borrower or applicable Guarantor (or other evidence of payment reasonably satisfactory to the Administrative Agent).

(b) Each Agent, Lender or Issuing Bank (including an Eligible Assignee to which a Lender assigns its interest in accordance with Section 11.07, unless such Eligible Assignee is already a Lender hereunder) that is entitled to an exemption from or reduction of withholding Tax with respect to payments made under any Loan Document shall deliver to the Borrower and Administrative Agent, at the time or times reasonably requested by the Borrower and Administrative Agent, such properly completed and executed documentation reasonably requested by the Borrower and Administrative Agent as will permit such payments to be made without withholding or at a reduced rate of withholding. In addition, any such Agent, Lender, Issuing Bank or Eligible Assignee, if reasonably requested by the Borrower and Administrative Agent, shall deliver such other documentation prescribed by applicable law or reasonably requested by the Borrower and Administrative Agent as will enable the Borrower and Administrative Agent to determine whether or not such Lender is subject to backup withholding or information reporting requirements. Notwithstanding anything to the contrary in the preceding two sentences, the completion, execution and submission of such documentation (other than such documentation set forth in Sections 3.01(b)(i), (d) and (e) below) shall not be required if in such Lender's, Agent's, Issuing Bank's or Eligible Assignee's reasonable judgment such completion, execution or submission would subject such Agent, Lender, Issuing Bank or Eligible Assignee to any material unreimbursed cost or expense or would materially prejudice the legal or commercial position of such Lender.

(i) Without limiting the generality of the foregoing, to the extent it is legally able to do so, each Agent, Lender or Issuing Bank (including an Eligible Assignee to which a Lender assigns its interest in accordance with Section 11.07, unless such Eligible Assignee is already a Lender hereunder) that is not a "United States person" within the meaning of Section 7701(a)(30) of the Code (each, a "**Foreign Lender**") agrees to complete and deliver to the Borrower and the Administrative Agent on or prior to the date on which the Foreign Lender becomes a party hereto (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), two accurate, complete and duly executed copies of whichever of the following is applicable:

(A) in the case of a Foreign Lender claiming the benefits of an income tax treaty to which the United States is a party, (1) with respect to the payments of interest under any Loan Document, IRS Form W-8BEN or Form W-8BEN-E establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the "interest" article of such tax treaty, and (2) with respect to any other applicable payments under any Loan Document, IRS Form W-8BEN or IRS Form W-8BEN-E establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the "business profits" or "other income" article of such tax treaty;

(B) IRS Form W-8ECI certifying that the income receivable pursuant to any Loan Document is effectively connected with the conduct of a trade or business in the United States;

(C) in the case of a Foreign Lender claiming the benefits of the exemption for portfolio interest under Section 881(c) of the Code, (1) a certificate substantially in the form of Exhibit G-1 to the effect that such Foreign Lender is not a "bank" within the meaning of Section 881(c)(3)(A) of the Code, a "10 percent shareholder" of the Borrower within the meaning of Section 871(h)(3)(B) of the Code, or a "controlled foreign corporation" related to the Borrower as described in Section 881(c)(3)(C) of the Code (a "**U.S. Tax Compliance Certificate**") and (2) an IRS Form W-8BEN or Form W-8BEN-E, certifying that the Foreign Lender is not a United States person;

(D) to the extent a Foreign Lender is not the beneficial owner for U.S. federal income tax purposes, IRS Form W-8IMY (or any successor forms) of the Foreign Lender, accompanied by, as and to the extent applicable, an IRS Form W-8BEN, Form W-8BEN-E, Form W-8ECI, a U.S. Tax Compliance Certificate substantially in the form of Exhibit G-2 or Exhibit G-3, Form W-9, Form W-8IMY (or other successor forms) and any other required supporting information from each beneficial owner; provided that if the Foreign Lender is a partnership and one or more direct or indirect partners of such Foreign Lender are claiming the portfolio interest exemption, such Foreign Lender may provide a U.S. Tax Compliance Certificate substantially in the form of Exhibit G-4 on behalf of each such direct and indirect partner

(ii) Without limiting the generality of the foregoing, any Foreign Lender shall, to the extent it is legally entitled to do so, deliver to Borrower and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or about the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), accurate, complete and duly executed copies of any other form prescribed by applicable requirements of applicable Law as a basis for claiming exemption from or a reduction in U.S. federal withholding Tax, together with such supplementary documentation as may be prescribed by applicable requirements of law to permit the Borrower and the Administrative Agent to determine the withholding or deduction required to be made.

(c) In addition, each Agent, Lender, Issuing Bank or Eligible Assignee shall, to the extent it is legally entitled to do so, (i) promptly submit to the Borrower and the Administrative Agent two accurate, complete and duly executed copies of such other or additional forms or certificates (or such successor forms or certificates as shall be adopted from time to time by the relevant taxing authorities) as may then be applicable or available to secure an exemption from or reduction in the rate of withholding Tax (1) on or before the date that such Agent's, Lender's, Issuing Bank's or Eligible Assignee's most recently delivered form, certificate or other evidence expires or becomes obsolete or inaccurate in any material respect, (2) after the occurrence of a change in such Agent's, Lender's, Issuing Bank's or Eligible Assignee's circumstances requiring a change in the most recent form, certificate or evidence previously delivered by it to the Borrower and the Administrative Agent, and (3) from time to time thereafter if reasonably requested by the Borrower or the Administrative Agent, and (ii) promptly notify the Borrower and the Administrative Agent of any change in such Agent's, Lender's, Issuing Bank's or Eligible Assignee's circumstances that would modify or render invalid any claimed exemption or reduction. This Section 3.01(c) shall not apply to any reporting requirements under FATCA.

(d) If a payment made to a Lender under any Loan Document would be subject to Tax imposed by FATCA if such Lender were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code, as applicable), such Lender shall deliver to the Borrower and the Administrative Agent at the time or times prescribed by Law and at such time or times reasonably requested by the Borrower or the Administrative Agent such documentation prescribed by applicable Law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by the Borrower or the Administrative Agent as may be necessary for the Borrower and the Administrative Agent to comply with their obligations under FATCA and to determine whether such Lender has complied with such Lender's obligations under FATCA or to determine the amount to deduct and withhold from such payment. Solely for purposes of this Section 3.01(d), "FATCA" shall include any amendments made to FATCA after the date of this Agreement. Each Lender agrees that if any form or certification it previously delivered expires or becomes obsolete or inaccurate in any respect, it shall update such form or certification or promptly notify Borrower and Administrative Agent in writing of its legal inability to do so.

(e) Without limiting the generality of Section 3.01(b), each Lender or Issuing Bank that is a “United States person” (within the meaning of Section 7701(a)(30) of the Code) (each, a “**U.S. Lender**”) agrees to complete and deliver to the Borrower and the Administrative Agent two copies of accurate, complete and duly executed IRS Form W-9 or successor form certifying that such U.S. Lender is not subject to U.S. federal backup withholding Tax (i) on or prior to the Closing Date (or on or prior to the date it becomes a party to this Agreement), (ii) on or before the date that such form expires or becomes obsolete or inaccurate in any material respect, (iii) after the occurrence of a change in the U.S. Lender’s circumstances requiring a change in the most recent form previously delivered by it to the Borrower and the Administrative Agent, and (iv) from time to time thereafter if reasonably requested by the Borrower or the Administrative Agent.

(f) Without duplication of any amounts payable under Sections 3.01(a) or 3.01(g), the Borrower agrees to pay any and all present or future stamp, court or documentary intangible, recording, filing, mortgage recording or similar Taxes that arise from any payment made under any Loan Document or from the execution, delivery, performance, enforcement or registration of, or otherwise with respect to, any Loan Document excluding, in each case, such amounts that are Other Connection Taxes imposed in connection with an Assignment and Assumption, grant of a participation, transfer or assignment to or designation of a new applicable Lending Office or other office for receiving payments under any Loan Document, except to the extent that any such change is requested in writing by the Borrower (all such Taxes described in this Section 3.01(f), other than Excluded Taxes, being hereinafter referred to as “**Other Taxes**”).

(g) Without duplication of any amounts payable under Sections 3.01(a) or 3.01(f), if any Indemnified Taxes are directly asserted against any Agent, Lender or Issuing Bank with respect to any payment received by such Agent, Lender or Issuing Bank in respect of any Loan Document, such Agent, Lender or Issuing Bank may pay such Indemnified Taxes and the Borrower will promptly indemnify and hold harmless such Agent, Lender or Issuing Bank for the full amount of such Indemnified Taxes imposed on amounts payable under this Section 3.01), and any reasonable expenses arising therefrom or with respect thereto (other than any expenses or penalties determined by a court of competent jurisdiction by a final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of such Recipient), whether or not such Indemnified Taxes were correctly or legally imposed or asserted. Payments under this Section 3.01(g) shall be made within ten days after the date the Borrower receive written demand for payment from such Agent, Lender or Issuing Bank.

(h) A Participant shall comply with the provisions of Sections 3.01(b), 3.01(c), 3.01(d) and 3.01(e) hereof and shall not be entitled to receive any greater payment under this Section 3.01 than the applicable Lender would have been entitled to receive with respect to the participation sold to such Participant, unless the sale of the participation to such Participant is made with the Borrower’s prior written consent or such entitlement to a greater payment results from a change in law that occurs after the Participant acquired the participation.

(i) If any Agent, Lender, Issuing Bank or Participant determines, in its sole discretion, exercised in good faith, that it has received a refund in respect of any Taxes as to which it has been indemnified by the Borrower or any Guarantor, as the case may be, or with respect to which the Borrower or any Guarantor, as the case may be, has paid additional amounts pursuant to this Section 3.01, it shall promptly pay to the indemnifying party an amount equal to such refund (but only to the extent of indemnity payments made, or additional amounts paid, by the indemnifying party under this Section 3.01 with respect to the Taxes giving rise to such refund), net of all reasonable out-of-pocket expenses incurred by such indemnified party and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund), *provided* that the Borrower or applicable Guarantor, as the case may be, upon the request of such indemnified party, agrees to repay the amount paid over to the Borrower or applicable Guarantor, as the case may be (*plus* any penalties, interest or other charges imposed by the relevant Governmental Authority) to such indemnified party in the event such indemnified party is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary in this Section 3.01(i), in no event will such indemnified party be required to pay any amount to the Borrower or applicable Guarantor pursuant to this Section 3.01(i) the payment of which would place such indemnified party in a less favorable net after-Tax position than the indemnified party would have been in if the Tax subject to indemnification and giving rise to such refund had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts with respect to such Tax had never been paid. Such Agent, Lender or Issuing Bank, as the case may be, shall provide the Borrower upon request with a copy of any notice of assessment or other evidence reasonably available of the requirement to repay such refund received from the relevant Governmental Authority (*provided* that such Lender, Agent or Issuing Bank may delete any information therein that such Lender, Agent or Issuing Bank deems confidential or not relevant to such refund in its reasonable discretion). This subsection shall not be construed to require any indemnified party to make available its tax returns (or any other information relating to its Taxes that it reasonably deems confidential) to the Borrower, any Guarantor or any other Person.

(j) Each Lender agrees that, upon the occurrence of any event giving rise to the operation of Section 3.01(a) or (g) with respect to such Lender, it will, if requested by the Borrower in writing, use reasonable efforts to mitigate the effect of any such event, including by designating another Lending Office for any Loan affected by such event and by completing and delivering or filing any Tax-related forms that such Lender is legally able to deliver and that would reduce or eliminate any amount of Indemnified Taxes required to be deducted or withheld or paid by the Borrower; *provided* that such efforts are made at the Borrower's expense and are on terms that, in the reasonable judgment of such Lender, do not cause such Lender or any of its Lending Offices to suffer any economic, legal or regulatory disadvantage, and *provided further* that nothing in this Section 3.01(j), shall affect or postpone any of the Obligations of the Borrower or the rights of such Lender pursuant to Section 3.01(a) or (g).

(k) Notwithstanding any other provision of this Agreement, the Borrower and the Administrative Agent may deduct and withhold any Taxes required by any applicable Law to be deducted and withheld from any payment under any of the Loan Documents, subject to the provisions of this Section 3.01.

(l) Each Agent or Lender, as applicable, shall severally indemnify the Administrative Agent, within ten days after demand therefor, for (i) any Taxes attributable to such Agent or Lender (but only to the extent that the Borrower have not already indemnified the Administrative Agent for such Taxes and without limiting the obligation of the Borrower to do so), (ii) any Taxes attributable to such Lender's failure to comply with the provisions of Section 11.07(e) relating to the maintenance of a Participant Register and (iii) any Excluded Taxes attributable to such Agent or Lender, in each case, that are payable or paid by the Administrative Agent in connection with any Loan Document, and any reasonable expenses arising therefrom or with respect thereto, whether or not such Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to any Agent or Lender by the Administrative Agent shall be conclusive absent manifest error. Each Agent and Lender hereby authorizes the Administrative Agent to set off and apply any and all amounts at any time owing to such Agent or Lender under any Loan Document or otherwise payable by the Administrative Agent to such Agent or Lender from any other source against any amount due to the Administrative Agent under this Section 3.01(l).

(m) The agreements in this Section 3.01 shall survive the resignation or replacement of the Administrative Agent, termination of this Agreement and the payment of the Loans and all other amounts payable hereunder and any assignment of rights by, or replacement of, any Lender.

(n) For purposes of this Section, the term "Lender" includes any Issuing Bank and reference to "applicable Law" includes FATCA.

SECTION 3.02 Illegality. If any Lender reasonably determines that any Law has made it unlawful, or that any Governmental Authority has asserted that it is unlawful, for any Lender or its applicable Lending Office to make, maintain or fund Loans whose interest is determined by reference to SOFR, or to determine or charge interest rates based upon SOFR, or any Governmental Authority has imposed material restrictions on the authority of such Lender to purchase or sell, or to take deposits of, Dollars in the London interbank market, then, on notice thereof by such Lender to the Borrower through the Administrative Agent, (i) any obligation of such Lender to make or continue SOFR Rate Loans or to convert Base Rate Loans to SOFR Rate Loans, as applicable, shall be suspended, and (ii) if such notice asserts the illegality of such Lender making or maintaining Base Rate Loans the interest rate on which is determined by reference to the SOFR component of the Base Rate, the interest rate on which Base Rate Loans of such Lender shall, if necessary to avoid such illegality, be determined by the Administrative Agent without reference to the SOFR component of the Base Rate in each case until such Lender notifies the Administrative Agent and the Borrower that the circumstances giving rise to such determination no longer exist. Upon receipt of such notice, (A) with respect to Borrowings denominated in Dollars, the Borrower may revoke any pending request for a Borrowing of, conversion to or continuation of SOFR Rate Loans and shall, upon demand from such Lender (with a copy to the Administrative Agent), prepay or, if applicable, convert all SOFR Rate Loans of such Lender to Base Rate Loans (the interest rate on which Base Rate Loans of such Lender shall, if necessary to avoid such illegality, be determined by the Administrative Agent without reference to the SOFR component of the Base Rate), either on the last day of the Interest Period therefor, if such Lender may lawfully continue to maintain such SOFR Rate Loans to such day, or immediately, if such Lender may not lawfully continue to maintain such SOFR Rate Loans or (B) if such notice asserts the illegality of such Lender determining or charging interest rates based upon the SOFR component of the Base Rate with respect to any Base Rate Loans, the Administrative Agent shall during the period of such suspension compute the Base Rate applicable to such Lender without reference to the SOFR component thereof until the Administrative Agent is advised in writing by such Lender that it is no longer illegal for such Lender to determine or charge interest rates based upon SOFR. Upon any such prepayment or conversion, the Borrower shall also pay accrued interest on the amount so prepaid or converted.

SECTION 3.03 Inability to Determine Rates. If the Administrative Agent or the Required Lenders reasonably determine that for any reason in connection with any request for a SOFR Rate Loan or a conversion to or continuation thereof that (a) adequate and reasonable means do not exist for determining SOFR for any requested Interest Period with respect to a proposed SOFR Rate Loan or in connection with an existing or proposed Base Rate Loan or (b) SOFR for any requested Interest Period with respect to a proposed SOFR Rate Loan does not adequately and fairly reflect the cost to such Lenders of funding such Loan, the Administrative Agent will promptly so notify the Borrower and each Lender. Thereafter, (i) the obligation of the Lenders to make or maintain SOFR Rate Loans shall be suspended, and (ii) in the event of a determination described in the preceding sentence: with respect to the SOFR component of the Base Rate, the utilization of the SOFR component in determining the Base Rate shall be suspended until the Administrative Agent (upon the instruction of the Required Lenders) revokes such notice. Upon receipt of such notice, the Borrower may revoke any pending request for a Borrowing of, conversion to or continuation of SOFR Rate Loans or, failing that, will be deemed to have converted such request into a request for a Borrowing of Base Rate Loans, in the case of SOFR Rate Loans in the amount specified therein; *provided, however*, that if the Borrower and the applicable Lenders cannot agree within a reasonable time on an alternative rate for such Loans, the Borrower may, at their discretion, either (x) prepay such Loans or (y) maintain such Loans outstanding, in which case, the interest rate payable to the applicable Lender on such Loans will be the rate determined by the Administrative Agent as its cost of funds to fund a Borrowing of such Loans with maturities comparable to the Interest Period applicable thereto plus the Applicable Rate.

SECTION 3.04 Increased Cost and Reduced Return: Capital Adequacy: Reserves on S Rate Loans.

(a) Increased Costs Generally. If any Change in Law shall:

(i) impose, modify or deem applicable any reserve, special deposit, compulsory loan, insurance charge or similar requirement against assets of, deposits with or for the account of, or credit extended or participated in by, any Lender or any Issuing Bank;

(ii) subject any Lender or any Issuing Bank to any tax of any kind whatsoever with respect to this Agreement, any Letter of Credit, any participation in a Letter of Credit or any SOFR Rate Loan made by it, or change the basis of taxation of payments to such Lender or Issuing Bank, as applicable, in respect thereof (except, in each case, for (A) Indemnified Taxes, (B) Taxes described in clauses (ii) through (v) of the definition of Excluded Taxes, and (C) Connection Income Taxes); or

(iii) impose on any Lender or any Issuing Bank or the London interbank market any other condition, cost or expense affecting this Agreement, any Letter of Credit, any participation in a Letter of Credit or SOFR Rate Loans made by such Lender or any Issuing Bank (other than with respect to Taxes) that is not otherwise accounted for in the definition of SOFR or this clause (a);

and the result of any of the foregoing shall be to increase the cost to such Lender or such Issuing Bank of making or maintaining any Loan the interest on which is determined by reference to SOFR or, in the case of a Change in Law with respect to Taxes, making or maintaining any Loan (or of maintaining its obligation to make any such Loan), or to increase the cost to such Lender, such Issuing Bank or such other Lender of participating in, issuing or maintaining any Letter of Credit (or of maintaining its obligation to participate in or to issue any Letter of Credit, or to reduce the amount of any sum received or receivable by such Lender or such Issuing Bank (whether of principal, interest or any other amount)) then, from time to time within ten days after demand by such Lender, such Issuing Bank setting forth in reasonable detail such increased costs (with a copy of such demand to the Administrative Agent) (provided that such calculation will not in any way require disclosure of confidential or price-sensitive information or any other information the disclosure of which is prohibited by law), the Borrower will pay to such Lender or such Issuing Bank such additional amount or amounts as will compensate such Lender or such Issuing Bank for such additional costs incurred or reduction suffered. No Lender or Issuing Bank shall request that the Borrower pay any additional amount pursuant to this Section 3.04(a) unless it shall concurrently make similar requests to other borrowers similarly situated and affected by such Change in Law and from whom such Lender or Issuing Bank is entitled to seek similar amounts.

(b) Capital Requirements. If any Lender or any Issuing Bank reasonably determines that any Change in Law affecting such Lender or such Issuing Bank or any Lending Office of such Lender or such Issuing Bank or such Lender's or Issuing Bank's holding company, if any, regarding liquidity or capital requirements has or would have the effect of reducing the rate of return on such Lender's or Issuing Bank's capital or on the capital of such Lender's or Issuing Bank's holding company, if any, as a consequence of this Agreement, the Commitments of such Lender or such Issuing Bank or the Loans made by or Letters of Credit issued by it to a level below that which such Lender or such Issuing Bank or such Lender's or Issuing Bank's holding company could have achieved but for such Change in Law (taking into consideration such Lender's or such Issuing Bank's policies and the policies of such Lender's or Issuing Bank's holding company with respect to liquidity or capital adequacy), then from time to time upon demand of such Lender or such Issuing Bank setting forth in reasonable detail the charge and the calculation of such reduced rate of return (with a copy of such demand to the Administrative Agent) (provided that such calculation will not in any way require disclosure of confidential or price-sensitive information or any other information the disclosure of which is prohibited by law), the Borrower will pay to such Lender or such Issuing Bank, as the case may be, such additional amount or amounts as will compensate such Lender, such Issuing Bank or such Lender's or Issuing Bank's holding company for any such reduction suffered.

(c) Certificates for Reimbursement. A certificate of a Lender or an Issuing Bank setting forth the amount or amounts necessary to compensate such Lender or such Issuing Bank or their respective holding company, as the case may be, as specified in subsection (a) or (b) of this Section 3.04 and delivered to the Borrower shall be conclusive absent manifest error. The Borrower shall pay such Lender, as the case may be, the amount shown as due on any such certificate within ten days after receipt thereof.

(d) Delay in Requests. Failure or delay on the part of any Lender or any Issuing Bank to demand compensation pursuant to the foregoing provisions of this Section 3.04 shall not constitute a waiver of such Lender's or such Issuing Bank's right to demand such compensation, *provided* that the Borrower shall not be required to compensate a Lender or an Issuing Bank pursuant to the foregoing provisions of this Section 3.04 for any increased costs incurred or reductions suffered more than one hundred and eighty (180) days prior to the date that such Lender or such Issuing Bank notifies the Borrower of the Change in Law giving rise to such increased costs or reductions and of such Lender's or such Issuing Bank's intention to claim compensation therefor (except that, if the Change in Law giving rise to such increased costs or reductions is retroactive, then the 180-day period referred to above shall be extended to include the period of retroactive effect thereof).

(e) Reserves on SOFR Rate Loans. The Borrower shall pay to each Lender, as long as such Lender shall be required to maintain reserves with respect to liabilities or assets consisting of or including eurocurrency funds or deposits (currently known as "**Eurocurrency Liabilities**"), additional interest on the unpaid principal amount of each SOFR Rate Loan equal to the actual costs of such reserves allocated to such Loan by such Lender (as determined by such lender in good faith, which determination shall be conclusive), which shall be due and payable on each date on which interest is payable on such Loan made to the Borrower; *provided* the Borrower shall have received at least 10 days' prior notice (with a copy to the Administrative Agent) of such additional interest from such Lender. If a Lender fails to give notice 10 days prior to the relevant Interest Payment Date, such additional interest shall be due and payable 10 days from receipt of such notice.

SECTION 3.05 Funding Losses. Upon written demand of any Lender (with a copy to the Administrative Agent) from time to time, which demand shall set forth in reasonable detail the basis for requesting such amount (provided that such calculation will not in any way require disclosure of confidential or price-sensitive information or any other information the disclosure of which is prohibited by law), the Borrower shall promptly compensate such Lender for and hold such Lender harmless from any loss, cost, liability or expense (excluding loss of anticipated profits or margin) actually incurred by it as a result of:

(a) any continuation, conversion, payment or prepayment of any Loan other than a Base Rate Loan on a day prior to the last day of the Interest Period for such Loan (whether voluntary, mandatory, automatic, by reason of acceleration, or otherwise);

(b) any failure by the Borrower (for a reason other than the failure of such Lender to make a Loan) to prepay, borrow, continue or convert any Loan other than a Base Rate Loan on the date or in the amount notified by the Borrower; or

(c) any assignment of a SOFR Rate Loan on a day prior to the last day of the Interest Period therefor as a result of a request by the Borrower pursuant to Section 3.07;

including any loss or expense (excluding loss of anticipated profits or margin) actually incurred by reason of the liquidation or reemployment of funds obtained by it to maintain such Loan or from fees payable to terminate the deposits from which such funds were obtained.

SECTION 3.06 Matters Applicable to All Requests for Compensation.

(a) Designation of a Different Lending Office. If any Lender requests compensation under Section 3.04, or the Borrower are required to pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 3.01, or if any Lender gives a notice pursuant to Section 3.02, then such Lender shall use reasonable efforts to designate a different Lending Office for funding or booking its Loans hereunder or to assign its rights and obligations hereunder to another of its offices, branches or affiliates, if, in the judgment of such Lender, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Section 3.01 or 3.04, as the case may be, in the future, or eliminate the need for the notice pursuant to Section 3.02, as applicable, and (ii) in each case, would not subject such Lender to any unreimbursed cost or expense and would not otherwise be disadvantageous to such Lender in any material economic, legal or regulatory respect.

(b) Suspension of Lender Obligations. If any Lender requests compensation by the Borrower under Section 3.04, the Borrower may, by notice to such Lender (with a copy to the Administrative Agent), suspend the obligation of such Lender to make or continue SOFR Rate Loans from one Interest Period to another Interest Period, or to convert Base Rate Loans into SOFR Rate Loans, until the event or condition giving rise to such request ceases to be in effect (in which case the provisions of Section 3.06(c) shall be applicable); *provided* that such suspension shall not affect the right of such Lender to receive the compensation so requested.

(c) Conversion of SOFR Rate Loans. If any Lender gives notice to the Borrower (with a copy to the Administrative Agent) that the circumstances specified in Section 3.02, 3.03 or 3.04 hereof that gave rise to the conversion of such Lender's SOFR Rate Loans no longer exist (which such Lender agrees to do promptly upon such circumstances ceasing to exist) at a time when SOFR Rate Loans made by other Lenders are outstanding, such Lender's Base Rate Loans shall be automatically converted, on the first day(s) of the next succeeding Interest Period(s) for such outstanding SOFR Rate Loans, to the extent necessary so that, after giving effect thereto, all Loans of a given Class held by the Lenders of such Class holding SOFR Rate Loans and by such Lender are held pro rata (as to principal amounts, interest rate basis, and Interest Periods) in accordance with their respective Pro Rata Shares.

SECTION 3.07 Replacement of Lenders Under Certain Circumstances. If (i) any Lender requests compensation under Section 3.04 or ceases to make SOFR Rate Loans as a result of any condition described in Section 3.02 or Section 3.04, (ii) the Borrower is required to pay any Taxes or additional amounts to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 3.01 and such Lender has declined or is unable to designate a different Lending Office in accordance with Section 3.01(j), (iii) any Lender is a Non-Consenting Lender, (iv) any Lender does not accept an Extension Offer or Refinancing Amendment, (v) any Lender does not consent to the incurrence of any Incremental Facility pursuant to Section 2.16 or the incurrence of any Incremental Equivalent Debt, or (vi) (A) any Lender shall become and continue to be a Defaulting Lender and (B) such Defaulting Lender shall fail to cure the default pursuant to Section 2.20(b) within five Business Days after the Borrower's request that it cure such default, or (vi) any other circumstance exists hereunder that gives the Borrower the right to replace a Lender (other than a Disqualified Lender) as a party hereto, then the Borrower may, at their sole expense and effort, upon notice to such Lender and the Administrative Agent, require such Lender to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in, and consents required by, Section 11.07), all of its interests, rights and obligations under this Agreement and the related Loan Documents (other than its existing rights to payments pursuant to Section 3.01 or Section 3.04) to one or more Eligible Assignees that shall assume such obligations (any of which assignee may be another Lender, if a Lender accepts such assignment), *provided* that:

(a) the Borrower shall have paid to the Administrative Agent the assignment fee specified in Section 11.07(b)(iv);

(b) such Lender shall have received payment of an amount equal to the outstanding principal of its Loans and participations in Letters of Credit, accrued interest thereon, accrued fees and all other amounts payable to it hereunder and under the other Loan Documents (including any amounts payable under Section 3.05) from the assignee (to the extent of such outstanding principal and accrued interest and fees) or the Borrower (in the case of all other amounts);

(c) such Lender being replaced pursuant to this Section 3.07 shall (i) execute and deliver an Assignment and Assumption with respect to such Lender's Commitment and outstanding Loans and participations in Letters of Credit, and (ii) deliver any Revolving Loan Notes evidencing such Loans to the Borrower or Administrative Agent (or a lost or destroyed note indemnity in lieu thereof); *provided* that the failure of any such Lender to execute an Assignment and Assumption or deliver such Revolving Loan Notes evidencing such Loans shall not render such sale and purchase (and the corresponding assignment) invalid and such assignment shall be recorded in the Register and the Revolving Loan Notes evidencing such Loans shall be deemed to be canceled upon such failure;

(d) the Eligible Assignee shall become a Lender hereunder and the assigning Lender shall cease to constitute a Lender hereunder with respect to such assigned Loans, Commitments and participations, except with respect to indemnification provisions under this Agreement, which shall survive as to such assigning Lender;

(e) in the case of any such assignment resulting from a claim for compensation under Section 3.04 or payments required to be made pursuant to Section 3.01, such assignment will result in a reduction in such compensation or payments thereafter;

(f) in the case of any such assignment resulting from a Lender being a Non-Consenting Lender, the Eligible Assignee shall consent, at the time of such assignment, to each matter in respect of which such Lender being replaced was a Non-Consenting Lender; and

(g) such assignment does not conflict with applicable Laws.

Notwithstanding anything to the contrary contained above, any Lender that acts as an Issuing Bank may not be replaced hereunder at any time that it has any Letter of Credit outstanding hereunder unless arrangements reasonably satisfactory to such Issuing Bank (including the furnishing of a back-up standby letter of credit in form and substance, and issued by an issuer reasonably satisfactory to such Issuing Bank or the depositing of cash collateral into a cash collateral account in amounts and pursuant to arrangements reasonably satisfactory to such Issuing Bank) have been made with respect to each such outstanding Letter of Credit.

In the event that (i) the Borrower or the Administrative Agent has requested that the Lenders consent to a departure or waiver of any provisions of the Loan Documents or agree to any amendment thereto (including, without limitation, the incurrence of any Incremental Facility or any Incremental Equivalent Debt), (ii) the consent, waiver or amendment in question requires the agreement of each Lender, all affected Lenders or all the Lenders or all affected Lenders with respect to a certain Class or Classes of the Loans and (iii) the Required Lenders have agreed to such consent, waiver or amendment, then any Lender who does not agree to such consent, waiver or amendment shall be deemed a “**Non-Consenting Lender.**”

A Lender shall not be required to make any such assignment or delegation if, prior thereto, as a result of a waiver by such Lender or otherwise, the circumstances entitling the Borrower to require such assignment and delegation cease to apply.

SECTION 3.08 Survival. All of the Borrower’s obligations under this Article III shall survive termination of the Aggregate Commitments, repayment of all other Obligations hereunder and resignation of the Administrative Agent or the Collateral Agent.

SECTION 3.09 Successor Benchmark Rates.

(a) [Reserved].

(b) Benchmark Replacement. Notwithstanding anything to the contrary herein or in any other Loan Document, if a Benchmark Transition Event and its related Benchmark Replacement Date have occurred prior to the Reference Time in respect of any setting of the then-current Benchmark, then (x) if a Benchmark Replacement is determined in accordance with clause (1) or (2) of the definition of “Benchmark Replacement” for such Benchmark Replacement Date, such Benchmark Replacement will replace such Benchmark for all purposes hereunder and under any Loan Document in respect of such Benchmark setting and subsequent Benchmark settings without any amendment to, or further action or consent of any other party to, this Agreement or any other Loan Document and (y) if a Benchmark Replacement is determined in accordance with clause (3) of the definition of “Benchmark Replacement” for such Benchmark Replacement Date, such Benchmark Replacement will replace such Benchmark for all purposes hereunder and under any Loan Document in respect of any Benchmark setting at or after 5:00 p.m. (New York City time) on the fifth (5th) Business Day after the date notice of such Benchmark Replacement is provided to the Lenders without any amendment to, or further action or consent of any other party to, this Agreement or any other Loan Document so long as the Administrative Agent has not received, by such time, written notice of objection to such Benchmark Replacement from Lenders comprising the Required Lenders of each Class affected thereby. Notwithstanding anything to the contrary herein or in any other Loan Document and subject to the proviso below in this paragraph if a Term SOFR Transition Event and its related Benchmark Replacement Date have occurred prior to the Reference Time in respect of any setting of the then-current Benchmark, then the applicable Benchmark Replacement will replace the then-current Benchmark for all purposes hereunder or under any Loan Document in respect of such Benchmark setting and subsequent Benchmark settings, without any amendment to, or further action or consent of any other party to, this Agreement or any other Loan Document; *provided* that, this sentence shall not be effective unless the Administrative Agent has delivered to the Lenders and the Borrower a Term SOFR Notice. For the avoidance of doubt, the Administrative Agent shall not be required to deliver a Term SOFR Notice after a Term SOFR Transition Event and may do so in its sole discretion.

(c) Benchmark Replacement Conforming Changes. In connection with the implementation of a Benchmark Replacement, the Administrative Agent will have the right in consultation with the Borrower to make Benchmark Replacement Conforming Changes from time to time and, notwithstanding anything to the contrary herein or in any other Loan Document, any amendments implementing such Benchmark Replacement Conforming Changes will become effective without any further action or consent of any other party to this Agreement or any other Loan Document. Notwithstanding anything to the contrary in this Section 3.09, the Administrative Agent and the Lenders shall use commercially reasonable efforts to satisfy Section 1.1001-6 of the United States Treasury Regulations and/or any similar or related IRS guidance to the effect that the implementation of any Benchmark Replacement (together with any Benchmark Replacement Conforming Changes) will not result in a “significant modification” for purposes of Section 1.1001-3 of the United States Treasury Regulations of any obligation of any party under any debt instrument.

(d) Notices; Standards for Decisions and Determinations. The Administrative Agent will promptly notify the Borrower and the Lenders of (i) any occurrence of a Benchmark Transition Event, a Term SOFR Transition Event and its related Benchmark Replacement Date, (ii) the implementation of any Benchmark Replacement, (iii) the effectiveness of any Benchmark Replacement Conforming Changes, (iv) the removal or reinstatement of any tenor of a Benchmark pursuant to clause (e) below and (v) the commencement or conclusion of any Benchmark Unavailability Period. Any determination, decision or election that may be made by the Administrative Agent or, if applicable, any Lender (or group of Lenders) pursuant to this Section 3.09, including any determination with respect to a tenor, rate or adjustment or of the occurrence or non-occurrence of an event, circumstance or date and any decision to take or refrain from taking any action or any selection, will be conclusive and binding absent manifest error and may be made in its or their sole discretion and without consent from any other party to this Agreement or any other Loan Document, except, in each case, as expressly required pursuant to this Section 3.09.

(e) Tenor. Notwithstanding anything to the contrary herein or in any other Loan Document, at any time (including in connection with the implementation of a Benchmark Replacement), (i) if the then-current Benchmark is a term rate (including Adjusted Term SOFR) and either (A) any tenor for such Benchmark is not displayed on a screen or other information service that publishes such rate from time to time as selected by the Administrative Agent in its reasonable discretion or (B) the regulatory supervisor for the administrator of such Benchmark has provided a public statement or publication of information announcing that any tenor for such Benchmark is or will be no longer representative, then the Administrative Agent may modify the definition of “Interest Period” for any Benchmark settings at or after such time to remove such unavailable or non-representative tenor and (ii) if a tenor that was removed pursuant to clause (i) above either (A) is subsequently displayed on a screen or information service for a Benchmark (including a Benchmark Replacement) or (B) is not, or is no longer, subject to an announcement that it is or will no longer be representative for a Benchmark (including a Benchmark Replacement), then the Administrative Agent may modify the definition of “Interest Period” for all Benchmark settings at or after such time to reinstate such previously removed tenor.

(f) Benchmark Unavailability Period. Upon the Borrower's receipt of notice of the commencement of a Benchmark Unavailability Period, the Borrower may revoke any request for a Borrowing of, conversion to or continuation of SOFR Rate Loans to be made, converted or continued during any Benchmark Unavailability Period and, failing that the Borrower will be deemed to have converted any request for a Borrowing of SOFR Rate Loans into a request for a Borrowing of or conversion to Base Rate Loans. During any Benchmark Unavailability Period or at any time that a tenor for the then-current Benchmark is not an Available Tenor, clause (c) of the definition of "Base Rate" based upon SOFR (i.e., the then-current Benchmark or such tenor for such Benchmark, as applicable) will not be used in any determination of Base Rate. Furthermore, if any SOFR Rate Loan is outstanding on the date of the Borrower's receipt of notice of the commencement of a Benchmark Unavailability Period with respect to the SOFR applicable to such SOFR Rate Loan, then on the last day of the Interest Period applicable to such Loan (or the next succeeding Business Day, if such day is not a Business Day), such Loan shall be converted by the Administrative Agent to, and shall constitute, a Base Rate Loan on such day.

(g) Amendment. The provisions of this Section 3.09 shall, solely with respect to implementation of a Benchmark Replacement and Benchmark Replacement Conforming Changes as expressly set forth herein, supersede any contrary provision of Section 11.01.

ARTICLE IV

Conditions Precedent to the Closing Date, Borrowings and Letters of Credit

SECTION 4.01 Conditions to the Closing Date. This Agreement shall become effective on the date on which each of the following conditions is satisfied or waived in accordance with Section 11.01:

(a) The Administrative Agent's receipt of the following, each of which shall be originals or copies in .pdf format, unless otherwise specified:

(i) [reserved]

(ii) this Agreement duly executed by the Borrower;

(iii) the Collateral Agreement (pursuant to which the Administrative Agent is authorized to file customary "all asset" UCC-1 financing statements) duly executed by the Borrower and the Loan Parties;

(iv) [reserved]

(v) (A) certificates of good standing from the secretary of state or other applicable office of the state of organization or formation or provincial or territorial corporate registry of the Borrower and each other Loan Party, (B) organizational documents of each Loan Party, certified by the secretary (or equivalent officer) of such Loan Party, (C) resolutions or other applicable action of each Loan Party, as certified by the secretary (or equivalent officer) of such Loan Party, (D) an incumbency certificate and/or other certificate of Responsible Officers of each Loan Party, in each case evidencing the identity, authority and capacity of each Responsible Officer thereof authorized to act as a Responsible Officer in connection with this Agreement and the other Loan Documents to which it is a party or is to be a party on the Closing Date, and (E) a certificate of a Responsible Officer of the Borrower that the conditions specified in clause (c), below have been satisfied;

(vi) an opinion from Kirkland & Ellis LLP, counsel to the Loan Parties, with respect to matters of New York law and certain aspects of Delaware law; and

(vii) a certificate from the chief financial officer or other officer with equivalent duties of the Borrower as to the Solvency (after giving effect to the Transactions on the Closing Date) of the Borrower and their Subsidiaries substantially in the form attached hereto as Exhibit I; and

(viii) the following Loan Documents required to be entered into pursuant to the terms of this Agreement: (A) a joinder to the Existing Junior Lien Intercreditor Agreement by and among the Administrative Agent, the Collateral Agent, (B) the Revolving Loan Notes, if any, (C) the Agency Fee Letter, (D) the Collateral Agency Fee Letter and (F) the Fee Letter.

(b) [Reserved]

(c) No Default or Event of Default shall have occurred and be continuing.

(d) The Administrative Agent's receipt of certificates or abstracts of title, as applicable, in .pdf format, issued by the relevant Approved Flag Jurisdiction demonstrating that Vessel Collateral is registered in the name of the relevant Loan Party under the relevant Approved Flag Jurisdiction, free of Liens other than Permitted Liens;

(e) The Lenders shall have received at least three Business Days prior to the Closing Date (i) all documentation and other information about the Loan Parties in order to comply with applicable "know your customer" and anti-money laundering rules and regulations, including the USA PATRIOT Act, and (ii) to the extent the Borrower qualifies as a "legal entity customer" a customary FinCEN beneficial ownership certificate, that in each case has been requested in writing at least ten Business Days prior to the Closing Date.

(f) The Administrative Agent shall have received appraisals evidencing the Vessel Collateral Value Amount, as determined by VesselsValue™, such valuations to be dated within thirty (30) days of the Closing Date, which evidence demonstrates that on a pro forma basis that upon the Closing Date (giving effect to the loans under the Second Lien Credit Agreement and any Loans under this Agreement requested on the Closing Date), the Collateral Coverage Ratio shall not be less than 1.50:1.00.

(g) The Administrative Agent shall have received financing statement searches under the Uniform Commercial Code in such jurisdictions as it may reasonably require relating to the Borrower and the Restricted Subsidiaries, demonstrating that the Collateral is (or will be on the Closing Date) free of Liens other than Permitted Liens.

(h) The Administrative Agent and the Lenders shall have received (i) an audited balance sheet and related statements of income (or operations) and cash flows of the Borrower and its Subsidiaries as of and for the year ended December 31, 2023, (ii) consolidated budget of the Borrower and its Subsidiaries for the fiscal year ending December 31, 2024 in form and substance consistent with the budget customarily prepared by management for internal use, (iii) the unaudited financial statements of the Borrower and its Subsidiaries for the fiscal quarter ended March 31, 2024 and (iv) a duly completed compliance certificate in form and substance satisfactory to the Administrative Agent and the Lenders demonstrating compliance with the Financial Covenants on a proforma basis as of the Closing Date.

(i) The Lenders shall have received at least three Business Days prior to the Closing Date (i) all documentation and other information about the Loan Parties in order to comply with applicable “know your customer” and anti-money laundering rules and regulations, including the USA PATRIOT Act, and (ii) to the extent the Borrower qualifies as a “legal entity customer” a customary FinCEN beneficial ownership certificate, that in each case has been requested in writing at least ten Business Days prior to the Closing Date.

Without limiting the generality of the provisions of the last paragraph of Section 11.01, for purposes of determining compliance with the conditions specified in this Section 4.01, each Lender that has signed this Agreement shall be deemed to have consented to, approved or accepted or to be satisfied with, each document or other matter required hereunder to be consented to or approved by or acceptable or satisfactory to a Lender, unless the Administrative Agent shall have received notice from such Lender prior to the proposed Closing Date specifying its objection thereto.

SECTION 4.02 Conditions to the Initial Funding Date. The obligation of each Lender to extend the Initial Revolving Loans to the Borrower and of each Issuing Bank to issue Letters of Credit hereunder is subject to the satisfaction, or waiver in accordance with Section 11.01, of each of the following conditions precedent, except as otherwise agreed between the Borrower and the Required Lenders or as set forth herein (such date, the “Initial Funding Date”):

(a) The Administrative Agent’s receipt of the following, each of which shall be originals or copies in .pdf format, unless otherwise specified:

(i) a Committed Loan Notice duly executed by the Borrower, in accordance with the requirements hereof;

(ii) other than with respect to Excluded Accounts, Control Agreements covering any Deposit Accounts or Securities Accounts of any Loan Party existing as of the Initial Funding Date (or such longer period (including after the Initial Funding Date) as the Administrative Agent may consent to in its sole discretion);

(iii) each Vessel Mortgage in recordable form, together with documentary evidence that each Vessel Mortgage has been duly filed for recordation as a valid first preferred or priority ship mortgage (subject to Permitted Liens) with respect to each Vessel constituting Vessel Collateral as of the Initial Funding Date, in accordance with the laws of the Approved Flag Jurisdiction on which the Vessel Collateral is registered;

(iv) a certificate from the chief financial officer or other officer with equivalent duties of the Borrower as to the Solvency (after giving effect to the Transactions on the Closing Date) of the Borrower and its Subsidiaries substantially in the form attached hereto as Exhibit I;

(v) certification from a Responsible Officer of the Borrower that each Vessel constituting Vessel Collateral (other than any Stacked Vessels) is insured in accordance with the requirements of Section 6.19(k) and the other Loan Documents, with the relevant loss payee endorsements required under the Collateral Agreement;

(vi) evidence that each Vessel constituting Vessel Collateral (excluding any Stacked Vessels) maintains the highest class for a vessel of its type with its classification society, free of any overdue recommendations or conditions affecting class, which status shall be established by a confirmation of class certificate or functional equivalent printout issued by the classification society and dated a date no earlier than thirty (30) days prior to the Initial Funding Date (or such longer period as the Administrative Agent may agree);

(vii) a report from a firm of independent marine insurance consultant in respect of the insurances on the Vessel Collateral, in form and substance reasonably satisfactory to the Administrative Agent, with the cost of such report to be reimbursed by the Borrower;

(viii) Certificates of insurance coverage of the Loan Parties evidencing that the Loan Parties are carrying insurance in accordance with Section 6.07(b); and

(ix) to the extent constituting Collateral, certificates, if any, representing the Pledged Equity of the Borrower and the Subsidiaries of the Borrower, in each case, accompanied by undated stock powers executed in blank.

provided, that any specific time periods described in this clause (a) may be modified as consented to by the Administrative Agent.

(b) All fees and expenses required to be paid hereunder on the Initial Funding Date (and all fees and expenses required to be paid under the Fee Letter on the Closing Date) and, with respect to expenses and legal fees, to the extent invoiced in reasonable detail at least two Business Days before the Initial Funding Date (except as otherwise reasonably agreed to by the Borrower) shall have been paid in full in cash (or, with respect to amounts due on the Initial Funding Date, will have been paid on the Initial Funding Date from the proceeds of the Revolving Loans).

Without limiting the generality of the provisions of the last paragraph of Section 11.01, for purposes of determining compliance with the conditions specified in this Section 4.02, each Lender that has funded Loans hereunder on the Initial Funding Date shall be deemed to have consented to, approved or accepted or to be satisfied with, each document or other matter required hereunder to be consented to or approved by or acceptable or satisfactory to a Lender, unless the Administrative Agent shall have received notice from such Lender prior to the proposed Initial Funding Date specifying its objection thereto.

SECTION 4.03 Conditions to All Borrowings After the Closing Date. Except as set forth herein with respect to Incremental Loans (other than any revolving Incremental Loans borrowed after the establishment of the relevant commitments), the obligation of each Lender to honor a Committed Loan Notice and of each Issuing Bank to issue, amend, renew or extend any Letter of Credit, is subject to the following conditions precedent:

(a) The representations and warranties of the Borrower and each other Loan Party contained in Article V or any other Loan Document shall be true and correct in all material respects on and as of the date of such Borrowing or issuance, amendment, renewal or extension of any Letter of Credit; *provided* that, to the extent that such representations and warranties specifically refer to an earlier date, they shall be true and correct in all material respects as of such earlier date; *provided, further*, that any representation and warranty that is qualified as to “materiality,” “Material Adverse Effect” or similar language shall be true and correct (after giving effect to any qualification therein) in all respects on such respective dates.

(b) As of the date of such Borrowing or the date of any issuance, amendment, renewal or extension of any Letter of Credit, no Default or Event of Default shall have occurred and be continuing on such date (immediately prior to giving effect to the extensions of credit requested to be made) or would result after giving effect to the extensions of credit requested to be made on such date.

(c) The Administrative Agent shall have received a Committed Loan Notice in accordance with the requirements hereof and, if applicable, the applicable Issuing Bank shall have received an Issuance Notice in accordance with the requirements hereof, which Committed Loan Notice or Issuance Notice, as applicable, shall include a representation from the Borrower that immediately prior to, and after giving effect to the extensions of credit requested to be made on such date, on a Pro Forma Basis, the Borrower will be in compliance with the Financial Covenants (based on the last delivered appraisals in the case of the Collateral Coverage Ratio and the RCF Collateral Coverage Ratio, and based on the financial statements in the most recently delivered Compliance Certificate, in the case of the Revolving Credit Facility Net Leverage Ratio); *provided however* if a Financial Covenant Blocking Event has occurred prior to such Borrowing without the Borrower subsequently delivering a Compliance Certificate evidencing compliance with the Financial Covenants, the Borrower shall provide calculations reasonably satisfactory to the Administrative Agent evidencing such compliance with the Financial Covenants on a Pro Forma Basis.

(d) As of the date of such Borrowing or the date of any issuance, amendment, renewal or extension of any Letter of Credit, the audited financial statements most recently delivered pursuant to Section 6.01(a) shall not have been subject to any “going concern” qualification (excluding any “emphasis of matter” paragraph or any explanatory statement), other than any such statement, qualification or exception resulting from or relating to (i) an anticipated breach of a Financial Covenant (provided that if such statement is included, the Borrower shall demonstrate in detail reasonably satisfactory to the Administrative Agent its compliance with the Financial Covenants as represented by the Borrower under paragraph (c) above), (ii) an upcoming maturity date or (iii) activities, operations, financial results or liabilities of any Person other than the Loan Parties and the Restricted Subsidiaries (unless waived by the Required Lenders).

(e) As of the date of such Borrowing or the date of any issuance, amendment, renewal or extension of any Letter of Credit, no Blocking Event shall have occurred and be continuing on such date (immediately prior to giving effect to the extensions of credit requested to be made) or would result after giving effect to the extensions of credit requested to be made on such date.

Subject to Section 1.08(g), each Committed Loan Notice (other than a Committed Loan Notice requesting only a conversion of Loans to another Type or a continuation of SOFR Rate Loans) and each Issuance Notice submitted by the Borrower shall be deemed to be a representation and warranty that the condition specified in Sections 4.03(a) and (b) has been satisfied on and as of the date of the applicable Borrowing or issuance, amendment, renewal or extension of a Letter of Credit.

ARTICLE V

Representations and Warranties

The Borrower represents and warrants with respect to each of the following to the Lenders, the Issuing Banks, the Administrative Agent and the Collateral Agent, in each case, to the extent and, unless otherwise specifically agreed by the Borrower, only on the dates required by Section 2.16, 4.01, 4.02 or 4.03.

SECTION 5.01 Existence, Qualification and Power; Compliance with Laws. Each Loan Party and each Restricted Subsidiary that is not an Immaterial Subsidiary,

(a) is duly organized or formed, validly existing and in good standing under the Laws of the jurisdiction of its incorporation or organization (to the extent such concepts exist in such jurisdiction);

(b) has all corporate or other organizational power and authority to (i) own its assets and carry on its business as currently conducted and (ii) in the case of the Loan Parties, execute, deliver and perform its obligations under the Loan Documents to which it is a party and consummate the Transactions;

(c) is duly qualified and in good standing (to the extent such concepts exist in such jurisdiction) under the Laws of each jurisdiction where its ownership, lease or operation of properties or the conduct of its business requires such qualification;

(d) is in compliance with all applicable Laws; and

(e) has all requisite governmental licenses, authorizations, consents and approvals to operate its business as currently conducted;

except in each case referred to in clauses (a) (other than with respect to the Borrower), (c), (d) or (e), to the extent that failure to do so has not resulted in, or is not reasonably expected, individually or in the aggregate, to result in a Material Adverse Effect.

SECTION 5.02 Authorization; No Contravention.

(a) The execution, delivery and performance by each Loan Party of each Loan Document to which it is a party has been duly authorized by all necessary corporate or other organizational action.

(b) Neither the execution, delivery and performance by each Loan Party of each Loan Document to which it is a party nor the consummation of the Transactions will,

(i) contravene the terms of any of its Organization Documents;

(ii) result in any breach or contravention of, or the creation of any Lien (other than a Permitted Lien) upon any of the property or assets of such Loan Party or any of the Restricted Subsidiaries under (A) any contractual obligation relating to Material Indebtedness or (B) any order, injunction, writ or decree of any Governmental Authority or any arbitral award to which such Loan Party or its property is subject;

(iii) violate any applicable Law; or

(iv) require any approval of stockholders, members or partners or any approval or consent of any Person under any contractual obligation relating to Material Indebtedness, except for such approvals or consents which will be obtained on or before the Closing Date;

except with respect to any breach, contravention or violation (but not creation of Liens) referred to in clauses (ii), (iii) and (iv), to the extent that such breach, contravention or violation has not resulted in, or is not reasonably expected, individually or in the aggregate, to result in a Material Adverse Effect.

SECTION 5.03 Governmental Authorization. No material approval, consent, exemption, authorization, or other action by, or notice to, or filing with, any Governmental Authority is necessary or required in connection with the execution, delivery or performance by, or enforcement against, any Loan Party of this Agreement or any other Loan Document, except for,

(a) filings necessary to perfect the Liens on the Collateral granted by the Loan Parties in favor of the Secured Parties;

(b) the approvals, consents, exemptions, authorizations, actions, notices and filings that have been duly obtained, taken, given or made and are in full force and effect (except to the extent not required to be obtained, taken, given or made or in full force and effect pursuant to the Collateral Documents); and

(c) those approvals, consents, exemptions, authorizations or other actions, notices or filings, the failure of which to obtain or make has not resulted in, or is not reasonably expected, individually or in the aggregate, to result in a Material Adverse Effect.

SECTION 5.04 Binding Effect. This Agreement and each other Loan Document has been duly executed and delivered by each Loan Party that is party hereto and thereto. This Agreement and each other Loan Document constitutes a legal, valid and binding obligation of each Loan Party, enforceable against each Loan Party that is party thereto in accordance with its terms, except as such enforceability may be limited by Debtor Relief Laws and by general principles of equity and principles of good faith and fair dealing.

SECTION 5.05 Financial Statements; No Material Adverse Effect.

(a) The Financial Statements fairly present in all material respects the financial condition of the Borrower and its Subsidiaries as of the dates thereof and their results of operations for the period covered thereby in accordance with GAAP (as in effect on the Closing Date (or the date of preparation)) consistently applied throughout the periods covered thereby, except as otherwise expressly noted therein.

(b) Since the Closing Date, there has been no event or circumstance, either individually or in the aggregate, that has resulted in, and is reasonably expected, individually or in the aggregate, to result in a Material Adverse Effect.

(c) The forecasts of consolidated balance sheets and statements of comprehensive income (loss) of the Borrower and its Subsidiaries which have been furnished to the Administrative Agent prior to the Closing Date, when taken as a whole, have been prepared in good faith on the basis of the assumptions stated therein, which assumptions were believed to be reasonable at the time made and at the time the forecasts are delivered, it being understood that (i) no forecasts are to be viewed as facts, (ii) any forecasts are subject to significant uncertainties and contingencies, many of which are beyond the control of the Loan Parties or the Sponsors, (iii) no assurance can be given that any particular forecasts will be realized and (iv) actual results may differ and such differences may be material.

SECTION 5.06 Litigation. Except as set forth in Schedule 5.06, there are no actions, suits, proceedings, claims or disputes pending or, to the knowledge of the Borrower, overtly threatened in writing, at law, in equity, in arbitration or before any Governmental Authority, by or against the Borrower or any of the Restricted Subsidiaries that has resulted in or if determined adversely would reasonably be expected, individually or in the aggregate, to result in Material Adverse Effect.

SECTION 5.07 Labor Matters. Except as set forth on Schedule 5.07 or except as has not resulted in, or is not reasonably expected, individually or in the aggregate, to result in a Material Adverse Effect: (a) there are no strikes or other labor disputes against any of the Borrower or the Restricted Subsidiaries pending or, to the knowledge of the Borrower, threatened and (b) hours worked by and payment made based on hours worked to employees of the Borrower or a Restricted Subsidiary have not been in material violation of the Fair Labor Standards Act or any other applicable Laws dealing with wage and hour matters.

SECTION 5.08 Ownership of Property; Liens. Each Loan Party and each Restricted Subsidiary has good and valid record title in fee simple to, or valid leasehold interests in, or easements or other limited property interests in, all real property necessary in the ordinary conduct of its business, free and clear of all Liens except for Permitted Liens and except where the failure to have such title or other interest has not resulted in, or is not reasonably expected, individually or in the aggregate, to result in a Material Adverse Effect.

SECTION 5.09 Environmental Matters.

(a) Except as has not resulted in, or is not reasonably expected, individually or in the aggregate, to result in a Material Adverse Effect, (i) the Loan Parties and the Restricted Subsidiaries are in compliance with all applicable Environmental Laws (including having obtained all Environmental Permits) and (ii) none of the Loan Parties or any of the Restricted Subsidiaries is subject to any pending, or to the knowledge of the Loan Parties, threatened Environmental Claim or any other Environmental Liability.

(b) None of the Loan Parties or any of the Restricted Subsidiaries has used, released, treated, stored, transported or disposed of Hazardous Materials, at or from any currently or formerly owned or operated real estate or facility relating to its business, in violation of Environmental Law and in a manner that has resulted in, or is reasonably expected, individually or in the aggregate, to result in a Material Adverse Effect.

SECTION 5.10 Taxes. Except as has not resulted in, or is not reasonably expected, individually or in the aggregate, to result in a Material Adverse Effect, the Borrower and the Restricted Subsidiaries have timely filed all tax returns and reports required to be filed, and have paid all foreign, U.S. federal and state, and other Taxes, assessments, fees and other governmental charges levied or imposed on their properties, income or assets or otherwise due and payable, except those which are being contested in good faith by appropriate actions diligently conducted and for which adequate reserves have been provided in accordance with GAAP.

SECTION 5.11 ERISA Compliance.

(a) Except as set forth in Schedule 5.11(a) or has not resulted in, or would not reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect, each Plan is in compliance with the terms of such Plan and applicable provisions of ERISA, the Code and other applicable Laws.

(b) Except, as set forth in Schedule 5.11(b) or, with respect to each of the below clauses of this Section 5.11(b), as has not resulted in, or would not reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect:

(i) no ERISA Event or Foreign Plan Event has occurred;

(ii) no Pension Plan has failed to satisfy the minimum funding standards (within the meaning of Section 412 of the Code or Section 302 of ERISA) applicable to such Pension Plan;

(iii) neither the Borrower, nor any Guarantor nor any of their respective ERISA Affiliates has incurred, or would reasonably be expected to incur, any liability (and no event has occurred which, with the giving of notice under Section 4219 of ERISA, would result in such liability) under Sections 4201 et seq. of ERISA with respect to a Multiemployer Plan;

(iv) neither the Borrower, nor any Guarantor nor any of their respective ERISA Affiliates has engaged in a transaction that is subject to Sections 4069 or 4212(c) of ERISA; and

(v) neither the Borrower, nor any Guarantor nor any ERISA Affiliate has been notified in writing that a Multiemployer Plan is insolvent (within the meaning of Section 4245 of ERISA) or has been determined to be in “endangered” or “critical” status (within the meaning of Section 432 of the Code or Section 305 of ERISA) and no such Multiemployer Plan is expected to be insolvent or in endangered or critical status.

SECTION 5.12 Subsidiaries. As of the Closing Date, all of the outstanding Equity Interests in the Borrower and each Restricted Subsidiary have been validly issued and are fully paid and (if applicable) non-assessable, and all Equity Interests owned by the Borrower or any Guarantor in any of their respective direct Material Subsidiaries are owned free and clear of all Liens (other than Permitted Liens) of any Person. As of the Closing Date, Schedule 5.12 (i) sets forth the name and jurisdiction of each Subsidiary, (ii) sets forth the ownership interest of the Borrower and each Subsidiary in each Subsidiary, including the percentage of such ownership and (iii) identifies each Subsidiary that is a Subsidiary the Equity Interests of which are required to be pledged on the Closing Date pursuant to the Collateral Documents.

SECTION 5.13 Margin Regulations: Investment Company Act.

(a) As of the Closing Date, none of the Collateral is Margin Stock. No Loan Party is engaged nor will it engage, principally or as one of its important activities, in the business of purchasing or carrying Margin Stock (within the meaning of Regulation U issued by the FRB), or extending credit for the purpose of purchasing or carrying Margin Stock, and no proceeds of any Borrowings or issuance of, or drawings under, any Letter of Credit will be used for any purpose that violates Regulation U.

(b) Neither the Borrower nor any Guarantor is an “investment company” under the Investment Company Act of 1940.

SECTION 5.14 Disclosure. As of the Closing Date, none of the written information and written data heretofore or contemporaneously furnished in writing by or on behalf of the Borrower or any Guarantor to any Agent or any Lender on or prior to the Closing Date in connection with the transactions contemplated hereby and the negotiation of this Agreement or delivered hereunder or any other Loan Document on or prior to the Closing Date, when taken as a whole, contains any material misstatement of fact or omits to state any material fact necessary to make such written information and written data taken as a whole, in the light of the circumstances under which it was delivered, not materially misleading (after giving effect to all modifications and supplements to such written information and written data, in each case, furnished after the date on which such written information or such written data was originally delivered); it being understood that for purposes of this Section 5.14, such written information and written data shall not include projections, *pro forma* financial information, financial estimates, forecasts and forward-looking information or information of a general economic or general industry nature.

SECTION 5.15 Properties; Titles, Etc.

(a) The relevant Loan Parties have good title to all of the Vessel Collateral, free and clear of all Liens except (i) Liens pursuant to the Loan Documents and the Junior Lien Debt (if any), (ii) Permitted Liens of the type permitted under clauses (a), (d) and (oo) of Section 7.01 and (iii) Liens being released on the Closing Date. Set forth on Schedule 5.15 hereto is a complete and accurate list of all Vessel Collateral owned by each Loan Party as of the Closing Date and to be subject to the Vessel Mortgage on the Closing Date; as of the Closing Date all Vessel Collateral is duly documented in the name of the applicable Loan Party as shipowner under the laws and flag of the United States and, except as set forth on Schedule 5.15, eligible to operate in the coastwise trade of the United States. Each Loan Party that owns Vessel Collateral is (i) if such Vessel Collateral is one or more Vessels registered under the laws and flag of the United States, a citizen of the United States within the meaning of Section 2(c) of the Shipping Act, 1916, as amended (46 U.S.C. § 50501), eligible to own and operate vessels in the coastwise trade of the United States, or (ii) eligible to own and operate vessels in whatever jurisdiction and trade the Vessel Collateral is qualified, as applicable.

(b) Except as otherwise permitted under the Loan Documents including the last sentence of this Section 5.15(b), all filings and other actions on behalf of the Borrower or, as applicable, any Restricted Subsidiary of the Borrower necessary or desirable to perfect and protect the security interest in the Vessel Collateral created under the Vessel Mortgages have been duly made or taken (or arrangements reasonably satisfactory to the Lenders with respect thereto have been made) and such security interests are in full force and effect, and the Vessel Mortgages create in favor of the Collateral Agent or trustee/mortgagee, as the case may be, for the benefit of the Secured Parties a valid and, together with such filings, recordings and other actions, when effected, perfected first priority security interest (except for Permitted Liens of the type permitted under clauses (a), (d), and (tt) of the Section 7.01) in the Vessel Collateral, securing the payment of the Indebtedness. To the extent that the Vessel Collateral is registered under the laws and flag of the United States, the Vessel Mortgage, executed and delivered, creates in favor of the Collateral Agent, as trustee/mortgagee, a legal, valid, and enforceable first preferred mortgage lien over the whole of the Vessel Collateral therein named and when duly recorded shall constitute a perfected first “preferred mortgage” within the meaning of Section 31301(6)(B) of Title 46 of the United States Code, entitled to the benefits accorded to a first preferred mortgage on a vessel registered under the laws and flag of the United States.

(c) All of the material properties of the Borrower and its Restricted Subsidiaries that are reasonably necessary for the operation of their businesses (other than Excluded Stacked Vessels) are in good working condition, ordinary wear and tear excepted, and are maintained in accordance with reasonable commercial business standards, except (i) as set forth in Schedule 5.15 or (ii) where the failure to be in such condition or maintain such property could not reasonably be expected to have a Material Adverse Effect.

SECTION 5.16 Solvency. On the Closing Date after giving effect to the Transactions, the Borrower and its Subsidiaries, on a consolidated basis, are Solvent.

SECTION 5.17 Compliance with Anti-Corruption Laws and Sanctions.

(a) No Relevant Person is:

(i) a Restricted Party; or

(ii) to its knowledge the subject of any claim, proceeding, formal notice, investigation or other action by any regulatory or enforcement authority concerning any alleged violation of Sanctions.

(b) The Borrower has implemented and maintains in effect policies and procedures designed to ensure compliance by the Borrower, its Subsidiaries and their respective directors, officers, employees and agents with applicable Anti-Corruption Laws and Sanctions, and the Borrower, its Subsidiaries and their respective officers and directors and to the knowledge of the Borrower its employees and agents, are in compliance with applicable Anti-Corruption Laws and Sanctions in all material respects and are not knowingly engaged in any activity that would reasonably be expected to result in the Borrower being designated as a Sanctioned Person.

SECTION 5.18 Collateral Documents. Except as otherwise contemplated hereby or under any other Loan Documents, the provisions of the Collateral Documents, together with such filings and other actions required to be taken hereby or by the applicable Collateral Documents or contemplated by the Collateral Documents (including the delivery to the Collateral Agent of any Pledged Collateral required to be delivered pursuant to the applicable Collateral Documents), are effective to create in favor of the Collateral Agent for the benefit of the Secured Parties a legal, valid and enforceable perfected Lien (subject to Permitted Liens) with the applicable priority contemplated herein or in the other Loan Documents on all right, title and interest of the Borrower and the applicable Guarantors, respectively, in the Collateral described therein.

SECTION 5.19 Use of Proceeds. The Borrower has used the proceeds of the Loans and the Letters of Credit issued hereunder only in compliance (and not in contravention of) applicable Laws and each Loan Document.

ARTICLE VI
Affirmative Covenants

So long as the Termination Conditions have not been satisfied, the Borrower shall, and shall (except in the case of the covenants set forth in Sections 6.01, 6.02, 6.03 and 6.05) cause each of the Restricted Subsidiaries to:

SECTION 6.01 Financial Statements. Deliver to the Administrative Agent for prompt further distribution by the Administrative Agent to each Lender each of the following:

(a) Audited Annual Financial Statements. Within one hundred twenty (120) days after the end of each fiscal year (commencing with the fiscal year ending December 31, 2024) of the Borrower, a consolidated balance sheet of the Borrower and its Subsidiaries as at the end of such fiscal year, and the related consolidated statements of comprehensive income (loss), stockholders' equity and cash flows for such fiscal year together with related notes thereto, setting forth in each case in comparative form the figures for the previous fiscal year (if ending after the Closing Date), prepared in accordance with GAAP, audited and accompanied by a report and opinion of the Borrower's auditor on the Closing Date or any other accounting firm of nationally or regionally recognized standing or another accounting firm reasonably acceptable to the Administrative Agent, which report and opinion shall be prepared in accordance with generally accepted auditing standards and which financial statements shall be accompanied by management's discussion and analysis describing results of operations in the form customarily prepared by management of the Borrower.

(b) Quarterly Financial Statements. As soon as available, but in any event within sixty (60) days after the end of each of the first three fiscal quarters of each fiscal year of the Borrower (commencing with the fiscal quarter ended September 30, 2024), (i) an unaudited consolidated balance sheet of the Borrower and its Subsidiaries as at the end of such fiscal quarter, (ii) the related unaudited consolidated statements of comprehensive income (loss) for such fiscal quarter and for the portion of the fiscal year then ended and (iii) the related unaudited consolidated statement of cash flows for the portion of the fiscal year then ended, setting forth, in each case of clauses (ii) and (iii), in comparative form, the figures for the corresponding fiscal quarter of the previous fiscal year and the corresponding portion of the previous fiscal year, in each case if ended after the Closing Date, certified by a Responsible Officer of the Borrower as fairly presenting in all material respects the financial condition, results of operations and cash flows of the Borrower and its Subsidiaries in material compliance with GAAP, subject to year-end adjustments and the absence of footnotes, which financial statements, to the extent the Borrower (or Parent Entity or Qualified Reporting Subsidiary) is not required to file a 10-Q, shall be accompanied by management's discussion and analysis describing results of operations in the form customarily prepared by management of the Borrower. Notwithstanding the foregoing, the Borrower shall deliver to the Administrative Agent, when available, the financial statements described in this paragraph (b) in respect of the fiscal quarter ended June 30, 2024; *provided* that no Compliance Certificate shall be required to be delivered in connection with or in respect of such financial statements pursuant to Section 6.02(a).

(c) Budget; Projections. On or prior to the date financial statements are required to be delivered pursuant to Section 6.01(a) (commencing with the first fiscal year ending after the Closing Date), a consolidated budget for the following fiscal year on a quarterly basis in form and substance consistent with the budget customarily prepared by management of the Borrower for their internal use.

(d) Unrestricted Subsidiaries. Simultaneously with the delivery of each set of consolidated financial statements referred to in Sections 6.01(a) and 6.01(b) above, such supplemental financial information (which need not be audited) as is necessary to eliminate the accounts of Unrestricted Subsidiaries (if any) from such consolidated financial statements.

Notwithstanding the foregoing, the obligations in paragraphs (a) and (b) of this Section 6.01 may be satisfied by furnishing, at the Borrower's option, (i) the applicable financial statements of (1) any wholly-owned Restricted Subsidiary of the Borrower that, together with its combined and consolidated Restricted Subsidiaries, constitutes substantially all of the assets of the Borrower and its combined consolidated Subsidiaries (a "**Qualified Reporting Subsidiary**") or (2) any Person of which the Borrower is a Subsidiary (such Person, a "**Parent Entity**") or (ii) the Borrower or a Qualified Reporting Subsidiary's or Parent Entity's Form 10-K or 10-Q, as applicable, filed with the SEC (or equivalent form whether or not filed with the SEC consistent with the Borrower's practice as of the Closing Date); *provided* that with respect to each of clauses (i) and (ii), (A) to the extent such information relates to a Qualified Reporting Subsidiary, or a Parent Entity, such information is accompanied by customary consolidating information (which need not be audited) that explains in reasonable detail the material differences between the information relating to such Qualified Reporting Subsidiary or Parent Entity, on the one hand, and the information relating to the Borrower and its Subsidiaries, on the other hand; (B) (i) in the event that the Borrower (or any Qualified Reporting Subsidiary or Parent Entity) delivers to the Administrative Agent a Form 10-K for any fiscal year (or similar filing in the Applicable Jurisdiction), as filed with the SEC or in such form as would have been suitable for filing with the SEC (or similar governing body in the Applicable Jurisdiction, in each case), within the time frames set forth in paragraph (a) of this Section 6.01, such Form 10-K shall satisfy all requirements of paragraph (a) of this Section 6.01 with respect to such fiscal year to the extent that it contains the information and report and opinion required by such paragraph (a) and (ii) in the event that the Borrower (or any Qualified Reporting Subsidiary or Parent Entity) delivers to the Administrative Agent a Quarterly Report on Form 10-Q for any fiscal quarter (or similar filing in the Applicable Jurisdiction), as filed with the SEC or in such form as would have been suitable for filing with the SEC (or similar governing body in the Applicable Jurisdiction, in each case), within the time frames set forth in paragraph (b) of this Section 6.01, such Form 10-Q shall satisfy all requirements of paragraph (b) of this Section 6.01 with respect to such fiscal quarter to the extent that it contains the information required by such paragraph (b), (C) any financial statements required to be delivered pursuant to this Section 6.01 shall not be required to contain purchase accounting adjustments and (D) following the consummation of an acquisition in the applicable period or the period thereafter, the obligations in paragraphs (a) and (b) of this Section 6.01 with respect to the target of such acquisition may be satisfied by, at the option of the Borrower, (1) furnishing management accounts for the target of such acquisition or (2) omitting the target of such acquisition from the required financial statements of the Borrower and its Subsidiaries for the applicable period and period thereafter.

Notwithstanding the foregoing, upon the request of the Borrower in connection with any material Permitted Investment or other acquisition permitted hereunder, the Administrative Agent may consent to a thirty-day extension to the deadlines in this Section 6.01.

SECTION 6.02 Certificates; Other Information. Deliver to the Administrative Agent for prompt further distribution by the Administrative Agent to each Lender each of the following:

(a) Compliance Certificate. No later than fifteen (15) Business Days after the delivery of the financial statements referred to in Sections 6.01(a) and 6.01(b), a duly completed Compliance Certificate.

(b) VesselsValue™ Statement. Provided that VesselsValue™ (or any successor thereof) exists at the time such written request is received by the Borrower, within thirty (30) days of the reasonable written request of the Administrative Agent (or by such later date as the Administrative Agent may agree), a statement of the fair market value of each Vessel that is Collateral, as determined by VesselsValue™ (or any successor thereof).

(c) SEC Filings. Concurrently with each Compliance Certificate, copies of all annual, regular, periodic and special reports, proxy statements and registration statements which the Borrower or any Restricted Subsidiary has filed with the SEC subsequent to the delivery of the immediately preceding Compliance Certificate (or, if prior to the delivery of the first Compliance Certificate, subsequent to the Closing Date) (other than amendments to any registration statement (to the extent such registration statement, in the form it became effective, is delivered to the Administrative Agent), exhibits to any registration statement and, if applicable, any registration statement on Form S-8), and in any case not otherwise required to be delivered to the Administrative Agent pursuant to any other clause of this Section 6.02; *provided* that notwithstanding the foregoing, the obligations in this Section 6.02(b) may be satisfied by causing such information to be publicly available on the SEC's EDGAR website, another publicly available reporting service or the applicable regulator's website.

(d) Information Regarding Collateral. The Borrower will furnish to the Administrative Agent concurrently with each Compliance Certificate or by such later date as reasonably agreed to by the Administrative Agent, written notice of any change (i) in any Loan Party's legal name (as set forth in its certificate of organization or like document) or (ii) in the location of any Loan Party's chief executive office or the jurisdiction of incorporation or organization of any Loan Party or in the form of its organization, in each case, occurring subsequent to the delivery of the immediately preceding Compliance Certificate (or, if prior to the delivery of the first Compliance Certificate, subsequent to the Closing Date), in each case to the extent such information is necessary to enable the Collateral Agent to perfect or maintain the perfection or priority of its security interest in the Collateral of the relevant Loan Party.

(e) Lender Calls. Upon the reasonable request of the Administrative Agent, following delivery of the financial statements pursuant to Sections 6.01(a) and (b) above, the Borrower shall promptly hold a conference call (at a time selected by the Borrower and reasonably acceptable to the Administrative Agent) with all Lenders (including both "public" and "private" side lenders) who choose to attend such conference call, at which call shall be reviewed the financial information presented in such financial statements; *provided* that in no event shall more than one such conference call be requested in any fiscal quarter; *provided, further*, that the obligations of this Section 6.02(e) may be satisfied by (i) the Borrower holding a public earnings call in respect of such fiscal quarter or (ii) the Borrower inviting the Lenders to attend a conference call for such fiscal quarter with other holders of Indebtedness.

(f) Other Information. Such additional information (a) regarding the business operations of any Loan Party or any Restricted Subsidiary as the Administrative Agent may from time to time on its own behalf or on behalf of the Required Lenders reasonably request and (b) as may be reasonably requested by the Administrative Agent or any Lender through the Administrative Agent for purposes of compliance with applicable "know your customer" and anti-money laundering rules and regulations, including the USA PATRIOT Act and the Beneficial Ownership Regulation.

Documents required to be delivered pursuant to Section 6.01 or Section 6.02 may be delivered electronically and if so delivered, shall be deemed to have been delivered on the date (i) on which the Borrower (or any Qualified Reporting Subsidiary or Parent Entity) posts such documents, or provides a link thereto, on the Borrower's (or any Qualified Reporting Subsidiary's or Parent Entity's) website on the Internet, or (ii) on which such documents are posted on the Borrower's behalf on Syndtrak or another relevant website, if any, to which each Lender and the Administrative Agent have access (whether a commercial, third-party website or whether sponsored by the Administrative Agent). Each Lender shall be solely responsible for timely accessing posted documents or requesting delivery of paper copies of such documents from the Administrative Agent and maintaining its copies of such documents.

The Borrower hereby acknowledges that (a) the Administrative Agent and/or the Lead Arranger will make available to the Lenders materials and/or information provided by or on behalf of the Borrower hereunder (collectively, “**Borrower Materials**”) by posting the Borrower Materials on Syndtrak or another similar electronic system (the “**Platform**”) and (b) certain of the Lenders may have personnel who do not wish to receive any information with respect to the Borrower or its Subsidiaries, or the respective securities of any of the foregoing, that is not Public-Side Information, and who may be engaged in investment and other market-related activities with respect to such Person’s securities. The Borrower hereby agrees that (i) all Borrower Materials that are to be made available to Public Lenders shall be clearly and conspicuously marked “PUBLIC” which, at a minimum, shall mean that the word “PUBLIC” shall appear prominently on the first page thereof (and by doing so shall be deemed to have represented that such information contains only Public-Side Information); (ii) by marking Borrower Materials “PUBLIC,” the Borrower shall be deemed to have authorized the Administrative Agent, the Lead Arranger and the Lenders to treat such Borrower Materials as containing only Public-Side Information (*provided, however*, that to the extent such Borrower Materials constitute Information, they shall be treated as set forth in Section 11.08); (iii) all Borrower Materials marked “PUBLIC” are permitted to be made available through a portion of the Platform designated “Public-Side Information”; and (iv) the Administrative Agent and the Lead Arranger shall treat any Borrower Materials that are not marked “PUBLIC” as being suitable only for posting on a portion of the Platform not designated “Public-Side Information.”

For the avoidance of doubt, the foregoing shall be subject to the provisions of Section 11.08.

SECTION 6.03 Notices. Promptly after a Responsible Officer obtains actual knowledge thereof, notify the Administrative Agent for prompt further notification by the Administrative Agent to each Lender of:

(a) the occurrence and continuation of any Default or Event of Default; and

(b) (i) any dispute, litigation, investigation or proceeding between the Borrower or any Restricted Subsidiary and any arbitrator or Governmental Authority or (ii) the filing or commencement of, or any material development in, any litigation or proceeding affecting the Borrower or any Restricted Subsidiary, or (iii) the occurrence of any ERISA Event or Foreign Plan Event that, in any such case referred to in clause (i), (ii) or (iii), has resulted, or has a reasonable probability of being determined adversely and could reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect.

Each notice pursuant to this Section 6.03 shall be accompanied by a written statement of a Responsible Officer of the Borrower setting forth a summary description of the occurrence referred to therein and stating what action the Borrower has taken and proposes to take with respect thereto. For the avoidance of doubt, the foregoing shall be subject to the provisions of Section 11.08.

SECTION 6.04 Payment of Certain Taxes. Pay, discharge or otherwise satisfy, as the same shall become due and payable, all obligations and liabilities in respect of Taxes imposed upon it or upon its income or profits or in respect of its property, except, in each case, to the extent (a) any such Tax, assessment, charge or levy is being contested in good faith and by appropriate actions diligently conducted and for which appropriate reserves have been established in accordance with GAAP or (b) the failure to pay, discharge or otherwise satisfy the same has not resulted in, or is not reasonably expected, individually or in the aggregate, to result in a Material Adverse Effect.

SECTION 6.05 Preservation of Existence of the Borrower. Preserve, renew and maintain in full force and effect its legal existence under the Laws of the jurisdiction of its incorporation or organization, except as otherwise expressly permitted under this Agreement.

SECTION 6.06 Maintenance of Properties. Maintain, preserve and protect all of its material properties and equipment used in the operation of its business in good working order, repair and condition (ordinary wear and tear excepted and casualty or condemnation excepted), except to the extent the failure to do so has not resulted in, or is not reasonably expected, individually or in the aggregate, to result in a Material Adverse Effect.

SECTION 6.07 Maintenance of Insurance.

(a) Maintain or cause to be maintained with insurance companies that the Borrower believe (in the good faith judgment of their management) are financially sound and reputable at the time the relevant coverage is placed or renewed or with a Captive Insurance Subsidiary, insurance with respect to its properties and business against loss or damage of the kinds customarily insured against by Persons engaged in the same or similar business and of such types and in such amounts (after giving effect to any self-insurance) as are customarily carried under similar circumstances by such other Persons, and furnish to the Administrative Agent, which, absent a continuing Event of Default, shall not be made more than once in any twelve month period, upon reasonable written request from the Administrative Agent, information presented in reasonable detail as to the insurance so carried. Schedule 6.07 sets forth a true, complete and accurate description of all material insurance maintained by or on behalf of the Borrower or the other Loan Parties as of the Closing Date.

(b) Following the Initial Funding Date, the Borrower shall use commercially reasonable efforts such that each such policy of insurance (as appropriate and is customary and with respect to jurisdictions outside the United States, to the extent available in such jurisdiction without undue cost or expense),

(i) (A) names the Collateral Agent and the Administrative Agent, on behalf of the Secured Parties, as an additional insured thereunder (with respect to liability insurance) and/or (B) to the extent covering Collateral in the case of property insurance, contains a loss payable clause or endorsement that names the Collateral Agent and the Administrative Agent, on behalf of the Secured Parties, as the loss payee thereunder; and

(ii) provides that it shall not be cancelled, modified (such modification, to the extent causing a material impairment or otherwise adverse effect on the interests of the Lenders) or not renewed (x) by reason of nonpayment of premium except upon not less than 10 days' prior written notice thereof by the insurer to the Administrative Agent (giving the Administrative Agent the right to cure defaults in the payment of premiums) or (y) for any other reason except upon not less than thirty (30) days' prior written notice thereof by the insurer to the Administrative Agent. The Borrower shall deliver to the Administrative Agent, prior to the cancellation, modification (such modification, to the extent causing a material impairment or otherwise adverse effect on the interests of the Lenders) or non-renewal of any such policy of insurance, a copy of a renewal or replacement policy (or other evidence of renewal of a policy previously delivered to the Administrative Agent, including an insurance binder) together with evidence reasonably satisfactory to the Administrative Agent of payment of the premium therefor;

provided that (A) absent a Specified Event of Default that is continuing, any proceeds of any insurance shall be delivered by the insurer(s) to the Borrower or one of their Subsidiaries and applied in accordance with this Agreement and (B) this Section 6.07(b) shall not be applicable to (1) business interruption insurance, workers' compensation policies, employee liability policies, fiduciary policies, directors and officers policies and certain other policies as agreed between the Borrower and the Administrative Agent or (2) the extent unavailable from the relevant insurer after the Borrower's use of their commercially reasonable efforts.

SECTION 6.08 Compliance with Laws. Comply with the requirements of all Laws (including applicable ERISA-related laws and all Environmental Laws) and all orders, writs, injunctions and decrees of any Governmental Authority applicable to it or to its business or property, except to the extent the failure to comply therewith has not resulted in, or is not reasonably expected, individually or in the aggregate, to result in a Material Adverse Effect.

SECTION 6.09 Books and Records. Maintain proper books of record and account in which entries that are full, true and correct in all material respects shall be made of all material financial transactions and material matters involving the assets and business of the Borrower or such Restricted Subsidiary, as the case may be (it being understood and agreed that Foreign Subsidiaries may maintain individual books and records in conformity with generally accepted accounting principles in their respective countries of organization or operations and that such maintenance shall not constitute a breach of the representations, warranties or covenants hereunder), in each case, to the extent necessary to prepare the financial statements described in Sections 6.01(a) and 6.01(b).

SECTION 6.10 Inspection Rights. Subject to Section 6.19(h) in respect of Vessels, permit representatives of the Administrative Agent and the Required Lenders to visit and inspect any of their properties (subject to the rights of lessees or sublessees thereof and subject to any restrictions or limitations in the applicable lease, sublease or other written occupancy arrangement pursuant to which any such Subsidiary party), to examine its corporate, financial, and operating records, and make copies thereof or abstracts therefrom and to discuss its affairs, finances and accounts with its directors, officers, and independent public accountants (subject to such accountants' policies and procedures), all at the reasonable expense of the Borrower and at such reasonable times during normal business hours and as often as may be reasonably desired, upon reasonable advance written notice to the Borrower; *provided* that, (a) excluding any such visits and inspections during the continuation of an Event of Default, only the Administrative Agent on behalf of the Lenders may exercise rights under this Section 6.10 and the Administrative Agent shall not exercise such rights more often than two times during any calendar year absent the continuation of an Event of Default and one such time shall be at the Borrower's expense and (b) when an Event of Default is continuing, the Administrative Agent or the Required Lenders (or any of their respective representatives) may do any of the foregoing at the expense of the Borrower at any time during normal business hours and upon reasonable advance written notice. Notwithstanding anything to the contrary in this Section 6.10, none of the Loan Parties or their Restricted Subsidiaries will be required to disclose or permit the inspection or discussion of, any document, information or other matter (i) that constitutes non-financial trade secrets or non-financial proprietary information, (ii) in respect of which disclosure to the Administrative Agent or any Lender (or their respective representatives or contractors) is prohibited by Law or any binding agreement or (iii) that is subject to attorney client or similar privilege or constitutes attorney work product. The Administrative Agent shall give the Borrower the opportunity to participate in any discussions with the Borrower's independent public accountants. For the avoidance of doubt, the foregoing shall be subject to the provisions of Section 11.08.

SECTION 6.11 Covenant to Guarantee Obligations and Give Security. At the Borrower's expense, subject to any applicable limitation in any Loan Document (including Section 6.12), take the following actions:

(a) within forty-five (45) days of the occurrence of any Grant Event (or such longer period as the Administrative Agent may agree in its reasonable discretion),

(i) cause the Restricted Subsidiary subject of the Grant Event to execute and deliver the Guaranty (or a joinder thereto);

(ii) cause the Restricted Subsidiary subject of the Grant Event to execute and deliver the Collateral Agreement (or a supplement thereto, including a Collateral Agreement Supplement);

(iii) cause the Restricted Subsidiary subject of the Grant Event to execute and deliver, to the extent applicable, the Vessel Mortgage;

(iv) [reserved];

(v) cause the Restricted Subsidiary subject of the Grant Event (and any Loan Party of which such Restricted Subsidiary is a direct Subsidiary) to (A) if such Restricted Subsidiary has "opted into" Article 8 of the Uniform Commercial Code, deliver any and all certificates representing its Equity Interests (to the extent certificated) that constitute Collateral and are required to be pledged pursuant to the Collateral Agreement, accompanied by undated stock powers or other appropriate instruments of transfer executed in blank (or any other documents customary under local law), (B) [reserved] and (C) deliver all instruments evidencing Indebtedness held by such Restricted Subsidiary that constitute Collateral and are required to be pledged pursuant to the Collateral Agreement, endorsed in blank, to the Collateral Agent; and

(vi) upon the reasonable request of the Administrative Agent, take and cause the Restricted Subsidiary the subject of the Grant Event and each direct or indirect parent of such Restricted Subsidiary that is required to become a Guarantor pursuant to the Collateral Agreement that holds Equity Interests in such Restricted Subsidiary to take such customary actions as may be necessary in the reasonable opinion of the Administrative Agent to vest in the Collateral Agent (or in any representative of the Collateral Agent designated by it) perfected Liens (subject to Permitted Liens) in the Equity Interests of such Restricted Subsidiary and the personal property of such Restricted Subsidiary to the extent required by the Loan Documents, enforceable against all third parties in accordance with their terms, except as such enforceability may be limited by Debtor Relief Laws and by general principles of equity (regardless of whether enforcement is sought in equity or at law).

(b) [Reserved].

(c) Control Agreements. Subject to Section 6.15 and other than with respect to Excluded Accounts, maintain at all times all cash and Cash Equivalents of the Borrower and any Loan Parties in Deposit Accounts or Securities Accounts with either (i) any financial institution that is a Lender or an Affiliate of a Lender or (ii) any financial institution that has entered into a Control Agreement; *provided, however*, this clause (c) shall not apply with respect to any Deposit Accounts or Securities Accounts of any Loan Party existing as of the Initial Funding Date (or such longer period as the Administrative Agent may consent to in its sole discretion) and, in respect of any other Deposit Account or Securities Account opened or acquired after the Closing Date, for a period of sixty (60) days after the date of opening or acquisition thereof and, in respect of any Deposit Accounts or Securities Account of any Loan Party that cease to be held with a Lender or an Affiliate of a Lender on account of the applicable Lender ceasing to be a Lender, within sixty (60) days after the Borrower receives written notice that such Lender has ceased to be a Lender hereunder (each such bank account, a “**Blocked Account**”).

(d) Vessel Collateral.

(i) Within thirty (30) days of the acquisition (including by way of construction or through a Permitted Asset Swap) (or by such later date as the Administrative Agent may agree to in its sole discretion) by the Borrower or any Restricted Subsidiary of any Vessel (excluding any Excluded Vessel) the Borrower or such Restricted Subsidiary shall mortgage, substantially on terms and conditions set forth in the Vessel Mortgage (or the applicable foreign law equivalent in form and substance reasonably acceptable to the Borrower, the Administrative Agent and Collateral Agent), such Vessel so as to grant to the Collateral Agent, for the ratable benefit of the Secured Parties, Vessel Mortgage Liens (or the foreign equivalent in form and substance reasonably acceptable to the Borrower, the Administrative Agent and Collateral Agent) thereon and first priority (subject to Permitted Liens) security interests (or the foreign equivalent in form and substance reasonably acceptable to the Borrower, the Administrative Agent and Collateral Agent) in all related property; *provided*, that notwithstanding anything to the contrary in Section 6.11(a), if the Restricted Subsidiary that has acquired any such Vessel that is required to become Collateral is not already a Guarantor, such Restricted Subsidiary of the Borrower shall become a Guarantor. No Loan Party shall be required to grant a Lien in any Excluded Vessel to the Collateral Agent for the benefit of the Secured Parties; *provided*, however, any Loan Party or Restricted Subsidiary may elect to grant a Lien in any Excluded Vessel to the Collateral Agent for the benefit of the Secured Parties, including for purposes of including any such Vessel in the calculation of the Collateral Coverage Ratio and the RCF Collateral Coverage Ratio. In the event any Loan Party or Restricted Subsidiary makes such election, such Loan Party or Restricted Subsidiary shall satisfy the requirements of this Section 6.11(d) in respect of such Vessels (assuming, for such purpose, that such Vessel does not constitute an Excluded Vessel).

(ii) [Reserved].

SECTION 6.12 Further Assurances. Subject to Section 6.11 and any applicable limitations in any Loan Document, and in each case at the expense of the Borrower, promptly upon the reasonable request by the Administrative Agent or Collateral Agent (a) correct any material defect or error that may be discovered in the execution, acknowledgment, filing, publication or recordation of any Collateral Document or other document or instrument relating to any Collateral and (b) do, execute, acknowledge, deliver, record, re-record, file, re-file, register, re-register, publish and re-publish any and all such further acts, deeds, certificates, assurances and other instruments as the Administrative Agent or Collateral Agent may reasonably request from time to time in order to carry out more effectively the purposes of the Collateral Documents.

Notwithstanding anything to the contrary in any Loan Document, unless otherwise expressly elected by the Borrower, none of the Borrower nor any Restricted Subsidiary will be required to, nor will the Administrative Agent or the Collateral Agent be authorized,

(a) to perfect security interests in the Collateral other than by,

(i) “all asset” filings pursuant to the Uniform Commercial Code in the office of the secretary of state (or similar central filing office) of the relevant state(s) and filing and filings in the applicable real estate records with respect to any applicable real property pursuant to Section 6.11(b) (as applicable);

(ii) [reserved];

(iii) the Vessel Mortgage in respect of Vessel Collateral; and

(iv) delivery to the Administrative Agent or Collateral Agent to be held in its possession of all Collateral consisting of (A) certificates representing Pledged Equity, and (B) all promissory notes and other instruments constituting Collateral; *provided* that promissory notes and instruments having an aggregate principal amount equal to or less than the greater of 5% of Closing Date Consolidated Net Tangible Assets and 5% of Consolidated Net Tangible Assets determined as of the most recently completed fiscal quarter need not be delivered to the Collateral Agent; in each case, in the manner provided in the Collateral Documents;

(b) to enter into any control agreement, lockbox or similar arrangement with respect to any commodities account or other bank account (other than a Deposit Account or Securities Account to the extent required by Section 6.11(c)), or otherwise take or perfect a security interest with control;

(c) to take any action (i) outside of the United States with respect to any assets located outside of the United States, (ii) in any non-U.S. jurisdiction or (iii) required by the laws of any non-U.S. jurisdiction to create, perfect or maintain any security interest or otherwise (unless, in each case, expressly elected by the Borrower in respect of the Vessel Collateral); or

(d) to take any action with respect to perfecting a Lien with respect to letters of credit, letter of credit rights, commercial tort claims, chattel paper or assets subject to a certificate of title or similar statute (in each case, other than the filing of customary "all asset" UCC-1 financing statements) or to deliver landlord lien waivers, estoppels, bailee letters or collateral access letters, in each case, unless required by the terms of the applicable Collateral Agreement or the relevant Collateral Document.

Further, the Loan Parties shall not be required to perform any periodic collateral reporting, if any, with any frequency greater than once per fiscal year (*provided* that this clause shall not limit the obligation of the Loan Parties to comply with Section 6.02(c) or Section 6.11).

SECTION 6.13 Designation of Subsidiaries. The Borrower may by action of its Board of Directors, at any time designate any Restricted Subsidiary as an Unrestricted Subsidiary or designate (or re-designate, as the case may be) any Unrestricted Subsidiary as a Restricted Subsidiary; *provided* that:

(a) immediately before and after such designation (or re-designation), no Default or Event of Default shall have occurred and be continuing;

(b) the Investment resulting from the designation of such Restricted Subsidiary as an Unrestricted Subsidiary as described above is a Permitted Investment or other Investment permitted hereunder;

(c) if such designation would result in Vessel Collateral being owned by an Unrestricted Subsidiary, immediately before and after such designation determined after giving effect to any concurrent reduction in the Commitments (or the commitments under any Incremental Facilities), the RCF Collateral Release Ratio must be greater than or equal to 5.0:1.0.

The designation of any Subsidiary as an Unrestricted Subsidiary shall constitute an Investment by the Borrower therein at the date of designation in an amount equal to the Fair Market Value of the Borrower's or Restricted Subsidiary's (as applicable) Investment therein. The designation of any Unrestricted Subsidiary as a Restricted Subsidiary shall constitute the incurrence at the time of designation of any Indebtedness and Liens of such Subsidiary existing at such time and a return on any Investment by the Borrower in Unrestricted Subsidiaries pursuant to the preceding sentence in an amount equal to the Fair Market Value at the date of such designation of the Borrower's or Restricted Subsidiary's (as applicable) Investment in such Subsidiary. Except as set forth in this paragraph, no Investment will be deemed to exist or have been made, and no Indebtedness or Liens shall be deemed to have been incurred or exist, by virtue of a Subsidiary becoming an Excluded Subsidiary or an Excluded Subsidiary becoming a Restricted Subsidiary.

SECTION 6.14 Compliance with Anti-Corruption Laws and Sanctions.

(a) No Loan Party shall (and the Borrower shall ensure that no other Relevant Person will) take any action, make any omission or use (directly or knowingly indirectly) any Borrowing or Letter of Credit:

(i) in furtherance of an offer, payment, promise to pay, or authorization of the payment or giving of money, or anything else of value, to any Person in violation of any Anti-Corruption Laws;

(ii) in breach of Sanctions;

(iii) in a manner that causes (or will cause) a breach of Sanctions by any Lender; or

(iv) for the purpose of funding, financing or facilitating any activities, business or transaction of or with any Restricted Party, except to the extent permitted for a Person required to comply with Sanctions.

(b) No Loan Party shall (and the Borrower shall ensure that no other Relevant Person will) take any action or make any omission that results, or is reasonably likely to result, in it or any Lender becoming a Restricted Party.

(c) The Borrower will maintain in effect and enforce policies and procedures designed to ensure compliance by the Borrower, its Subsidiaries and their respective directors, officers, employees and agents with applicable Anti-Corruption Laws and Sanctions.

(d) The requirements set forth in this Section 6.14, as they pertain to compliance by any Foreign Subsidiary with Anti-Corruption Laws and Sanctions are limited by any Law applicable to such Foreign Subsidiary in its relevant local jurisdiction.

SECTION 6.15 Post-Closing Matters.

(a) The Borrower will, and will cause each of the Restricted Subsidiaries to, take each of the actions set forth on Schedule 6.15 within the time period prescribed therefor on such schedule (as such time period may be extended by the Administrative Agent).

(b) By the date that is no later than ninety-one (91) days prior to the maturity date under the existing Second Lien Credit Agreement, Indebtedness under the Second Lien Credit Agreement is to be repaid or otherwise refinanced with the proceeds of or exchanged for Second Lien Credit Agreement Refinancing Indebtedness or the maturity date thereunder otherwise extended such that, after giving effect to such refinancing or extension, the maturity date of any such resulting Indebtedness is no earlier than ninety-one (91) days after the then-latest Maturity Date.

SECTION 6.16 Use of Proceeds.

(a) The proceeds of Revolving Loans will be used for general corporate purposes of the Borrower and the Restricted Subsidiaries, including (a) working capital, (b) acquisitions that are not prohibited by the terms of this Agreement (including Permitted Investments) and (c) standby letters of credit.

(b) Letters of Credit will be used by the Borrower for general corporate purposes of the Borrower and the Restricted Subsidiaries, including supporting transactions not prohibited by the Loan Documents.

(c) The proceeds of Incremental Loans may be used as specified in the applicable Incremental Amendment and otherwise in accordance with Section 2.16(e).

SECTION 6.17 Change in Nature of Business. Engage only in material lines of business that are substantially consistent with those lines of business conducted by the Borrower and the Restricted Subsidiaries on the Closing Date and lines of business that are reasonably similar, corollary, ancillary, incidental, synergistic, complementary or related to, or a reasonable extension, development or expansion of, the businesses conducted or proposed to be conducted by the Borrower and the Restricted Subsidiaries on the Closing Date, in each case as determined by the Borrower in good faith.

SECTION 6.18 Transactions with Affiliates. Conduct all transactions (including the purchase, sale, lease or exchange of any property or the rendering of any service) with any Affiliate of the Borrower (an “**Affiliate Transaction**”) involving aggregate value in excess of \$5.0 million, on terms which taken as a whole are not materially less favorable to the Borrower or such Restricted Subsidiary, as the case may be, than those that could be obtained in a comparable transaction at the time of such transaction or the execution of the agreement providing for such transaction in arm’s length dealings with a Person who is not such an Affiliate or, if in the good faith judgment of the Board of Directors of the Borrower no comparable transaction is available with which to compare such Affiliate Transaction, such Affiliate Transaction is otherwise fair to the Borrower or such Restricted Subsidiary from a financial point of view.

Any Affiliate Transaction shall be deemed to have satisfied the requirements set forth in this Section 6.18 if such Affiliate Transaction is approved by a majority of the Disinterested Directors of the Borrower, if any.

The provisions of the preceding paragraph will not apply to:

- (1) any Restricted Payment or any Permitted Investment;
- (2) any issuance, transfer or sale of (a) Equity Interests, options, other equity-related interests or other securities, or other payments, awards or grants in cash, securities or otherwise to any Parent Entity, Permitted Holder or future, current or former employee, director, officer, manager, contractor, consultant or advisor (or their respective Controlled Investment Affiliates or Immediate Family Members) of the Borrower, any of its Subsidiaries or any of its Parent Entities and (b) directors’ qualifying shares and shares issued to foreign nationals as required under applicable law;
- (3) any Management Advances and any waiver or transaction with respect thereto;

- (4) (a) any transaction between or among the Borrower and any Restricted Subsidiary (or entity that becomes a Restricted Subsidiary as a result of such transaction), or between or among Restricted Subsidiaries and (b) any merger, amalgamation or consolidation with any Parent Entity, *provided* that such Parent Entity shall have no material liabilities and no material assets other than cash, Cash Equivalents and the Equity Interests of the Borrower and such merger, amalgamation or consolidation is otherwise permitted under this Agreement;
- (5) the payment of compensation, fees, costs and expenses to, and indemnities (including under insurance policies) and reimbursements, employment and severance arrangements, and employee benefit and pension expenses provided on behalf of, or for the benefit of, future, current or former employees, directors, officers, managers, contractors, consultants, distributors or advisors (or their respective Controlled Investment Affiliates or Immediate Family Members) of the Borrower, any Parent Entity or any Restricted Subsidiary (whether directly or indirectly and including through their Controlled Investment Affiliates or Immediate Family Members);
- (6) the entry into and performance of obligations of the Borrower or any of the Restricted Subsidiaries under the terms of any transaction arising out of, and any payments pursuant to or for purposes of funding, any agreement or instrument in effect as of or on the Closing Date, as these agreements and instruments may be amended, modified, supplemented, extended, renewed or refinanced from time to time in accordance with the other terms of this covenant or to the extent not disadvantageous in any material respect in the reasonable determination of the Borrower to the Lenders when taken as a whole as compared to the applicable agreement as in effect on the Closing Date;
- (7) any transaction effected as part of a Qualified Securitization Financing or Receivables Facility, any disposition or acquisition of Securitization Assets, Receivables Assets or related assets in connection with any Qualified Securitization Financing or Receivables Facility;
- (8) transactions with customers, vendors, clients, joint venture partners, suppliers, contractors, distributors or purchasers or sellers of goods or services, in each case in the ordinary course of business or consistent with past practice, which are fair to the Borrower and the Restricted Subsidiaries, in the reasonable determination of the Borrower, or are on terms, taken as a whole, that are not materially less favorable as might reasonably have been obtained at such time from an unaffiliated party;
- (9) any transaction between or among the Borrower or any Restricted Subsidiary and any Person (other than an Unrestricted Subsidiary) that is an Affiliate of the Borrower or an Associate or similar entity solely because the Borrower or a Restricted Subsidiary or any Affiliate of the Borrower or a Restricted Subsidiary or any Affiliate of any Permitted Holder owns an equity interest in or otherwise controls such Affiliate, Associate or similar entity;

- (10) any issuance, sale or transfer of Equity Interests (other than Disqualified Equity Interests) of the Borrower, any Parent Entity or any of its Restricted Subsidiaries or options, warrants or other rights to acquire such Equity Interests and the granting of registration and other customary rights (and the performance of the related obligations) in connection therewith or any contribution to capital of the Borrower or any Restricted Subsidiary;
- (11) (a) payments by the Borrower or any Restricted Subsidiary (or distributions or dividends by the Borrower in lieu of such payments) to any Permitted Holder (whether directly or indirectly), including to its affiliates or its designees, of management, consulting, monitoring, refinancing, transaction, advisory, indemnities and other fees, costs and expenses (plus any unpaid management, consulting, monitoring, transaction, advisory, indemnities and other fees, costs and expenses accrued in any prior year) and any exit and termination fees (including any such cash lump sum or present value fee upon the consummation of a corporate event, including an initial public offering) pursuant to any management or similar agreements or the management or other relevant provisions in an investor rights agreement, limited partnership agreement, limited liability company agreement or other equityholders' agreement, as the case may be, with terms reasonably consistent with the terms of similar agreements entered into by similar financial sponsors and portfolio companies as reasonably determined by the Borrower or any Parent Entity on behalf of the Borrower at the time such management or similar agreement is entered into by the Sponsors and the Borrower or any Parent Entity and (b) payments by the Borrower or any Restricted Subsidiary to any Permitted Holder (whether directly or indirectly, including through any Parent Entity) for financial advisory, financing, underwriting or placement services or in respect of other investment banking activities, including in connection with acquisitions or divestitures, which payments are approved in the reasonable determination of the Borrower;
- (12) payment to any Permitted Holder of all out of pocket expenses incurred by such Permitted Holder in connection with its direct or indirect investment in the Borrower and its Subsidiaries;
- (13) transactions in which the Borrower or any Restricted Subsidiary, as the case may be, delivers to the Administrative Agent a letter from an Independent Financial Advisor stating that such transaction is fair to the Borrower or such Restricted Subsidiary from a financial point of view or meets the requirements of clause (1) of the preceding paragraph;
- (14) the existence of, or the performance by the Borrower or any Restricted Subsidiary of its obligations under the terms of, any equityholders, investor rights or similar agreement (including any registration rights agreement or purchase agreements related thereto) to which it is party as of the Closing Date and any similar agreement that it (or any Parent Entity) may enter into thereafter; *provided* that the existence of, or the performance by the Borrower or any Restricted Subsidiary (or any Parent Entity) of its obligations under any future amendment to any such existing agreement or under any similar agreement entered into after the Closing Date will only be permitted under this clause to the extent that the terms of any such amendment or new agreement are not otherwise, when taken as a whole, more disadvantageous to the Lenders in any material respect in the reasonable determination of the Borrower than those in effect on the Closing Date;

- (15) any purchases by the Borrower's Affiliates of Indebtedness or Disqualified Equity Interests of the Borrower or any of the Restricted Subsidiaries the majority of which Indebtedness or Disqualified Equity Interests is purchased by Persons who are not the Borrower's Affiliates; *provided* that such purchases by the Borrower's Affiliates are on the same terms as such purchases by such Persons who are not the Borrower's Affiliates;
- (16) (i) investments by Affiliates in securities or loans of the Borrower or any of the Restricted Subsidiaries (and payment of reasonable out-of-pocket expenses incurred by such Affiliates in connection therewith) so long as the investment is being offered by the Borrower or such Restricted Subsidiary generally to other non-affiliated third party investors on the same or more favorable terms and (ii) payments to Affiliates in respect of securities or loans of the Borrower or any of the Restricted Subsidiaries contemplated in the foregoing subclause (i) or that were acquired from Persons other than the Borrower and its Restricted Subsidiaries, in each case, in accordance with the terms of such securities or loans;
- (17) the entering into of any Tax sharing agreement or arrangement and payments made with respect thereto, in each case between or among the Borrower, any Parent Entity or its Subsidiaries; *provided* that, in each case the amount of such payments in any taxable year does not exceed the amount that the Borrower, its Restricted Subsidiaries and its Unrestricted Subsidiaries (to the extent of amounts actually received from the Unrestricted Subsidiaries) would be required to pay in respect of foreign, federal, state and local Taxes for such taxable year were the Borrower, its Restricted Subsidiaries and its Unrestricted Subsidiaries (to the extent of amounts actually received from the Unrestricted Subsidiaries) to pay such Taxes separately from any such Parent Entity;
- (18) payments, Indebtedness and Disqualified Equity Interests (and cancellation of any thereof) of the Borrower and its Restricted Subsidiaries and preferred stock (and cancellation of any thereof) of any Restricted Subsidiary to any future, current or former employee, director, officer, manager, contractor, consultant or advisor (or their respective Controlled Investment Affiliates or Immediate Family Members) of the Borrower, any of its Subsidiaries or any of its Parent Entities pursuant to any management equity plan, stock option plan, phantom equity plan or any other management, employee benefit or other compensatory plan or agreement (and any successor plans or arrangements thereto), employment, termination or severance agreement, or any stock subscription or equityholder agreement with any such employee, director, officer, manager, contractor, consultant or advisor (or their respective Controlled Investment Affiliates or Immediate Family Members) that are, in each case, approved by the Borrower in good faith;

- (19) any management equity plan, stock option plan, phantom equity plan or any other management, employee benefit or other compensatory plan or agreement (and any successor plans or arrangements thereto), employment, termination or severance agreement, or any stock subscription or equityholder agreement between the Borrower or its Restricted Subsidiaries and any distributor, employee, director, officer, manager, contractor, consultant or advisor (or their respective Controlled Investment Affiliates or Immediate Family Members) approved by the reasonable determination of the Borrower;
- (20) any transition services arrangement, supply arrangement or similar arrangement entered into in connection with or in contemplation of the disposition of assets or Equity Interests in any Restricted Subsidiary permitted under Section 7.05 or entered into with any Business Successor, in each case, that the Borrower determines in good faith is either fair to the Borrower or otherwise on customary terms for such type of arrangements in connection with similar transactions;
- (21) any lease entered into between the Borrower or any Restricted Subsidiary, as lessee, and any Affiliate of the Borrower (other than an Unrestricted Subsidiary), as lessor and any operational services or other arrangement entered into between the Borrower or any Restricted Subsidiary and any Affiliate of the Borrower (other than an Unrestricted Subsidiary), in each case, which is approved by the reasonable determination of the Borrower;
- (22) the payment of fees, costs and expenses related to registration rights and indemnities provided to equityholders pursuant to equityholders, investor rights, registration rights or similar agreements; and
- (23) any Reorganization Transaction, Permitted Intercompany Activities, Intercompany License Agreements or related transactions.

In addition, if the Borrower or any of its Restricted Subsidiaries (i) purchases or otherwise acquires assets or properties from a Person which is not an Affiliate, the purchase or acquisition by an Affiliate of the Borrower of an interest in all or a portion of the assets or properties acquired shall not be deemed an Affiliate Transaction (or cause such purchase or acquisition by the Borrower or a Restricted Subsidiary to be deemed an Affiliate Transaction) or (ii) sells or otherwise disposes of assets or other properties to a Person who is not an Affiliate, the sale or other disposition by an Affiliate of the Borrower of an interest in all or a portion of the assets or properties sold shall not be deemed an Affiliate Transaction (or cause such sale or other disposition by the Borrower or a Restricted Subsidiary to be deemed an Affiliate Transaction).

SECTION 6.19 Vessel Collateral Covenants.

Each Shipowner covenants and agrees as follow with respect to any Vessel Collateral owned by it:

(a) Jones Act Compliance. Each Shipowner owning Vessel Collateral consisting of a Jones Act Vessel covenants that it is now, and shall so remain until any Vessel Mortgage granted pursuant to this Agreement is discharged, (i) a citizen of the United States pursuant to Section 2(c) of the Shipping Act of 1916, as amended (46 USC § 50501), and the regulations in effect thereunder from time to time, as amended, and (ii) qualified to own and operate such Vessel for so long as it is documented under the laws of the United States and in the coastwise trade of the United States pursuant to 46 U.S.C. §§ 12102 and 12103, and the regulations in effect thereunder from time to time, as amended.

(b) Operation of Vessels. Except as has not resulted in, or is not reasonably expected, individually or in the aggregate, to result in, a Material Adverse Effect, each Shipowner will not cause or permit its Vessels to be operated in any manner contrary to applicable law, engage in any unlawful trade or operations or violate any applicable law or carry any cargo, in the case of any of the foregoing, that will unreasonably expose such Vessel to penalty, confiscation, forfeiture, capture or condemnation, and will not do, or suffer or permit to be done, anything that can or may injuriously affect the registration of such Vessel under the laws and regulations of the United States of America and will at all times keep each United States-flagged Jones Act Vessel duly documented under Chapter 121 of Title 46 of the United States Code, eligible for registry and the coastwise trade of the United States under Section 2(c) of the Shipping Act of 1916, as amended; *provided*, that the foregoing shall not prohibit, and the Shipowner may enter into, Permitted Reflagging Transactions.

(c) Taxes, fees, etc. Each Shipowner will pay and discharge or cause to be paid and discharged, prior to delinquency, all claims and demands in respect of, and all taxes, assessments, governmental charges, levies, fees, fines and penalties imposed on, its Vessel, cargoes owned by such Shipowner or any income or profits therefrom and all lawful claims which, if unpaid, might become a lien or charge upon such Vessel or any income therefrom not constituting a Permitted Lien; provided that such Shipowner shall not be required to pay any such claim, demand, fee, tax, assessment, charge, fine, levy or penalty (1) which is being contested in good faith by appropriate actions and for which the Shipowner has maintained adequate accruals in accordance with GAAP, and such Vessel shall not have been arrested or detained therefor or (2) to the extent failure to do so could not reasonably be expected to result in a Material Adverse Effect, *provided, further*, that such contest shall not subject such Vessel, or any part thereof, to forfeiture or loss.

(d) Liens. None of the Shipowners, any charterer, the Master of any of the Vessels or any other Person shall have any right, power or authority to, and none of the same shall create, incur or permit to be placed or imposed or continued upon any of the Vessels, its freights, profits or hire, any Lien whatsoever other than for crew wages not overdue, salvage, the lien of any Vessel Mortgage and other Permitted Liens.

(e) Notice of Mortgage. Each Shipowner will place, and at all times and places will retain, a copy of the relevant Vessel Mortgage (however evidenced, whether in physical or electronic form) on board each relevant Vessel with her papers and will cause such copy (however evidenced, whether in physical or electronic form) and each such Vessel's marine document to be exhibited to any and all persons having business therewith which might give rise to any lien thereon other than liens for crew wages and salvage, and to any representative of the Administrative Agent and will place and prominently display in the chart room and in the Master's cabin of each such Vessel a framed printed notice in plain type reading as follows:

This Vessel is owned by [] (the “Owner”) and is subject to a First Preferred [Fleet] Mortgage (the “**Mortgage**”) in favor of WILMINGTON TRUST, NATIONAL ASSOCIATION as Collateral Agent and Mortgagee. Under the terms of said Mortgage, neither the Owner, any charterer, the Master of this Vessel nor any other person has any right, power or authority to create, incur or permit to be imposed upon this Vessel any other lien whatsoever except Permitted Liens (as defined in the Mortgage).”

(f) Libel or Attachment. If a libel or complaint is filed against any of the Vessels *in rem* by virtue of any legal proceeding in any court or by a government or other authority, the relevant Shipowner will promptly notify the Administrative Agent thereof by facsimile as appropriate, confirmed by letter, at its address, as specified in Section 11.02, and within thirty (30) days of any arrest arising out of such libel or complaint, or fifteen (15) days after the request of the Administrative Agent (in each case, or by such later date as the Administrative Agent may agree to in its sole discretion), will cause such Vessel to be released and all Liens thereon (other than Permitted Liens) to be discharged and will promptly notify the Administrative Agent thereof in the manner aforesaid. In the event that the Shipowner does not appear in such action by filing a claim of owner or similar pleading within such thirty (30) day period (or such longer period) or otherwise provide replacement Vessel Collateral acceptable to the Administrative Agent in accordance with this Agreement, the relevant Shipowner does hereby authorize and empower the Administrative Agent, in the name of such Shipowner, or their successors or assigns, to apply for and receive possession of and to take possession of such Vessel (or authorize and empower the Administrative Agent to direct the Collateral Agent to apply for and receive possession of and to take possession of such Vessel) with all the rights and powers that the Shipowner, or their successors or assigns, might have, possess or exercise in any such event; and this power of attorney shall be irrevocable and may be exercised not only by the Administrative Agent (or by the Collateral Agent at the direction of the Administrative Agent) but also by any one such appointee or the appointees of the Administrative Agent, (or the Collateral Agent) with full power of substitution, to the same extent as if the said appointee or appointees had been named as one of the attorneys above named by express designation. The relevant Shipowner will notify the Administrative Agent in writing within three (3) Business Days (or by such later date as the Administrative Agent may agree to in its sole discretion) after it has become known to the chief executive officer, the chief operating officer or the chief financial officer of the relevant Shipowner of any arrest, detention, average or salvage incurred by any of the Vessels.

(g) Maintenance of Vessel.

(i) Except while any Vessel constituting Vessel Collateral is undergoing repairs or maintenance or is a Stacked Vessel, the relevant Shipowner will keep each Vessel, or cause it to be kept in such condition as will entitle it to at least the current classification and rating for each Vessel in the American Bureau of Shipping, or other classification society of like standing, if such certification is applicable, with no overdue conditions or recommendations affecting any such Vessel’s classification, except where the failure to do so, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect. Except for any Vessel that is stacked or in lay up, each Shipowner shall furnish annually, upon request by the Administrative Agent, a certificate from the American Bureau of Shipping or other applicable classification society confirming that such classification has been maintained.

(ii) Except where the failure to do so, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect, each Shipowner will make all necessary repairs, renewals, betterments and improvements necessary to keep its Vessels, insofar as due diligence can make them so, well maintained and in seaworthy condition, except while any such Vessel is undergoing repairs, maintenance or is stacked or in lay up.

(iii) Each Vessel which is a U.S. flag Vessel shall, and each relevant Shipowner covenants that it will, at all times comply in all material respects with all applicable laws, and all treaties and covenants to which the United States of America is a party, and rules and regulations issued thereunder, and shall have on board, when required, valid certificates required thereby, except where the failure to do so, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect.

(iv) No Shipowner will make, or permit to be made, any substantial change in the structure, rig or type of any Vessels that would be reasonably likely to materially diminish the value of the Vessel Collateral, as a whole, without first receiving the written consent of the Administrative Agent, which consent shall not be unreasonably similarly, conditioned or delayed; *provided*, that any Shipowner may move or otherwise change the assets and other equipment from any of the Vessels to another Vessel (including to a Vessel owned by another direct or indirect Subsidiary of Borrower and including, for the avoidance of doubt, Excluded Vessels).

(h) Inspection: Attorney in Fact.

(i) Subject to the terms of Section 6.10, each Shipowner will at all reasonable times afford the Administrative Agent or its authorized representatives, in each case, to the extent such Person has agreed to and executed a vessel boarding agreement in form and substance reasonably satisfactory to the Borrower at their risk and expense full and complete access to each Vessel during normal business hours for the purpose of inspecting such Vessel and its papers, and such Shipowner will deliver for inspection copies of such contracts and documents relating to such Vessel, whether on board or not, as the Administrative Agent may request, *provided, however*, that (i) non-public information obtained by the Administrative Agent pursuant to any Loan Document concerning such Shipowner, any Vessel, any other assets of such Shipowner or such Shipowner's financial condition and prospects shall be kept confidential by the Administrative Agent in accordance with Section 11.08 (subject to the exceptions contained therein), and (ii) any inspection of any Vessel and its papers shall be subject to the requirements of any operators of such Vessel and any applicable Governmental Authority.

(ii) Each Shipowner hereby appoints the Administrative Agent as attorney-in-fact of the Shipowner to appear before governmental bodies, classification societies and insurers and to demand and receive to the same extent that such Shipowner itself might, all information and certificates respecting (i) the corporate status of such Shipowner under the laws of its jurisdiction of incorporation or any other jurisdiction in which it may have qualified to do business, (ii) the status of each Vessel under the laws and regulations of its country of registration and its compliance with the requirements thereof, and (iii) the state of the records of each Vessel or of the relevant Shipowner in respect of each Vessel in any classification society with which the Vessel may be classed or of any company, association or club by whom any Vessel or the relevant Shipowner in respect of any Vessel may be insured; and each Shipowner hereby agrees that the Administrative Agent may execute its powers as attorney-in-fact as aforesaid through its agents, representatives and attorneys, provided however, that, it is a condition of this power of attorney that the Administrative Agent may not act on the strength of this power of attorney unless an Event of Default has occurred and is continuing. This power of attorney is coupled with an interest and shall be irrevocable as long as the Obligations remain outstanding.

(i) [Reserved]

(j) Chartering. Except as permitted herein, no Shipowner will charter or similarly dispose of all or any part of any of the Vessels other than pursuant to agreements in the ordinary course of business or pursuant to agreements that would not materially diminish the value of the Vessel Collateral, as a whole.

(k) Insurances.

(i) Types and Coverage. Following the Initial Funding Date, each Shipowner shall maintain required vessel insurances as consistent with past practice and as further described on Schedule 6.19(k).

(ii) [Reserved].

(l) Reimbursement. Each Shipowner will reimburse the Administrative Agent promptly, for any and all expenditures which the Administrative Agent may, from time to time, make, lay out or expend in providing such protection in respect of insurance, discharge or purchase of liens, taxes, dues, assessments, governmental charges, fines and penalties lawfully imposed (other than income, franchise or similar Taxes of the Collateral Agent or its affiliates), repairs, attorneys' fees, translation fees for documents made in a language other than English and other matters as such Shipowner is obligated herein to provide, but fails to provide. Such obligation of such Shipowner to reimburse the Administrative Agent shall be an additional indebtedness due from the Shipowner, secured by the relevant Vessel Mortgage, and shall be payable by such Shipowner promptly upon presentation of documentation in form and detail consistent with the requirements under Section 11.08. The Administrative Agent, though privileged so to do, shall be under no obligation to the relevant Shipowner to make any such expenditures, nor shall the making thereof relieve such Shipowner of any default in that respect.

(m) Further Assurances. In the event that this Agreement or any provision hereof shall be deemed invalidated in whole or in part by reason of any present or future law or any decision of any authoritative court, or if the documents at any time held by the Administrative Agent or Collateral Agent shall be deemed by the Administrative Agent for any reason insufficient to carry out the true intent and spirit of any Vessel Mortgage, then from time to time, the relevant Shipowner will execute, on its own behalf, such other and further assurances and documents as in the reasonable opinion of the Administrative Agent may be required more effectively to subject each relevant Vessel to the payment of the Obligations, as in the Vessel Mortgage provided, and the performance of the terms and provisions of the Vessel Mortgage and this Agreement.

(n) [Reserved].

(o) Amendments relating to Incremental Loans. Each Shipowner agrees, promptly upon entering into any Incremental Loan, to amend the relevant Vessel Mortgage, in form and substance satisfactory to the Administrative Agent, if requested by the Administrative Agent. The reasonable costs associated with such amendment (including reasonable fees of counsel to the Administrative Agent) shall be borne by the relevant Shipowner.

(p) Ship Recycling. In the event that a Restricted Subsidiary undertakes to dismantle a Vessel (or to sell such Vessel with the intention of it being dismantled) to the extent permitted under the Loan Documents, the Restricted Subsidiary must comply with the Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships, 2009 and/or the EU Ship Recycling Regulations, 2013.

ARTICLE VII

Negative Covenants

So long as the Termination Conditions are not satisfied, the Borrower shall not, nor shall the Borrower permit any Restricted Subsidiary to:

SECTION 7.01 Liens. Create, incur, assume or suffer to exist any Lien upon any of its property, assets or revenues, whether now owned or hereafter acquired, that secures Indebtedness other than the following:

(a) Liens securing (i) obligations in respect of Indebtedness incurred pursuant to Section 2.16, Section 2.17, Section 2.18 and Section 7.03(a)(i), including obligations in respect of any Loan, any Incremental Loan, any Refinancing Loan and any Extended Loan, and any other Obligations, Incremental Equivalent Debt and any Refinancing Indebtedness in respect of the foregoing and (ii) Indebtedness incurred pursuant to Section 7.03(a)(ii) and any Refinancing Indebtedness in respect of the foregoing; *provided* that, in the case of this clause (ii), with respect to any such Indebtedness for borrowed money secured by Liens on the Collateral, such Indebtedness must be either First Lien Debt (but not Super-Priority Debt) (and subject to an Equal Priority Intercreditor Agreement and, if the Borrower elects, the Collateral Trust Agreement or in each case a joinder thereto) or Junior Lien Debt (and subject to a Junior Lien Intercreditor Agreement and, if the Borrower elects, a Collateral Trust Agreement or in each case a joinder thereto);

(b) Liens securing obligations under the Second Lien Credit Agreement and any Second Lien Credit Agreement Refinancing Indebtedness thereof;

(c) Liens existing on the Closing Date (other than Liens incurred under Sections 7.01(a) and 7.01(b)) and listed on Schedule 7.01(c) hereto, together with any Liens securing any Refinancing Indebtedness of any Indebtedness secured by such Liens;

(d) pledges, deposits or Liens (a) in connection with workmen's compensation laws, payroll Taxes, unemployment insurance laws, employers' health Tax and other social security laws or similar legislation or other insurance related obligations (including in respect of deductibles, self-insured retention amounts and premiums and adjustments thereto), (b) securing liability, reimbursement or indemnification obligations of (including obligations in respect of letters of credit or bank guarantees or similar instruments) for the benefit of insurance carriers under insurance or self-insurance arrangements or otherwise supporting the payments of items set forth in the foregoing clause (a), or (c) in connection with bids, tenders, completion guarantees, contracts, leases, utilities, licenses, public or statutory obligations, or to secure the performance of bids, trade contracts, government contracts and leases, statutory obligations, surety, stay, indemnity, warranty, release, judgment, customs, appeal, performance bonds, guarantees of government contracts, return of money bonds, bankers' acceptance facilities and obligations of a similar nature (including those to secure health, safety and environmental obligations), and obligations in respect of letters of credit, bank guarantees or similar instruments that have been posted to support the same, or as security for contested Taxes or import or customs duties or for the payment of rent, or other obligations of like nature, in each case incurred in the ordinary course of business or consistent with past practice;

(e) Liens with respect to outstanding motor vehicle fines and Liens imposed by law or regulation, including carriers', warehousemen's, mechanics', landlords', suppliers', materialmen's, repairmen's, architects', construction contractors' or other similar Liens, in each case for amounts not overdue for a period of more than sixty (60) days or, if more than sixty (60) days overdue, are unfiled and no other action has been taken to enforce such Liens or that are being contested in good faith by appropriate proceedings, provided that appropriate reserves required pursuant to GAAP have been made in respect thereof;

(f) Liens for Taxes, assessments or other governmental charges that are not overdue for a period of more than sixty (60) days or not yet payable or subject to penalties for nonpayment or that are being contested in good faith by appropriate proceedings; provided that appropriate reserves required pursuant to GAAP have been made in respect thereof, or for property Taxes on property of the Borrower or one of its Subsidiaries has determined to abandon if the sole recourse for such Tax is to such property;

(g) encumbrances, charges, ground leases, easements (including reciprocal easement agreements), survey exceptions, restrictions, encroachments, protrusions, by-law, regulation, zoning restrictions or reservations of, or rights of others for, licenses, rights of way, servitudes, sewers, electric lines, drains, telegraph, telephone and cable television lines and other similar purposes, or zoning, building codes or other restrictions (including minor defects and irregularities in title and similar encumbrances) as to the use of real properties, exceptions on title policies insuring Liens granted on any mortgaged properties or any other collateral or Liens incidental to the conduct of the business of such Person or to the ownership of its properties, including servicing agreements, development agreements, site plan agreements, subdivision agreements, facilities sharing agreements, cost sharing agreements and other similar agreements, charges or encumbrances, which do not in the aggregate materially interfere with the ordinary course conduct of the business of the Borrower and its Restricted Subsidiaries, taken as a whole;

(h) Liens (i) securing Hedge Agreements, Cash Management Obligations and the costs thereof; (ii) that are rights of set-off, rights of pledge or other bankers' Liens (x) relating to treasury, depository and cash management services or any automated clearing house transfers of funds in the ordinary course of business or consistent with past practice, (y) relating to pooled deposit or sweep accounts to permit satisfaction of overdraft or similar obligations incurred in the ordinary course of business of the Borrower or any Subsidiary or consistent with past practice or (z) relating to purchase orders and other agreements entered into with customers of the Borrower or any Restricted Subsidiary in the ordinary course of business or consistent with past practice; (iii) on cash accounts securing Indebtedness and other Obligations permitted to be incurred under Section 7.03(j) with financial institutions; (iv) encumbering reasonable customary initial deposits and margin deposits and similar Liens attaching to commodity trading accounts or other brokerage accounts incurred in the ordinary course of business or consistent with past practice and not for speculative purposes; and (v)(A) of a collection bank arising under Section 4-210 of the UCC or any comparable or successor provision on items in the course of collection and (B) in favor of a banking or other financial institution or electronic payment service providers arising as a matter of law encumbering deposits (including the right of set-off) arising in the ordinary course of business in connection with the maintenance of such accounts and (C) arising under customary general terms and conditions of the account bank in relation to any bank account maintained with such bank and attaching only to such account and the products and proceeds thereof, which Liens, in any event, do not secure any Indebtedness;

(i) leases, licenses, subleases and sublicenses of assets (including real property, intellectual property, software and other technology rights), in each case entered into in the ordinary course of business, consistent with past practice or, with respect to intellectual property, software and other technology rights, that are not material to the conduct of the business of the Borrower and its Restricted Subsidiaries, taken as a whole;

(j) Liens securing or otherwise arising out of judgments, decrees, attachments, orders or awards not giving rise to an Event of Default under Section 9.01(g);

(k) Liens (a) securing Capitalized Leases, or Purchase Money Obligations, or securing the payment of all or a part of the purchase price of, or securing Indebtedness or other obligations incurred to finance or refinance the acquisition, improvement or construction of, assets or property acquired or constructed in the ordinary course of business; provided that (i) the aggregate principal amount of Indebtedness secured by such Liens is otherwise permitted to be incurred under this Agreement and (ii) any such Liens may not extend to any assets or property of the Borrower or any Restricted Subsidiary other than assets and property affixed or appurtenant thereto and accessions, additions, improvements, proceeds, dividends or distributions thereof, including after-acquired property that is (A) affixed or incorporated into the property or assets covered by such Lien, (B) after-acquired property or assets subject to a Lien securing such Indebtedness, the terms of which Indebtedness require or include a pledge of after-acquired property or assets and (C) the proceeds and products thereof and (b) any interest or title of a lessor, sublessor, franchisor, licensor or sublicensor or secured by a lessor's, sublessor's, franchisor's, licensor's or sublicensor's interest under any Capitalized Lease Obligations or Non-Financing Lease Obligations;

(l) Liens arising from UCC financing statements, including precautionary financing statements (or similar filings) regarding operating leases or consignments entered into by the Borrower and its Restricted Subsidiaries;

(m) Liens on property, other assets or shares of stock of a Person at the time such Person becomes a Subsidiary (or at the time the Borrower or a Subsidiary acquires such property, other assets or shares of stock, including any acquisition by means of a merger, amalgamation, consolidation or other business combination transaction with or into the Borrower or any Restricted Subsidiary); provided, however, that such Liens are not created in anticipation of such other Person becoming a Subsidiary (or such acquisition of such property, other assets or stock); provided, further, that such Liens are limited to all or part of the same property, other assets or stock (plus property and assets affixed or appurtenant thereto and additions, improvements, accessions, proceeds, dividends or distributions thereof, including after-acquired property that is (i) affixed or incorporated into the property or assets covered by such Lien, (ii) after-acquired property or assets subject to a Lien securing such Indebtedness, the terms of which Indebtedness require or include a pledge of after-acquired property or assets and (iii) the proceeds and products thereof) that secured (or, under the written arrangements under which such Liens arose, could secure) the Obligations relating to any Indebtedness or other obligations to which such Liens relate;

(n) Liens securing Obligations relating to any Indebtedness or other obligations of the Borrower or a Restricted Subsidiary owing to the Borrower or another Restricted Subsidiary, or Liens in favor of the Borrower or any Restricted Subsidiary or the Collateral Agent;

(o) Liens securing any Refinancing Indebtedness incurred to refinance Indebtedness that was previously so secured, and permitted to be secured under this Agreement (other than Section 7.01(a)); provided that any such Lien is limited to all or part of the same property or assets (plus property and assets affixed or appurtenant thereto and additions, improvements, accessions, proceeds, dividends or distributions thereof, including after-acquired property that is (i) affixed or incorporated into the property or assets covered by such Lien, (ii) after-acquired property or assets subject to a Lien securing such Indebtedness, the terms of which Indebtedness require or include a pledge of after-acquired property or assets and (iii) the proceeds and products thereof) that secured (or, under the written arrangements under which the original Lien arose, could secure) the Obligations relating to the Indebtedness or other obligations being refinanced or is in respect of property or assets that is or could be the security for or subject to a Permitted Lien hereunder;

(p) (i) mortgages, liens, security interests, restrictions, encumbrances or any other matters of record that have been placed by any government, statutory or regulatory authority, developer, landlord or other third party on property over which the Borrower or any Restricted Subsidiary has easement rights or on any leased property and subordination or similar arrangements relating thereto and (ii) any condemnation or eminent domain proceedings affecting any real property;

(q) any encumbrance or restriction (including put and call arrangements) with respect to Equity Interests of any joint venture securing financing arrangement, joint venture or similar arrangement pursuant to any joint venture securing financing agreement, joint venture or similar agreement;

(r) Liens on property or assets under construction (and related rights) in favor of a contractor or developer or arising from progress or partial payments by a third party relating to such property or assets;

(s) Liens arising out of conditional sale, title retention, hire purchase, consignment or similar arrangements for the sale or purchase of goods entered into in the ordinary course of business or consistent with past practice;

(t) Liens securing Indebtedness and other Obligations permitted under Section 7.03(g) provided that such Liens shall only be permitted if such Liens are limited to all or part of the same property or assets, including Equity Interests (plus property and assets affixed or appurtenant thereto and additions, improvements, accessions, proceeds, dividends or distributions thereof, including after-acquired property that is (i) affixed or incorporated into the property or assets covered by such Lien, (ii) after-acquired property or assets subject to a Lien securing such Indebtedness, the terms of which Indebtedness require or include a pledge of after-acquired property or assets and (iii) the proceeds and products thereof) acquired, or of any Person acquired or merged, consolidated or amalgamated with or into the Borrower or any Restricted Subsidiary, in any transaction to which such Indebtedness or other obligation relates;

(u) Liens on Equity Interests or other securities or assets of any Unrestricted Subsidiary that secure Indebtedness or other obligations of such Unrestricted Subsidiary;

(v) Liens deemed to exist in connection with Investments permitted under clause (e) of the definition of "Cash Equivalents";

(w) Liens on (i) goods the purchase price of which is financed by a documentary letter of credit issued for the account of the Borrower or any Subsidiary or Liens on bills of lading, drafts or other documents of title arising by operation of law or pursuant to the standard terms of agreements relating to letters of credit, bank guarantees and other similar instruments and (ii) specific items of inventory or other goods and proceeds of any Person securing such Person's obligations in respect of bankers' acceptances or documentary letters of credit issued or created for the account of such Person to facilitate the purchase, shipment or storage of such inventory or other goods;

(x) Liens on vehicles or equipment of the Borrower or any Restricted Subsidiary in the ordinary course of business or consistent with past practice;

(y) Liens on assets or securities deemed to arise in connection with and solely as a result of the execution, delivery or performance of contracts to sell such assets or securities if such sale is otherwise not prohibited by this Agreement;

(z) (a) Liens on insurance policies and the proceeds thereof securing the financing of the premiums with respect thereto, and (b) Liens, pledges, deposits made or other security provided to secure liabilities to, or indemnification obligations of (including obligations in respect of letters of credit or bank guarantees for the benefits of), insurance carriers in the ordinary course of business or consistent with past practice;

(aa) Liens solely on any cash earnest money deposits made in connection with any letter of intent or purchase agreement permitted under this Agreement;

(bb) Liens (i) on cash advances or escrow deposits in favor of the seller of any property to be acquired in an Investment permitted under this Agreement to be applied against the purchase price for such Investment or otherwise in connection with any escrow arrangements with respect to any such Investment (including any letter of intent or purchase agreement with respect to such Investment), and (ii) consisting of an agreement to sell, transfer, lease or otherwise dispose of any property in an asset sale, in each case, solely to the extent such Investment or sale, transfer, lease or other disposition, as the case may be, would have been permitted on the date of the creation of such Lien;

(cc) Liens securing Indebtedness and other Obligations in an aggregate principal amount not to exceed at any time outstanding the greater of (a) \$50.0 million and (b) an amount equal to 6.0% of the Borrower's Consolidated Net Tangible Assets determined as of the end of the Borrower's most recently completed fiscal quarter for which internal financial statements are available at the time incurred; *provided* that with respect to any such Indebtedness or obligations secured by Liens on all or substantially all of the Collateral, such Indebtedness must be either Other Pari Lien Obligations (and subject to an Equal-Priority Intercreditor Agreement and, if the Borrower elects, the Collateral Trust Agreement or in each case a joinder thereto) or Junior Lien Debt (and subject to a Junior Lien Intercreditor Agreement and, if the Borrower elects, the Collateral Trust Agreement or in each case a joinder thereto);

(dd) Liens then existing with respect to assets of an Unrestricted Subsidiary on the day such Unrestricted Subsidiary is redesignated as a Restricted Subsidiary pursuant to Section 6.13;

(ee) Liens arising in connection with a Qualified Securitization Financing or a Receivables Facility;

(ff) Settlement Liens;

(gg) rights of recapture of unused real property in favor of the seller of such property set forth in customary purchase agreements and related arrangements with any government, statutory or regulatory authority;

(hh) the rights reserved to or vested in any Person or government, statutory or regulatory authority by the terms of any lease, license, franchise, grant or permit held by the Borrower or any Restricted Subsidiary or by a statutory provision, to terminate any such lease, license, franchise, grant or permit, or to require annual or periodic payments as a condition to the continuance thereof;

(ii) restrictive covenants affecting the use to which real property may be put and Liens or covenants restricting or prohibiting access to or from lands abutting on controlled access highways or covenants affecting the use to which lands may be put; provided that such Liens or covenants do not interfere with the ordinary conduct of the business of the Borrower or any Restricted Subsidiary;

(jj) Liens on property, assets or Permitted Investments used to defease or to satisfy or discharge Indebtedness; *provided* that such defeasance, satisfaction or discharge is not prohibited by this Agreement;

(kk) Liens relating to escrow arrangements securing Indebtedness, including (i) Liens on escrowed proceeds from the issuance of Indebtedness for the benefit of the related holders of debt securities or other Indebtedness (or the underwriters, arrangers, trustee or collateral agent thereof) and (ii) Liens on cash or Cash Equivalents set aside at the time of the incurrence of any Indebtedness, in either case to the extent such cash or Cash Equivalents prefund the payment of interest or premium or discount on such Indebtedness (or any costs related to the issuance of such Indebtedness) and are held in an escrow account or similar arrangement to be applied for such purpose;

(ll) Liens on assets securing any Indebtedness owed to any Captive Insurance Subsidiary by the Borrower or any Restricted Subsidiary;

(mm) Liens for the benefit of Borrower or any Restricted Subsidiary arising in connection with any Permitted Intercompany Activities and related transactions;

(nn) Permitted Maritime Liens; and

(oo) Liens on Vessels under or to be under construction or conversion or otherwise not constituting Collateral and assets related thereto (including cash and Cash Equivalents held in one or more Excluded Accounts constituting the proceeds of any financing described under this clause (oo) or that are earmarked to fund such construction or conversion and costs and expenses ancillary thereto, including any downpayments in respect thereof (“**Subsidized Indebtedness Specified Cash**”)) securing government or quasi-government provided, supported, guaranteed or subsidized Indebtedness in an aggregate principal amount not to exceed (i) in the case of Liens on Vessels registered under the laws and flag of the United States, the greater of \$40 million and an amount equal to 5% of the Borrower’s Consolidated Net Tangible Assets as determined as of the end of the Borrower’s most recently completed fiscal quarter for which internal financial statements are available and (ii) in the case of any Vessel not registered under the laws and flag of the United States, an amount equal to 75% of the aggregate cost and expenses associated with or otherwise anticipated by the Borrower to be incurred in connection with such acquisition, construction or conversion.

For purposes of determining compliance with this Section 7.01, in the event that any Lien (or any portion thereof) meets the criteria of more than one of the categories set forth above, the Borrower may, in their sole discretion, at the time of incurrence, divide, classify or reclassify, or at any later time divide, classify or reclassify, such Lien (or any portion thereof) in any manner that complies with this covenant on the date such Lien is incurred or such later time, as applicable. For the avoidance of doubt, a Lien may be reclassified at a time subsequent to the time it was originally incurred, so long as such Lien would have been able to have been incurred at the time of such reclassification pursuant to the provision to which such Lien is being reclassified.

Notwithstanding the foregoing, neither the Borrower nor any Restricted Subsidiary shall permit any Lien to exist on (x) Excluded Foreign Flag Vessels or (y) in the case of a FSHCO, a Foreign Subsidiary or a Restricted Subsidiary of any FSHCO or Foreign Subsidiary (in each case, which is not a Guarantor), any assets or properties thereof, which Liens are securing Indebtedness for Borrowed Money, excluding (i) Liens arising as a matter of law, (ii) Liens securing Purchase Money Obligations or Capitalized Lease Obligations, (iii) Liens securing Acquiring Indebtedness, (iv) Liens securing insurance financings in respect of Section 7.03(m)(i), (v) Liens which are not a mortgage Lien which secure Intercompany Indebtedness, and (vi) any permitted refinancings of each of the foregoing.

Notwithstanding the foregoing, neither the Borrower nor any Restricted Subsidiary shall permit any Liens on the Collateral secured on a senior or otherwise preferred basis with the Liens securing the Obligations to the extent such Liens secure (i) Super-Priority Debt (excluding the Obligations) or other Indebtedness and (ii) any other First Lien Debt for borrowed money (other than to the extent constituting Obligations, Second Lien Credit Agreement Refinancing Indebtedness or Indebtedness permitted under Section 7.03(a) above), in each case, without the prior written consent of all Lenders.

SECTION 7.02 [Reserved].

SECTION 7.03 Indebtedness. Create, incur or assume any Indebtedness (including Acquired Indebtedness); *provided, however*, that the Borrower and any of its Restricted Subsidiaries may incur Indebtedness (including Acquired Indebtedness), if on the date of such incurrence and after giving pro forma effect thereto (including pro forma application of the proceeds thereof), (A) the Fixed Charge Coverage Ratio of the Borrower and its Restricted Subsidiaries is greater than 2.00 to 1.00 and (B) the Borrower is in pro forma compliance with the Financial Covenants ("**Ratio Debt**"), *provided, further*, that the foregoing shall not prohibit the incurrence of the following Indebtedness (collectively, together with Ratio Debt, "**Permitted Debt**"):

(a) Indebtedness incurred (i) under the Loan Documents (including Incremental Loans, Refinancing Loans and Extended Loans) and all other Obligations and any Incremental Equivalent Debt and (ii) Indebtedness incurred by the Borrower or any Guarantor (including any First Lien Debt (other than Super-Priority Debt), Junior Lien Debt and any letters of credit or bankers' acceptances) and Guarantees in respect thereof, up to an aggregate principal amount at the time of incurrence not exceeding (x) the greater of \$200.0 million and an amount equal to 35% of the Borrower's Consolidated Net Tangible Assets determined as of the end of the Borrower's most recently completed fiscal quarter for which internal financial statements are available, plus (y) an unlimited amount if on the date of such incurrence and after giving pro forma effect thereto (including pro forma application of the proceeds thereof) the Secured Net Leverage Ratio of the Borrower and its Restricted Subsidiaries is no greater than 2.25 to 1.00 (or, with respect to an acquisition (by merger, consolidation, amalgamation or otherwise), if the Secured Net Leverage Ratio after giving effect to such acquisition of the Borrower and its Restricted Subsidiaries is no worse than the Secured Net Leverage Ratio of the Borrower and its Restricted Subsidiaries immediately prior to such acquisition) (in each case, with any Indebtedness incurred in reliance upon this clause (ii) being deemed to be Consolidated Secured Net Debt for purposes of calculating the Secured Leverage Ratio, whether or not secured), as long as, in the case of this clause (a), (ii), the Borrower is in pro forma compliance with the Financial Covenants upon giving pro forma effect thereto and, in each case of clauses (i) and (ii), any Refinancing Indebtedness in respect thereof;

(b) [reserved];

(c) Indebtedness existing on the Closing Date (together with guarantee obligations thereunder), including Indebtedness under the Second Lien Credit Agreement, so long as all such Indebtedness is repaid, refinanced with the proceeds of or exchanged for Second Lien Credit Agreement Refinancing Indebtedness or the maturity date thereunder is otherwise extended by the date that is no later than ninety-one (91) days prior to the maturity date under the existing Second Lien Credit Agreement and as long as, after giving effect to such refinancing or extension, the maturity date of such resulting Indebtedness is no earlier than ninety-one (91) days after the then-latest Maturity Date and as otherwise listed on Schedule 7.03(c) hereto and any Refinancing Indebtedness thereof (or, in the case of Indebtedness under the Second Lien Credit Agreement, any Second Lien Credit Agreement Refinancing Indebtedness) and any Intercompany Indebtedness outstanding on the Closing Date;

(d) Guarantees by the Borrower or any Restricted Subsidiary of Indebtedness or other obligations of the Borrower or any Restricted Subsidiary so long as the incurrence of such Indebtedness or other obligations guaranteed pursuant hereto was not prohibited by the terms of this Agreement at the time it was incurred and, with respect to non-Guarantor Restricted Subsidiaries, could have been incurred by a non-Guarantor Restricted Subsidiary;

(e) Indebtedness of the Borrower to any Restricted Subsidiary or Indebtedness of a Restricted Subsidiary to the Borrower or to any Restricted Subsidiary; *provided, however, that:*

(i) any subsequent issuance or transfer of Equity Interests or any other event which results in any such Indebtedness being held by a Person other than the Borrower or a Restricted Subsidiary, and

(ii) any sale or other transfer of any such Indebtedness to a Person other than the Borrower or a Restricted Subsidiary, shall be deemed, in each case, to constitute an incurrence of such Indebtedness by the Borrower or such Restricted Subsidiary, as the case may be;

(f) Indebtedness represented (i) by Refinancing Indebtedness incurred in respect of any indebtedness described in clauses (c), (d), (g), (l), (n) or (r) and (ii) by Management Advances;

(g) Indebtedness of (x) the Borrower or any Restricted Subsidiary incurred or issued to finance an acquisition or Investment or (y) Persons that are acquired by the Borrower or any Restricted Subsidiary or merged into, amalgamated or consolidated with the Borrower or a Restricted Subsidiary in accordance with the terms of this Agreement (including designating an Unrestricted Subsidiary as a Restricted Subsidiary); *provided that* at the time of such acquisition, merger, amalgamation or consolidation and after giving pro forma effect to the incurrence of such Indebtedness, either:

(i) the Borrower and its Restricted Subsidiaries would be permitted to incur at least \$1.00 of Ratio Debt; or

(ii) the Fixed Charge Coverage Ratio of the Borrower and its Restricted Subsidiaries would not be lower than it was immediately prior to such acquisition, merger, amalgamation or consolidation;

(h) Obligations in respect of any Hedge Agreements (excluding Hedge Agreements entered into for speculative purposes);

(i) Indebtedness represented by Capitalized Leases or purchase money obligations or Sale Leaseback Transactions in an aggregate outstanding principal amount which, when taken together with the principal amount of all other Indebtedness incurred pursuant to this clause (i) and then outstanding, does not exceed the greater of (x) \$50.0 million and (y) an amount equal to 6.0% of the Borrower's Consolidated Net Tangible Assets determined as of the end of the Borrower's most recently completed fiscal quarter for which internal financial statements are available, and any Refinancing Indebtedness in respect thereof;

(j) Indebtedness in respect of (i) workers' compensation claims, health, disability or other employee benefits, property, casualty or liability insurance, self-insurance obligations, customer guarantees, performance, indemnity, surety, judgment, bid, appeal, advance payment (including progress premiums), customs, value added or other Tax or other guarantees or other similar bonds, instruments or obligations, completion guarantees and warranties or relating to liabilities, obligations or guarantees incurred in the ordinary course of business or consistent with past practice; (ii) the honoring by a bank or other financial institution of a check, draft or similar instrument drawn against insufficient funds in the ordinary course of business or consistent with past practice; (iii) customer deposits and advance payments (including progress premiums) received from customers for goods or services purchased in the ordinary course of business or consistent with past practice; (iv) letters of credit, bankers' acceptances, discounted bills of exchange, discounting or factoring of receivables or payables for credit management purposes, warehouse receipts, guarantees or other similar instruments or obligations issued or entered into, or relating to liabilities or obligations incurred in the ordinary course of business or consistent with past practice; (v) Cash Management Obligations; and (vi) Settlement Indebtedness;

(k) Indebtedness arising from agreements providing for guarantees, indemnification, obligations in respect of earn-outs, deferred purchase price or other adjustments of purchase price or, in each case, similar obligations, in each case, incurred or assumed in connection with the acquisition or disposition of any business, assets, a Person (including any Equity Interests of a Subsidiary) or Investment (other than Guarantees of Indebtedness incurred by any Person acquiring or disposing of such business, assets, Person or Investment for the purpose of financing such acquisition or disposition);

(l) Indebtedness in an aggregate outstanding principal amount which, when taken together with the principal amount of all other Indebtedness incurred pursuant to this clause and then outstanding, will not exceed 100% of the net cash proceeds received by the Borrower or its Restricted Subsidiaries from the issuance or sale (other than to a Restricted Subsidiary) of its Equity Interests or otherwise contributed to the equity (in each case, other than through the issuance of Disqualified Equity Interest) of the Borrower or its Restricted Subsidiaries, in each case, subsequent to the Closing Date, and any Refinancing Indebtedness in respect thereof; *provided, however*, that (i) any such net cash proceeds that are so received or contributed shall not increase the Available Amount to the extent the Borrower and its Restricted Subsidiaries incur Indebtedness pursuant to this clause (l) in reliance thereon and (ii) any net cash proceeds that are so received or contributed shall be excluded for purposes of incurring Indebtedness pursuant to this clause (l) to the extent such net cash proceeds or cash have been applied to make Investments, Permitted Payments and other transactions permitted under Section 7.06;

(m) Indebtedness of the Borrower or any of its Restricted Subsidiaries consisting of (i) the financing of insurance premiums or (ii) take-or-pay obligations contained in supply arrangements, in each case incurred in the ordinary course of business or consistent with past practice;

(n) Indebtedness in an aggregate outstanding principal amount which, when taken together with the principal amount of all other Indebtedness incurred pursuant to this clause and then outstanding, including any Refinancing Indebtedness in respect thereof, will not exceed the greater of (i) \$50.0 million and (ii) an amount equal to 6.0% of the Borrower's Consolidated Net Tangible Assets determined as of the end of the Borrower's most recently completed fiscal quarter for which internal financial statements are available;

(o) any obligation, or guaranty of any obligation, of the Borrower or any Restricted Subsidiary to reimburse or indemnify a Person extending credit to customers of the Borrower or a Restricted Subsidiary incurred in the ordinary course of business or consistent with past practice for all or any portion of the amounts payable by such customers to the Person extending such credit;

(p) Indebtedness to a customer to finance the acquisition of any equipment necessary to perform services for such customer; provided that the terms of such Indebtedness are consistent with those entered into with respect to similar Indebtedness prior to the Closing Date, including, if so consistent, that (1) the repayment of such Indebtedness is conditional upon such customer ordering a specific amount of goods or services and (2) such Indebtedness does not bear interest or provide for scheduled amortization or maturity;

(q) Indebtedness incurred in connection with Restricted Payments pursuant to the Jones Act Warrants (or other warrants issued pursuant thereto) to the extent that such Restricted Payments were made in compliance with Section 7.06 (assuming for such purpose that payment by the Borrower of such Indebtedness as of such date (even if the actual payment occurs as of a later date) constitutes a Restricted Payment for purposes of Section 7.06 herein) ("**Jones Act Notes**");

(r) Indebtedness incurred by Foreign Subsidiaries or non-Guarantor Restricted Subsidiaries in an aggregate outstanding principal amount which, when taken together with the principal amount of all other Indebtedness incurred pursuant to this clause (r) and then outstanding, including any Refinancing Indebtedness in respect thereof, does not exceed the greater of (a) \$10.0 million and (b) an amount equal to 1.25% of the Borrower's Consolidated Net Tangible Assets determined as of the end of the Borrower's most recently completed fiscal quarter for which internal financial statements are available;

(s) Indebtedness incurred on behalf of, or representing Guarantees of Indebtedness of, any joint ventures in an aggregate principal amount at any time outstanding not to exceed the greater of (a) \$25.0 million and (b) an amount equal to 3.0% of the Borrower's Consolidated Net Tangible Assets determined as of the end of the Borrower's most recently completed fiscal quarter for which internal financial statements are available, and any Refinancing Indebtedness in respect thereof;

(t) Indebtedness of the Borrower or any of its Restricted Subsidiaries arising pursuant to any Permitted Intercompany Activities and related transactions; and

(u) all premiums (if any), interest (including post-petition interest), fees, expenses, charges and additional or contingent interest on obligations described in clauses (a) through (y) above.

For purposes of determining compliance with, and the outstanding principal amount of any particular Indebtedness incurred pursuant to and in compliance with, this covenant:

- (1) in the event that all or any portion of any item of Indebtedness meets the criteria of more than one of the types of Permitted Debt, the Borrower, in its sole discretion, will classify, and may from time to time reclassify, such item of Indebtedness (or any portion thereof) and only be required to include the amount and type of such Indebtedness in the applicable Permitted Debt category;
- (2) additionally, all or any portion of any item of Indebtedness may later be reclassified as having been incurred pursuant to any type of Indebtedness described as Permitted Debt so long as such Indebtedness is permitted to be incurred pursuant to such provision and any related Liens are permitted to be incurred at the time of reclassification (it being understood that any Permitted Debt incurred pursuant to one of the clauses of the second proviso of this Section 7.03 shall cease to be deemed incurred or outstanding for purposes of such Section but shall be deemed incurred as Ratio Debt from and after the first date on which the Borrower or its Restricted Subsidiaries could have incurred such Ratio Debt without reliance on such clause);
- (3) all outstanding Obligations shall be incurred under Section 7.03(a)(i) and Super-Priority Debt shall only be permitted to be incurred under Section 7.03(a)(i);
- (4) in the case of any Refinancing Indebtedness and Second Lien Credit Agreement Refinancing Indebtedness, when measuring the outstanding amount of such Indebtedness, such amount shall not include the aggregate amount of accrued and unpaid interest, dividends, premiums (including tender premiums), defeasance costs, underwriting discounts, fees, costs and expenses (including original issue discount, upfront fees or similar fees) in connection with such refinancing;
- (5) Guarantees of, or obligations in respect of letters of credit, bankers' acceptances or other similar instruments relating to, or Liens securing, Indebtedness that is otherwise included in the determination of a particular amount of Indebtedness shall not be included;

- (6) [reserved];
- (7) the principal amount of any Disqualified Equity Interests of the Borrower or a Restricted Subsidiary, or Preferred Stock of any Restricted Subsidiary, will be equal to the greater of the maximum mandatory redemption or repurchase price (not including, in either case, any redemption or repurchase premium) or the liquidation preference thereof;
- (8) Indebtedness permitted by this Section 7.03 need not be permitted solely by reference to one provision permitting such Indebtedness but may be permitted in part by one such provision and in part by one or more other provisions of this Section 7.03 permitting such Indebtedness;
- (9) for purposes of calculating ratio-based baskets and pro forma compliance with the Financial Covenants, as applicable, in connection with the incurrence, issuance or assumption of any Indebtedness pursuant to the Permitted Debt clauses above or the incurrence or creation of any Lien pursuant to Section 7.01, the Borrower may elect, at its option, to treat all or any portion of the committed amount of any Indebtedness (and the issuance and creation of letters of credit and bankers' acceptances thereunder) which is to be incurred (or any commitment in respect thereof) or secured by such Lien, as the case may be (any such committed amount elected until revoked as described below, the **"Reserved Indebtedness Amount"**), as being incurred as of such election date, and, if such ratio-based basket, Financial Covenant or other provision of this Agreement, as applicable, is complied with (or satisfied) with respect thereto on such election date, any subsequent borrowing or reborrowing thereunder (and the issuance and creation of letters of credit and bankers' acceptances thereunder) will be deemed to be permitted under this Section 7.03 or Section 7.01, as applicable, whether or not the ratio-based basket or pro forma compliance with the Financial Covenant, as applicable, at the actual time of any subsequent borrowing or reborrowing (or issuance or creation of letters of credit or bankers' acceptances thereunder) is complied with (or satisfied) for all purposes (including as to the absence of any continuing Default or Event of Default); *provided* that for purposes of subsequent calculations of the applicable ratio-based basket or Financial Covenant (including testing of the Financial Covenants pursuant to Section 8.01), as applicable, the Reserved Indebtedness Amount shall be deemed to be outstanding, whether or not such amount is actually outstanding, for so long as such commitments are outstanding or until the Borrower revokes an election of a Reserved Indebtedness Amount;
- (10) [reserved];
- (11) notwithstanding anything in this covenant to the contrary, in the case of any Indebtedness incurred to refinance Indebtedness initially incurred in reliance on a clause of Permitted Debt (other than Ratio Debt) measured by reference to a percentage of Consolidated Net Tangible Assets at the time of incurrence, if such refinancing would cause the percentage of Consolidated Net Tangible Assets restriction to be exceeded if calculated based on the percentage of Consolidated Net Tangible Assets on the date of such refinancing, such percentage of Consolidated Net Tangible Assets restriction shall not be deemed to be exceeded so long as the principal amount of such refinancing Indebtedness does not exceed the principal amount of such Indebtedness being refinanced, *plus* accrued and unpaid interest, dividends, premiums (including tender premiums), defeasance costs, underwriting discounts, fees, costs and expenses (including original issue discount, upfront fees or similar fees) in connection with such refinancing;

- (12) the amount of Indebtedness issued at a price that is less than the principal amount thereof will be equal to the amount of the liability in respect thereof determined in accordance with GAAP; and
- (13) to the extent the Borrower or a Restricted Subsidiary incurs additional Indebtedness constituting Consolidated First and Second Lien Debt (other than, for the avoidance of doubt, the Obligations and Second Lien Credit Agreement Refinancing Indebtedness), in each case, pursuant to a provision of this Section 7.03 based on a percentage of the Borrower's Consolidated Net Tangible Assets or subject to pro forma compliance with the Secured Net Leverage Ratio, the Borrower shall demonstrate that immediately following the incurrence of such additional Indebtedness, the Collateral Coverage Ratio is not less than 1.50:1.00.

Notwithstanding the foregoing:

(A) subject in all respects to the Inside Maturity Exception, none of the Borrower nor any of its Restricted Subsidiaries may incur Material Indebtedness under this Section 7.03 (or amend, modify or supplement the terms of any such Material Indebtedness) if such Indebtedness has (or, as a result of such amendment, modification or supplement, would have) a final stated maturity date any earlier than ninety-one (91) days after the latest maturity date of the Initial Revolving Loans; provided however that this paragraph shall not apply to (i) Purchase Money Obligations and Capitalized Lease Obligations (in each case, for *bona fide* equipment, vehicle or similar asset-specific financings as determined in good faith by a Responsible Officer), (ii) Acquired Indebtedness or (iii) insurance financings in respect of Section 7.03(m)(i), (iv) Intercompany Indebtedness, (v) government or quasi-government provided, supported, guaranteed or subsidized financings or (vi) Refinancing Indebtedness in respect of any of the foregoing.

(B) no Excluded Subsidiary which is a FSHCO, a Foreign Subsidiary or a Restricted Subsidiary of any FSHCO or Foreign Subsidiary (unless such Subsidiary has become a Guarantor) shall be permitted to incur Indebtedness for Borrowed Money (excluding (i) Purchase Money Obligations and Capitalized Lease Obligations, (ii) Acquired Indebtedness, (iii) insurance financings in respect of Section 7.03(m)(i), (iv) Intercompany Indebtedness, (v) government or quasi-government provided, supported, guaranteed or subsidized financings, (vi) Indebtedness under the Second Lien Credit Agreement or, to the extent permitted thereunder, constituting Second Lien Credit Agreement Refinancing Indebtedness or (vii) and Refinancing Indebtedness in respect of any of the foregoing), unless such Excluded Subsidiary is or becomes a Guarantor at the time of incurring such Indebtedness and would otherwise be permitted to incur such Indebtedness under this Agreement.

(C) neither the Borrower nor any Restricted Subsidiary shall incur any (i) Super-Priority Debt (excluding the Obligations) or Indebtedness that is secured by a Lien on the Collateral on a senior or otherwise preferred basis with the Liens securing the Obligations and (ii) any Indebtedness for borrowed money secured by a first priority lien on the Collateral (other than to the extent constituting Obligations, Second Lien Credit Agreement Refinancing Indebtedness or Indebtedness permitted under clause (a) above), in each case, without the prior written consent of all Lenders.

For purposes of determining compliance with this Section 7.03, in the event that an item of Indebtedness (or any portion thereof) meets the criteria of more than one of the categories set forth above, the Borrower may, in its sole discretion, at the time of incurrence, divide, classify or reclassify, or at any later time divide, classify or reclassify, such item of Indebtedness (or any portion thereof) in any manner that complies with this covenant on the date such Indebtedness is incurred or such later time, as applicable; *provided* that all Indebtedness created pursuant to the Loan Documents will be deemed to have been incurred in reliance on the exception in clause (a) above and will not be permitted to be reclassified pursuant to this paragraph; *provided, further*, all or any portion of any item of Indebtedness may later be reclassified as having been incurred pursuant to any type of Indebtedness described in clause (a) of this covenant so long as such Indebtedness is permitted to be incurred pursuant to such provision and any related Liens are permitted to be incurred at the time of reclassification. In the case of any Refinancing Indebtedness or Second Lien Credit Agreement Refinancing Indebtedness, when measuring the outstanding amount of such Indebtedness, such amount shall not include the aggregate amount of accrued and unpaid interest, dividends, premiums (including tender premiums), defeasance costs, underwriting discounts, fees, costs and expenses (including original issue discount, upfront fees or similar fees) in connection with such refinancing. If obligations in respect of letters of credit, bankers' acceptances or other similar instruments are incurred pursuant to the Facility and are being treated as incurred pursuant to clause (a) above and the letters of credit, bankers' acceptances or other similar instruments relate to other Indebtedness, then such other Indebtedness shall not be included. The principal amount of any Disqualified Equity Interests of the Borrower or a Restricted Subsidiary, or preferred stock of any Restricted Subsidiary, will be equal to the greater of the maximum mandatory redemption or repurchase price (not including, in either case, any redemption or repurchase premium) or the liquidation preference thereof.

Indebtedness permitted by this covenant need not be permitted solely by reference to one provision permitting such Indebtedness but may be permitted in part by one such provision and in part by one or more other provisions of this covenant permitting such Indebtedness.

For purposes of determining compliance with any Dollar-denominated restriction on the incurrence of Indebtedness, the Dollar equivalent principal amount of Indebtedness denominated in a foreign currency shall be calculated based on the relevant currency exchange rate in effect on the date such Indebtedness was incurred, in the case of term debt, or first committed, in the case of revolving credit debt; *provided* that if such Indebtedness is incurred to refinance other Indebtedness denominated in a foreign currency, and such refinancing would cause the applicable Dollar-denominated restriction to be exceeded if calculated at the relevant currency exchange rate in effect on the date of such refinancing, such Dollar-denominated restriction shall be deemed not to have been exceeded so long as the principal amount of such refinancing Indebtedness does not exceed (a) the principal amount of such Indebtedness being refinanced *plus* (b) the aggregate amount of accrued and unpaid interest, dividends, premiums (including tender premiums), defeasance costs, underwriting discounts, fees, costs and expenses (including original issue discount, upfront fees or similar fees) in connection with such refinancing.

Notwithstanding any other provision of this covenant, the maximum amount of Indebtedness that the Borrower or a Restricted Subsidiary may incur pursuant to this covenant shall not be deemed to be exceeded solely as a result of fluctuations in the exchange rate of currencies. The principal amount of any Indebtedness incurred to refinance other Indebtedness, if incurred in a different currency from the Indebtedness being refinanced, shall be calculated based on the currency exchange rate applicable to the currencies in which such respective Indebtedness is denominated that is in effect on the date of such refinancing.

The accrual of interest and the accretion of accreted value and the payment of interest in the form of additional Indebtedness shall not be deemed to be an incurrence of Indebtedness for purposes of this Section 7.03. The principal amount of any non-interest bearing Indebtedness or other discount security constituting Indebtedness at any date shall be the principal amount thereof that would be shown on a balance sheet of the Borrower dated such date prepared in accordance with GAAP.

SECTION 7.04 Fundamental Changes.

(a) With respect to the Borrower, consolidate with or merge with or into, or convey, transfer or lease all or substantially all of its assets in one transaction or a series of related transactions, to any Person, unless:

(i) the Borrower is the surviving Person;

(ii) immediately after giving effect to such transaction, no Event of Default shall have occurred and be continuing;

(iii) immediately after giving pro forma effect to such transaction, either (a) the Borrower would be able to incur at least an additional \$1.00 of Ratio Debt or (b) the Fixed Charge Coverage Ratio of the Borrower, as applicable, and its Restricted Subsidiaries would not be lower than it was immediately prior to giving effect to such transaction;

(iv) the Borrower shall have delivered to the Administrative Agent an officer's certificate stating that such consolidation, merger or transfer and such supplemental indenture and other documents or instruments (if any) comply with this Agreement and Collateral Documents; and

(v) to the extent any assets of the Person which is merged or consolidated with or into the Borrower are assets of the type which would constitute Collateral under the Collateral Documents, the Borrower will take such action, if any, as may be reasonably necessary to cause such property and assets to be made subject to the Lien of the applicable Collateral Documents in the manner and to the extent required in this Agreement or the applicable Collateral Documents and shall take all reasonably necessary action so that such Lien is perfected to the extent required by the applicable Collateral Documents.

Notwithstanding any other provision of this covenant, (a) the Borrower may consolidate or otherwise combine with, merge into or transfer all or part of its properties and assets to a Guarantor, (b) the Borrower may consolidate or otherwise combine with or merge into an Affiliate organized or existing under the laws of the United States of America, any State of the United States or the District of Columbia incorporated or organized for the purpose of changing the legal domicile of the Borrower, reincorporating the Borrower in another jurisdiction, or changing the legal form of the Borrower, (c) any Restricted Subsidiary may consolidate or otherwise combine with, merge into or transfer all or part of its properties and assets to the Borrower or a Guarantor, (d) any Restricted Subsidiary may consolidate or otherwise combine with, merge into or transfer all or part of its properties and assets to any other Restricted Subsidiary and (e) the Borrower and its Restricted Subsidiaries may complete any Reorganization Transaction.

Notwithstanding anything herein to the contrary, in the event of any merger, amalgamation, dissolution, liquidation, consolidation, amalgamation or Division of any Loan Party or a Restricted Subsidiary effected in accordance with this Section 7.04, the Borrower shall (x) promptly deliver or cause to be delivered to the Administrative Agent for further distribution by the Administrative Agent to each Lender (1) such information and documentation reasonably requested by the Administrative Agent or any Lender in order to comply with applicable “know your customer” and anti-money laundering rules and regulations, including the USA PATRIOT Act and (2) a Beneficial Ownership Certification and (y) do, execute, acknowledge, deliver, record, re-record, file, re-file, register, re-register, publish and re-publish any and all such further acts, deeds, certificates, assurances and other instruments as the Administrative Agent or Collateral Agent may reasonably request in order to perfect or continue the perfection of the Liens granted or purported to be granted by the Collateral Documents in accordance with Section 6.11 and as promptly as practicable.

(b) With respect to the Guarantors, subject to certain limitations described in this Agreement governing release of a Guarantee upon the sale, disposition or transfer of a Guarantor, consolidate with or merge with or into, or convey, transfer or lease all or substantially all its assets, in one or a series of related transactions, to any Person, unless:

(i) Pursuant to such transaction:

(A) the other Person is the Borrower or any Restricted Subsidiary that is a Guarantor or becomes a Guarantor concurrently with the transaction; or either (x) the Borrower or a Guarantor is the continuing Person or (y) the resulting, surviving or transferee Person (the “**Successor Person**”) expressly assumes all the obligations of the Guarantor under its Guaranty and this Agreement;

(B) immediately after giving effect to the transaction, no Event of Default shall have occurred and be continuing; and

(C) to the extent any assets of the Person which is merged, consolidated or amalgamated with or into such Guarantor are assets of the type which would constitute Collateral under the Collateral Documents, such Guarantor or the Successor Person will take such action, if any, as may be reasonably necessary to cause such property and assets to be made subject to the Lien of the applicable Collateral Documents in the manner and to the extent required in this Agreement or the applicable Collateral Documents and shall take all reasonably necessary action so that such Lien in perfected to the extent required by the applicable Collateral Documents; or

(ii) the transaction constitutes a sale, disposition or transfer of the Guarantor or the conveyance, transfer or lease of all or substantially all of the assets of the Guarantor (in each case other than to the Borrower or a Restricted Subsidiary) otherwise not prohibited by this Agreement.

Notwithstanding any other provision of this covenant, any Guarantor may (a) consolidate or otherwise combine with, merge into or transfer all or part of its properties and assets to another Guarantor or the Borrower, (b) consolidate or otherwise combine with or merge into an Affiliate incorporated or organized for the purpose of changing the legal domicile of the Guarantor, reincorporating the Guarantor in another jurisdiction, or changing the legal form of the Guarantor, (c) convert into a corporation, partnership, limited partnership, limited liability company or trust organized or existing under the laws of the jurisdiction of organization of such Guarantor, (d) liquidate or dissolve or change its legal form if the Borrower determines in good faith that such action is in the best interests of the Borrower and (e) complete any Reorganization Transaction. Notwithstanding anything to the contrary in this covenant, the Borrower may contribute Equity Interests of any or all of its Subsidiaries to any Guarantor.

Any reference herein to a merger, consolidation, amalgamation, assignment, sale, disposition or transfer, or similar term, shall be deemed to apply to a division of or by a limited liability company, limited partnership or trust, or an allocation of assets to a series of a limited liability company, limited partnership or trust (or the unwinding of such a division or allocation), as if it were a merger, consolidation, amalgamation, assignment, sale, disposition or transfer, or similar term, as applicable, to, of or with a separate Person. Any division of a limited liability company, limited partnership or trust shall constitute a separate Person hereunder (and each division of any limited liability company, limited partnership or trust that is a Subsidiary, Restricted Subsidiary, Unrestricted Subsidiary, joint venture or any other like term shall also constitute such a Person or entity).

SECTION 7.05 Dispositions. Make any Disposition, unless:

(a) the Borrower or such Restricted Subsidiary, as the case may be, receives consideration (including by way of relief from, or by any other Person assuming responsibility for, any liabilities, contingent or otherwise) at least equal to the Fair Market Value (such Fair Market Value to be determined on the date of contractually agreeing to such Disposition), as determined in good faith by the Borrower, of the shares and assets subject to such Disposition (including, for the avoidance of doubt, if such Disposition is a Permitted Asset Swap);

(b) in any such Disposition, or series of related Dispositions (except to the extent the Disposition is a Permitted Asset Swap), at least 75% of the consideration from such Disposition, together with all other Dispositions since the Closing Date (on a cumulative basis), (including by way of relief from, or by any other Person assuming responsibility for, any liabilities, contingent or otherwise) received by the Borrower or such Restricted Subsidiary, as the case may be, is in the form of cash or Cash Equivalents; and

(c) with respect to any Disposition of Vessel Collateral, immediately prior to and following such Disposition on a proforma basis giving effect to such Disposition, (x) the Collateral Coverage Ratio shall not be less than 1.50:1.00, and (y) the RCF Collateral Coverage Ratio shall be not less than 5.0:1.0.

For the purposes of clause (b) of this Section 7.05, the following will be deemed to be cash:

- (1) the assumption by the transferee of Indebtedness or other liabilities, contingent or otherwise, of the Borrower or a Restricted Subsidiary (other than any Junior Financing of the Borrower or a Guarantor) or the release of the Borrower or such Restricted Subsidiary from all liability on such Indebtedness or other liability in connection with such Disposition;
- (2) securities, notes or other obligations received by the Borrower or any Restricted Subsidiary from the transferee that are converted by the Borrower or such Restricted Subsidiary into cash or Cash Equivalents, or by their terms are required to be satisfied for cash and Cash Equivalents (to the extent of the cash or Cash Equivalents received), in each case, within 180 days following the closing of such Disposition;
- (3) Indebtedness of any Restricted Subsidiary that is no longer a Restricted Subsidiary as a result of such Disposition, to the extent that the Borrower and each other Restricted Subsidiary are released from any Guarantee of payment of such Indebtedness in connection with such Disposition;
- (4) consideration consisting of Indebtedness of the Borrower or a Restricted Subsidiary (other than any Subordinated Indebtedness) received after the Closing Date from Persons who are not the Borrower or any Restricted Subsidiary; and
- (5) any Designated Non-Cash Consideration received by the Borrower or any Restricted Subsidiary in such Dispositions having an aggregate Fair Market Value, taken together with all other Designated Non-Cash Consideration received pursuant to this clause that is at that time outstanding, not to exceed the greater of (i) \$10.0 million and (ii) an amount equal to 1.25% of the Borrower's Consolidated Net Tangible Assets determined as of the end of the Borrower's most recently completed fiscal quarter for which internal financial statements are available (the "**Applicable Proceeds Threshold Amount**"), with the Fair Market Value of each item of Designated Non-Cash Consideration being measured at the time received and without giving effect to subsequent changes in value.

To the extent any Collateral is Disposed of as expressly permitted by this Section 7.05 or the definition of “Disposition” to any Person other than a Loan Party, such Collateral shall be sold free and clear of the Liens created by the Loan Documents, and, without limiting the provisions of Section 10.11, the Administrative Agent and the Collateral Agent shall be authorized to, and shall, take any actions reasonably requested by the Borrower in order to effect the foregoing (and the Lenders hereby authorize and direct the Administrative Agent and the Collateral Agent to conclusively rely on any such certification by the Borrower in performing its obligations under this sentence).

SECTION 7.06 Restricted Payments.

(a) Declare or pay any dividend or make any distribution on or in respect of the Borrower’s or any Restricted Subsidiary’s Equity Interests (including any such payment in connection with any merger or consolidation involving the Borrower or any of the Restricted Subsidiaries) except:

(i) dividends, payments or distributions payable to the Borrower or a Restricted Subsidiary (and, in the case of any such Restricted Subsidiary making such dividend or distribution, to holders of its Equity Interests other than the Borrower or another Restricted Subsidiary on no more than a pro rata basis), and;

(ii) dividends, payments or distributions payable in Equity Interests of the Borrower (other than Disqualified Equity Interests) or in options, warrants or other rights to purchase such Equity Interests of the Borrower;

(b) Purchase, repurchase, redeem, retire or otherwise acquire or retire for value any Equity Interests of the Borrower or any Parent Entity held by Persons other than the Borrower or a Restricted Subsidiary;

(c) Make any Junior Debt Repayment (other than a Permitted Junior Debt Repayment); or

(d) Make any Restricted Investment;

any such dividend, distribution, payment, purchase, redemption, repurchase, defeasance, other acquisition, retirement or Restricted Investment referred to in clauses (a) through (d) above are referred to herein as a “**Restricted Payment**”, if at the time the Borrower or such Restricted Subsidiary makes such Restricted Payment:

(i) an Event of Default shall have occurred and be continuing (or would immediately thereafter result therefrom); or

(ii) in the case of a Restricted Payment other than a Restricted Investment, the Borrower is not able to incur an additional \$1.00 of Ratio Debt immediately after giving effect, on a pro forma basis, to such Restricted Payment; or

(iii) the Borrower would not be in pro forma compliance with the Financial Covenants upon giving effect thereto; or

(iv) in the case of Restricted Payments other than dollar-for-dollar refinancings, Restricted Payments used directly to consummate acquisitions of Vessels, the Borrower must have at least 50% of the total Commitments available for drawing under the Facility immediately prior to and following such Restricted Payment; *provided*, that this clause (iv) shall not apply to Restricted Payments made by a Borrower and the Restricted Subsidiaries to consummate a change in the flag jurisdiction of Vessel Collateral permitted hereunder; or

(v) the aggregate amount of such Restricted Payment and all other Restricted Payments made subsequent to the Closing Date (and not returned or rescinded) (including Permitted Payments made pursuant to clauses (1) (without duplication) and (7) of the next succeeding paragraph, but excluding all other Restricted Payments permitted by the next succeeding paragraph) would exceed the sum of (without duplication) (the “**Available Amount**”):

(A) 50% of Consolidated Net Income for the period (treated as one accounting period) beginning July 1, 2024 to the end of the most recent fiscal quarter ending prior to the date of such Restricted Payment for which consolidated financial statements are available (which may, at the Borrower’s election, be internal financial statements);

(B) 100% of the aggregate amount of cash, and the Fair Market Value of property or assets or marketable securities, received by the Borrower from the issue or sale of its Equity Interests (including, for the avoidance of doubt, any proceeds of an issuance or sale of Equity Interests in connection with or following a public offering of common stock, common equity interests or Jones Act Warrants) or as the result of a merger or consolidation with another Person subsequent to the Closing Date or otherwise contributed to the equity (in each case other than through the issuance of Disqualified Equity Interests) of the Borrower or a Restricted Subsidiary (including the aggregate principal amount of any Indebtedness of the Borrower or a Restricted Subsidiary contributed to the Borrower or a Restricted Subsidiary for cancellation) or that becomes part of the capital of the Borrower or a Restricted Subsidiary through consolidation or merger subsequent to the Closing Date (other than (x) net cash proceeds or property or assets or marketable securities received from an issuance or sale of such Equity Interests to a Restricted Subsidiary or an employee stock ownership plan or trust established by a Parent Entity, the Borrower or any Subsidiary of the Borrower for the benefit of their employees to the extent funded by the Borrower or any Restricted Subsidiary and (y) cash or property or assets or marketable securities to the extent that any Restricted Payment has been made from such proceeds in reliance on clause (6) of the next succeeding paragraph);

(C) 100% of the aggregate amount of cash, and the Fair Market Value of property or assets or marketable securities, received by the Borrower or any Restricted Subsidiary from the issuance or sale (other than to the Borrower or a Restricted Subsidiary or an employee stock ownership plan or trust established by a Parent Entity, the Borrower or any Subsidiary of the Borrower for the benefit of their employees to the extent funded by the Borrower or any Restricted Subsidiary) by the Borrower or any Restricted Subsidiary subsequent to the Closing Date of any Indebtedness or Disqualified Equity Interests that has been converted into or exchanged for Equity Interests of the Borrower (other than Disqualified Equity Interests) plus, without duplication, the amount of any cash, and the Fair Market Value of property or assets or marketable securities, received by the Borrower or any Restricted Subsidiary upon such conversion or exchange;

(D) 100% of the aggregate amount received in cash and the Fair Market Value, as determined in good faith by the Borrower, of marketable securities or other property received by means of: (i) the sale or other disposition (other than to the Borrower or a Restricted Subsidiary) of, or other returns on Investment from, Restricted Investments made by the Borrower or the Restricted Subsidiaries and repurchases and redemptions of, or cash distributions or cash interest received in respect of, such Investments from the Borrower or the Restricted Subsidiaries and repayments of loans or advances, and releases of guarantees, which constitute Restricted Investments by the Borrower or the Restricted Subsidiaries, in each case after the Closing Date; or (ii) the sale or other disposition (other than to the Borrower or a Restricted Subsidiary) of the Equity Interests of an Unrestricted Subsidiary or a dividend, payment or distribution from an Unrestricted Subsidiary (other than to the extent of the amount of the Investment that constituted a Permitted Investment or was made under clause (13) of the definition of “Permitted Payments” and will increase the amount available under the applicable clause of the definition of “Permitted Investment” or clause (13) of the definition of “Permitted Payments”, as the case may be) or a dividend from a Person that is not a Restricted Subsidiary after the Closing Date;

(E) in the case of the redesignation of an Unrestricted Subsidiary as a Restricted Subsidiary or the merger, amalgamation or consolidation of an Unrestricted Subsidiary into the Borrower or a Restricted Subsidiary or the transfer of all or substantially all of the assets of an Unrestricted Subsidiary to the Borrower or a Restricted Subsidiary after the Closing Date, the Fair Market Value of the Investment in such Unrestricted Subsidiary (or the assets transferred), as determined in good faith by the Borrower at the time of the redesignation of such Unrestricted Subsidiary as a Restricted Subsidiary or at the time of such merger, amalgamation or consolidation or transfer of assets (after taking into consideration any Indebtedness associated with the Unrestricted Subsidiary so designated or merged, amalgamated or consolidated or Indebtedness associated with the assets so transferred), other than to the extent of the amount of the Investment that constituted a Permitted Investment or was made under clause (13) of the definition of “Permitted Payments” and will increase the amount available under the applicable clause of the definition of “Permitted Investment” or clause (13) of the definition of “Permitted Payments” as the case may be; and

(F) \$50.0 million.

The foregoing provisions shall not prohibit any Permitted Payment.

The amount of any Investments, Permitted Payments, Junior Debt Repayments and other transactions permitted under this Section 7.06 at any time shall be the amount of cash and the Fair Market Value of other property subject to the Investments, Permitted Payments, Junior Debt Repayments or other transaction at the time payment is made. For purposes of determining compliance with this Section 7.06, in the event that any Investments, Permitted Payments, Junior Debt Repayments and other transactions permitted under Section 7.06 (or any portion of such payment made) meets the criteria of more than one of the categories set forth above, the Borrower may, in its sole discretion, at the time such Investments, Permitted Payments, Junior Debt Repayments and other transaction permitted under Section 7.06 is paid, divide, classify or reclassify, or at any later time divide, classify, or reclassify, such payment (or any portion thereof) in any manner that complies with this covenant on the date such payment is made or such later time, as applicable.

For the avoidance of doubt, a Restricted Payment, Investment or Junior Debt Repayment (or portion thereof) may be reclassified at a time subsequent to the time it was originally made, so long as such Restricted Payment, Investment or Junior Debt Repayment (or portion thereof) would have been able to have been made at the time of such reclassification pursuant to the provision to which such Restricted Payment, Investment or Junior Debt Repayment (or portion thereof) is being reclassified.

The amount of all Restricted Payments (other than cash) shall be the Fair Market Value on the date of such Restricted Payment of the asset(s) or securities proposed to be paid, transferred or issued by the Borrower or such Restricted Subsidiary, as the case may be, pursuant to such Restricted Payment. The Fair Market Value of any cash Restricted Payment shall be its face amount, and the Fair Market Value of any non-cash Restricted Payment, property or assets other than cash shall be determined conclusively by the Borrower acting in good faith.

Unrestricted Subsidiaries may use value transferred from the Borrower and its Restricted Subsidiaries in a Permitted Investment to purchase or otherwise acquire Indebtedness or Equity Interests of the Borrower, any Parent Entity or any of the Borrower's Restricted Subsidiaries, and to transfer value to the holders of the Equity Interests of the Borrower or any Restricted Subsidiary or any Parent Entity and to Affiliates thereof, and such purchase, acquisition, or transfer will not be deemed to be a "direct or indirect" action by the Borrower or its Restricted Subsidiaries.

If the Borrower or a Restricted Subsidiary makes a Restricted Payment which at the time of the making of such Restricted Payment would in the good faith determination of the Borrower be permitted under the provisions of this Agreement, such Restricted Payment shall be deemed to have been made in compliance with this Agreement notwithstanding any subsequent adjustments made in good faith to the Borrower's financial statements affecting Consolidated Net Income, Consolidated Adjusted EBITDA or Consolidated Net Tangible Assets of the Borrower for any period.

SECTION 7.07 [Reserved].

SECTION 7.08 Negative Pledge. Create or otherwise cause or permit to exist or become effective any consensual encumbrance or consensual restriction on the ability of any Restricted Subsidiary to:

(a) pay dividends or make any other distributions in cash or otherwise on its Equity Interests or pay any Indebtedness or other obligations owed to the Borrower or any Restricted Subsidiary;

(b) make any loans or advances to the Borrower or any Restricted Subsidiary; or

(c) sell, lease or transfer any of its property or assets to the Borrower or any Restricted Subsidiary; *provided* that (x) the priority of any preferred stock in receiving dividends or liquidating distributions prior to dividends or liquidating distributions being paid on common stock or Jones Act Warrants and (y) the subordination of (including the application of any standstill requirements to) loans or advances made to the Borrower or any Restricted Subsidiary to other Indebtedness incurred by the Borrower or any Restricted Subsidiary shall not be deemed to constitute such an encumbrance or restriction.

provided that this Section 7.08 shall not prohibit:

(i) any encumbrance or restriction pursuant to this Agreement or any other agreement or instrument, in each case, in effect at or entered into on the Closing Date;

(ii) any encumbrance or restriction pursuant to the Loan Documents;

(iii) any encumbrance or restriction pursuant to applicable law, rule, regulation or order;

(iv) any encumbrance or restriction pursuant to an agreement or instrument of a Person or relating to any Equity Interests or Indebtedness of a Person, entered into on or before the date on which such Person was acquired by or merged, consolidated or otherwise combined with or into the Borrower or any Restricted Subsidiary, or was designated as a Restricted Subsidiary or on which such agreement or instrument is assumed by the Borrower or any Restricted Subsidiary in connection with an acquisition of assets (other than Equity Interests or Indebtedness incurred as consideration in, or to provide all or any portion of the funds utilized to consummate, the transaction or series of related transactions pursuant to which such Person became a Restricted Subsidiary or was acquired by the Borrower or a Restricted Subsidiary or was merged, consolidated or otherwise combined with or into the Borrower or any Restricted Subsidiary or entered into in contemplation of or in connection with such transaction) and outstanding on such date;

(v) any encumbrance or restriction:

(A) that restricts in a customary manner the subletting, assignment or transfer of any property or asset that is subject to a lease, license or similar contract or agreement, or the assignment or transfer of any lease, license or other contract or agreement;

(B) contained in mortgages, pledges, charges or other security agreements permitted under this Agreement or securing Indebtedness of the Borrower or a Restricted Subsidiary permitted under this Agreement to the extent such encumbrances or restrictions restrict the transfer or encumbrance of the property or assets subject to such mortgages, pledges, charges or other security agreements;

(C) contained in any trading, netting, operating, construction, service, supply, purchase, sale or other agreement to which the Borrower or any of its Restricted Subsidiaries is a party entered into in the ordinary course of business or consistent with past practice; *provided* that such agreement prohibits the encumbrance of solely the property or assets of the Borrower or such Restricted Subsidiary that are subject to such agreement, the payment rights arising thereunder or the proceeds thereof and does not extend to any other asset or property of the Borrower or such Restricted Subsidiary or the assets or property of another Restricted Subsidiary; or

(D) pursuant to customary provisions restricting dispositions of real property interests set forth in any reciprocal easement agreements of the Borrower or any Restricted Subsidiary;

(vi) any encumbrance or restriction pursuant to Purchase Money Obligations and Capitalized Leases permitted under this Agreement, in each case, that impose encumbrances or restrictions on the property so acquired;

(vii) any encumbrance or restriction imposed pursuant to an agreement entered into for the direct or indirect sale or disposition to a Person of all or substantially all the Equity Interests or assets of the Borrower or any Restricted Subsidiary (or the property or assets that are subject to such restriction) pending the closing of such sale or disposition;

(viii) customary provisions in leases, licenses, equityholder agreements, joint venture agreements, organizational documents and other similar agreements and instruments;

(ix) encumbrances or restrictions arising or existing by reason of applicable law or any applicable rule, regulation or order, or required by any regulatory authority;

(x) any encumbrance or restriction on cash or other deposits or net worth imposed by customers under agreements entered into in the ordinary course of business or consistent with past practice;

(xi) any encumbrance or restriction pursuant to Hedge Agreements;

(xii) other Indebtedness of Foreign Subsidiaries permitted to be incurred or issued subsequent to the Closing Date pursuant to Section 7.03 that impose restrictions solely on the Foreign Subsidiaries party thereto or their Subsidiaries;

(xiii) restrictions created in connection with any Qualified Securitization Financing or Receivables Facility that, in the good faith determination of the Borrower, are necessary or advisable to effect such Securitization Facility or Receivables Facility;

(xiv) any encumbrance or restriction arising pursuant to an agreement or instrument relating to any Indebtedness permitted to be incurred subsequent to the Closing Date pursuant to Section 7.03 if the encumbrances and restrictions contained in any such agreement or instrument (i) taken as a whole, are not materially less favorable to the Lenders than the encumbrances and restrictions contained in this Agreement, together with the other Loan Documents, as in effect on the Closing Date, (ii) at the time of entry into such agreement or instrument, are determined by the Borrower in good faith to not adversely affect, in any material respect, the Borrower's ability to make principal or interest payments on the Loans or (iii) apply only during the continuance of a default in respect of a payment relating to such agreement or instrument;

(xv) any encumbrance or restriction existing by reason of any Lien permitted under Section 7.01; or

(xvi) any encumbrance or restriction pursuant to an agreement or instrument effecting a refinancing of Indebtedness incurred pursuant to, or that otherwise refinances, an agreement or instrument referred to in the clauses above or this clause (an "**Initial Agreement**") or contained in any amendment, supplement or other modification to an agreement referred to in the clauses above or this clause; *provided, however*, that the encumbrances and restrictions with respect to such Restricted Subsidiary contained in any such agreement or instrument (i) are no less favorable in any material respect to the Lenders taken as a whole than the encumbrances and restrictions contained in the Initial Agreement or Initial Agreements to which such refinancing or amendment, supplement or other modification relates (as determined in good faith by the Borrower) or (ii) are determined by the Borrower in good faith, at the time of entering into such refinancing, amendment, supplement or other modification, will not adversely affect, in any material respect, the Borrower's ability to make principal or interest payments on the Loans.

SECTION 7.09 Junior Debt Prepayments.

(a) Prepayments of Junior Financing. Prepay, repay, redeem, repurchase, defease or otherwise acquire or satisfy prior to the date that is one year before the scheduled maturity thereof any principal amount in respect of a Junior Financing (any such prepayment, repayment, redemption, purchase, defeasance or satisfaction, a "**Junior Debt Repayment**"), except (each of the following, a "**Permitted Junior Debt Repayment**"):

(i) Junior Debt Repayments with the proceeds of, or in exchange for, any (A) Refinancing Indebtedness or, to the extent applicable, Second Lien Credit Agreement Refinancing Indebtedness or (B) other Junior Financing or Junior Lien Debt permitted hereunder;

(ii) Junior Debt Repayments (A) made with Qualified Equity Interests of the Borrower or any Parent Entity, with the proceeds of an issuance of any such Equity Interests or with the proceeds of a contribution to the capital of the Borrower after the Closing Date or (B) consisting of the conversion of any Junior Financing to Equity Interests;

(iii) Junior Debt Repayments of Indebtedness of the Borrower or any Restricted Subsidiary owed to the Borrower or a Restricted Subsidiary;

(iv) Junior Debt Repayments of Indebtedness of any Person that becomes a Restricted Subsidiary after the Closing Date in connection with a transaction not prohibited by the Loan Documents, which Indebtedness was in existence at the time such Person became a Restricted Subsidiary (and not incurred in contemplation of such Person becoming a Restricted Subsidiary);

(v) Junior Debt Repayments within sixty (60) days of giving notice thereof if at the date of such notice, such payment would have been permitted hereunder;

(vi) Junior Debt Repayments made in connection with the Transactions;

(vii) Junior Debt Repayments consisting of the payment of regularly scheduled interest and principal payments, payments of fees, expenses, penalty interest and indemnification obligations when due, other than payments prohibited by any applicable subordination provisions;

(viii) Junior Debt Repayments consisting of a payment to avoid the application of Section 163(e)(5) of the Code;

(ix) Junior Debt Repayments, if the Total Net Leverage Ratio (after giving Pro Forma Effect thereto) for the Test Period immediately preceding the incurrence of such payments shall be less than or equal to the Closing Date Total Net Leverage Ratio less 0.50 to 1.00 and the Borrower shall be in pro forma compliance with the Financial Covenants upon giving effect thereto; *provided* that no Event of Default shall have occurred and be continuing or would result therefrom;

(x) any such purchase, repurchase, redemption, defeasance or other acquisition or retirement in anticipation of satisfying a sinking fund obligation, principal installment or final maturity, in each case, due within one year of the date of purchase, repurchase, redemption, defeasance or other acquisition or retirement;

(xi) any such purchase, repurchase, redemption, defeasance or other acquisition or retirement for value of any Indebtedness owing to the Borrower or a Guarantor incurred pursuant to Section 7.03(e);

(xii) Junior Debt Repayments in connection with any Conversion Settlement;

(xiii) Junior Debt Repayments in an aggregate amount not to exceed the sum of:

(A) the Available Amount at such time; *provided* that no Event of Default shall have occurred and be continuing or would result therefrom; and

(B) the greater of (A) 30% of Closing Date Consolidated Net Tangible Assets and (B) 30% of Consolidated Net Tangible Assets determined as of the most recently ended fiscal quarter on a Pro Forma Basis

provided that the Borrower shall be in pro forma compliance with the Financial Covenants upon giving effect thereto;

(xiv) Junior Debt Repayments of Acquired Indebtedness (other than Indebtedness incurred (A) to provide all or any portion of the funds utilized to consummate the transaction or series of related transactions pursuant to which such Person became a Restricted Subsidiary or was otherwise acquired by the Borrower or a Restricted Subsidiary or (B) otherwise in connection with or contemplation of such acquisition); and

(xv) Junior Debt Repayments of Jones Act Notes;

provided, however, that each of the following shall be permitted: payments of regularly scheduled principal interest (including at the default rate) and fees on Junior Financing, payments of closing and consent fees related to Junior Financing, indemnity and expense reimbursement payments in connection with Junior Financing, and mandatory prepayments, mandatory redemptions and mandatory purchases (and mandatory offers to do any of the foregoing), in each case pursuant to the terms of Junior Financing Documentation.

The amount of any Junior Debt Repayment at any time shall be the amount of cash and the Fair Market Value of other property used to make the Junior Debt Repayment at the time such Junior Debt Repayment is made. For purposes of determining compliance with this Section 7.09(a), in the event that any prepayment, repayment, redemption, purchase, defeasance or satisfaction (or any portion thereof) meets the criteria of more than one of the categories set forth above, the Borrower may, in their sole discretion, at the time of such prepayment, repayment, redemption, purchase, defeasance or satisfaction is made, divide, classify, or reclassify, or at any later time divide, classify or reclassify, such prepayment, repayment, redemption, purchase, defeasance or satisfaction (or any portion thereof) in any manner that complies with this covenant on the date it was made or such later time, as applicable.

(b) [Reserved].

ARTICLE VIII

Financial Covenant

So long as the Termination Conditions have not been satisfied, the Borrower and each of the Restricted Subsidiaries covenant and agree that:

SECTION 8.01 Financial Covenants

(a) Revolving Credit Facility Net Leverage Ratio. Commencing with the Test Period ending on the last day of the first full fiscal quarter ended after the Closing Date, the Borrower shall not permit the Revolving Credit Facility Net Leverage Ratio on the last day of each Test Period (each such date, a “**Measurement Date**”) to be greater than 1.00 to 1.00 if any Revolving Loans or Letters of Credit are drawn (and, in the case of Letters of Credit, not reimbursed) at such time. Compliance with this Section 8.01(a) shall be tested on the date that the Compliance Certificate for the applicable Test Period is required to be delivered pursuant to Section 6.02(a) and not prior to such date (each such date, the “**Testing Date**”).

(b) Collateral Coverage Ratio. Commencing with the Test Period ending on the last day of the first full fiscal quarter ended after the Closing Date, the Borrower shall not permit the Collateral Coverage Ratio on any Measurement Date to be less than 1.50 to 1.00. To the extent that a portion of the Collateral Value Amount includes cash Collateral which was provided in favor of the Secured Parties, such cash Collateral shall be released after the Borrower demonstrates compliance with this Section 8.01(b) and Section 8.01(c) for two successive Measurement Dates without such cash Collateral. Compliance with this Section 8.01(b) shall be tested on the Measurement Date; *provided*, that to the extent compliance with this Section 8.01(b) is not satisfied as of any applicable Measurement Date, the Borrower shall make a mandatory prepayment in accordance with Section 2.07(b)(ii) and as long as such prepayment is made, no Default or Event of Default shall occur in respect of such breach.

(c) RCF Collateral Coverage Ratio. Commencing with the Test Period ending on the last day of the first full fiscal quarter ended after the Closing Date, the Borrower shall not permit the RCF Collateral Coverage Ratio on any Measurement Date be less than 3.00 to 1.00. To the extent that a portion of the Collateral Value Amount includes cash Collateral that was provided in favor of the Secured Parties, such cash Collateral shall be released after the Borrower demonstrates compliance with this Section 8.01(c) and Section 8.01(b) for two successive Measurement Dates without such cash Collateral. Compliance with this Section 8.01(c) shall be tested on the Measurement Date; *provided*, that to the extent compliance with this Section 8.01(c) is not satisfied as of any applicable Measurement Date, the Borrower shall make a mandatory prepayment in accordance with Section 2.07(b)(ii) and as long as such prepayment is made, no Default or Event of Default shall occur in respect of such breach.

(d) Minimum Liquidity. Commencing with the Test Period ending on the last day of the first full fiscal quarter ended after the Closing Date, the Borrower shall not permit the Liquidity on any Measurement Date to be less than \$25,000,000.

SECTION 8.02 [Reserved].

ARTICLE IX

Events of Default and Remedies

SECTION 9.01 Events of Default. Each of the events referred to in clauses (a) through (j) of this Section 9.01 constitutes an “**Event of Default**”:

(a) Non-Payment. Any Loan Party fails to pay (i) when and as required to be paid pursuant to the terms of this Agreement, any amount of principal of any Loan or any Reimbursement Obligation, or (ii) within five Business Days after the same becomes due, any interest on any Loan or any fee or reimbursement obligation (other than a Reimbursement Obligation) or other amount payable pursuant to the terms of a Loan Document; or

(b) Specific Covenants. The Borrower or any Guarantor fails to perform or observe any covenant contained in:

(i) Section 6.03(a) (solely to the extent and only for so long as such notice has not been delivered), Section 6.05 (solely with respect to the Borrowers), Section 6.15 and Article VII; or

(ii) Section 8.01, *provided* that this Section 9.01(b)(ii) shall not result in a Default or an Event of Default (i) at any time when no Loans are outstanding and shall instead be deemed a “**Financial Covenant Blocking Event**” prohibiting the Borrower from borrowing any Revolving Loans under this Agreement until the condition precedent set forth in Section 4.03(c) is satisfied and (ii) so long as a mandatory prepayment is made in accordance with Section 2.07(b)(ii); or

(c) Other Defaults. A Loan Party fails to perform or observe any other covenant (not specified in Section 9.01(a) or (b) above) contained in any Loan Document on its part to be performed or observed and, (i) with respect to the covenants contained in Section 6.01, Sections 6.02(a) and 6.02(b), such failure continues for fifteen days, and (ii) with respect to any other affirmative covenants hereunder which, when breached, are capable of being cured, such failure continues for thirty (30) days after receipt by the Borrower of written notice thereof from the Administrative Agent (it being acknowledged that a breach of Sections 6.14(a)(iii) and (b) is not capable of being cured); or

(d) Representations and Warranties. Any representation or warranty made or deemed by any Loan Party in any Loan Document, or in any document required to be delivered pursuant to the terms of a Loan Document shall be untrue in any material respect (or, with respect to any representation or warranty qualified by materiality or “Material Adverse Effect,” shall be untrue in any respect) when made or deemed made; and in the case of any representation and warranty made or deemed made after the Closing Date, such representation or warranty shall remain untrue (in any material respect or in any respect, as applicable) for a period of thirty (30) days after written notice thereof from the Administrative Agent to the Borrower; or

(e) Cross-Default. A Loan Party:

(i) fails to make any payment of any principal or interest beyond the applicable grace period, if any, whether by scheduled maturity, required prepayment, acceleration, demand, or otherwise, in respect of its Material Indebtedness; or

(ii) fails to perform or observe any covenant, agreement or condition relating to any Material Indebtedness or any other event or condition occurs, the effect of which failure or event or condition is to cause such Material Indebtedness becoming due prior to its scheduled maturity or to enable or permit (with all applicable grace periods having expired) the holder or holders (with the giving of notice or the lapse of time or both) of such Material Indebtedness or any trustee or any agent on its or their behalf to cause such Material Indebtedness to become due, or to require the prepayment, repurchase, redemption or defeasance thereof, prior to its stated maturity, in each case pursuant to its terms;

provided that clause (e)(ii) shall not apply: (1) to any secured Indebtedness that becomes due as a result of the sale, transfer or other disposition (including as a result of a casualty or condemnation event) of the property or assets securing such Indebtedness or as a result of a “change of control” put right; (2) to the conversion of, or the satisfaction of any condition to the conversion of, any Indebtedness that is convertible or exchangeable for Equity Interests or to any Conversion Settlement; (3) to events of default, termination events or any other similar event under the documents governing Hedge Agreements or (4) to a refinancing of Indebtedness with other Indebtedness permitted by this Agreement; *provided, further*, that at such times during which no Loans are outstanding, the occurrence of an event that would otherwise be a Default or Event of Default under this clause (e) shall not be a Default or an Event of Default and shall instead be deemed a “**Blocking Event**” until such time as waived by the Required Lenders in accordance with this Agreement; or

(f) Insolvency Proceedings, Etc. (i) Any Loan Party (A) institutes or consents to the institution of any proceeding under any Debtor Relief Law, (B) makes an assignment for the benefit of creditors or (C) applies for or consents to the appointment of any receiver, trustee, custodian, conservator, liquidator, rehabilitator, administrator, administrative receiver or similar officer for it or for all or any material part of its property; (ii) any receiver, trustee, custodian, conservator, liquidator, rehabilitator, administrator, administrative receiver or similar officer is appointed for a Loan Party or any material part of its property without the application or consent of such Loan Party and the appointment continues undischarged or unstayed for sixty (60) calendar days; (iii) any proceeding under any Debtor Relief Law relating to a Loan Party or to all or any material part of its property is instituted without the consent of such Loan Party and continues undismissed or unstayed for sixty (60) calendar days; or (iv) an order for relief is entered in any such proceeding; or

(g) Judgments. There is entered against a Loan Party a final, enforceable, and non-appealable judgment by a court of competent jurisdiction for the payment of money in an aggregate amount exceeding the Threshold Amount (to the extent not covered by independent third-party insurance or another indemnity obligation) and such judgment or order is not satisfied, vacated, discharged or stayed or bonded for a period of sixty (60) consecutive days; or

(h) Invalidity of Loan Documents. The material provisions of the Loan Documents, taken as a whole, at any time after their execution and delivery and for any reason cease to be in full force and effect, except (i) as expressly permitted by the Loan Documents (including as a result of a transaction permitted under Section 7.04 or 7.05), (ii) as a result of the satisfaction of the Obligations or (iii) resulting from acts or omissions of a Secured Party or the application of applicable law; or

(i) Collateral Documents and Guarantee. Any:

(i) Collateral Document (or any material provision thereof) with respect to a material portion of the Collateral with a Fair Market Value exceeding the Threshold Amount after its execution and delivery shall for any reason cease to create a valid and perfected or published, as applicable, Lien, except (A) as otherwise permitted by, or as a result of a transaction not prohibited by, the Loan Documents, (B) resulting from the failure of the Administrative Agent or the Collateral Agent or any of their agents or bailees to maintain possession or control of Collateral, (C) resulting from the making of a filing, or the failure to make a filing, under the Uniform Commercial Code or other applicable law, (D) as to Collateral consisting of real property, to the extent that (1) such losses are covered by a lender's title insurance policy (unless the Borrower in good faith reasonably believe that payment thereunder will not be made by the applicable insurer) or (2) a deficiency arose through no fault of a Loan Party and such deficiency is corrected with reasonable diligence upon obtaining actual knowledge thereof or (E) resulting from acts or omissions of a Secured Party or the application of applicable law so long as such deficiency arose through no fault of a Loan Party and such deficiency is corrected with reasonable diligence upon obtaining actual knowledge thereof; or

(ii) Guarantee with respect to a Guarantor (other than an Excluded Subsidiary) shall for any reason cease to be in full force and effect, except (A) as otherwise permitted by, or as a result of a transaction not prohibited by, the Loan Documents, (B) upon the satisfaction in full of the Obligations, (C) upon the release of such Guarantor as provided for under the Loan Document or in accordance with its terms or (D) resulting from acts or omissions of a Secured Party or the application of applicable law; or

(j) Change of Control. There occurs any Change of Control; or

(k) ERISA. (i) an ERISA Event or Foreign Plan Event shall have occurred, (ii) the PBGC shall institute proceedings (including giving notice of intent thereof) to terminate any Plan or Plans, (iii) the Borrower or any Guarantor or any ERISA Affiliate shall have been notified by the sponsor of a Multiemployer Plan that such Multiemployer Plan is being terminated, within the meaning of Title IV of ERISA, or (iv) the Borrower or any Guarantor shall engage in any non-exempt “prohibited transaction” (as defined in Section 406 of ERISA or Section 4975 of the Code) involving any Plan; and in each case in clauses (i) through (iv) above, such event or condition, together with all other such events or conditions, if any, would reasonably be expected to have a Material Adverse Effect.

Notwithstanding anything to the contrary in this Agreement, no Event of Default or breach of any representation or warranty in Article V or any covenant in Article VI or VII shall constitute a Default or Event of Default if such Event of Default or breach of such representation or warranty in Article V or such covenant in Article VI or VII would not have occurred but for a fluctuation (or other adverse change) in Exchange Rates.

Notwithstanding anything to the contrary in this Agreement, the words “exists,” “is continuing” or similar expressions with respect thereto shall mean (x) with respect to a Default, that the Default has not yet been cured in accordance with this Section 9.01 or waived by the Lenders in accordance with Section 11.01, and (y) with respect to an Event of Default, that the Event of Default has not yet been waived by the Lenders in accordance with Section 11.01.

SECTION 9.02 Remedies upon Event of Default.

(a) General. Except as otherwise provided in Section 9.02(b) below, if any Event of Default occurs and is continuing, the Administrative Agent may, and shall at the request of the Required Lenders, take any or all of the following actions:

(i) declare the Commitments of each Lender and the obligation of each Issuing Bank to issue Letters of Credit to be terminated, whereupon such Commitments and obligation shall be terminated;

(ii) declare the unpaid principal amount of all outstanding Loans, all interest and premium accrued and unpaid thereon, and all other amounts owing or payable hereunder or under any other Loan Document to be immediately due and payable, without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived by the Borrower and each Guarantor;

(iii) require that the Borrower Cash Collateralize its Letters of Credit (in an amount equal to 105% of the maximum face amount of all outstanding Letters of Credit); and

(iv) exercise on behalf of itself, the Issuing Banks and the Lenders all rights and remedies available to it, the Issuing Banks and the Lenders under the Loan Documents and/or under applicable Law;

provided that upon the occurrence of an actual or deemed entry of an order for relief with respect to any Loan Party under any Debtor Relief Law, the Commitments of each Lender and the obligations of each Issuing Bank to issue Letters of Credit shall automatically terminate, the unpaid principal amount of all outstanding Loans and all interest and other amounts as aforesaid shall automatically become due and payable and the obligation of the Borrower to Cash Collateralize the Letters of Credit as aforesaid shall automatically become effective, in each case without further act of the Administrative Agent or any Lender.

(b) Limitations on Remedies. Notwithstanding anything to the contrary in any Loan Document,

(i) [Reserved].

(ii) Net Short Representations. Any notice of Default, Event of Default or acceleration provided to the Borrower by the Administrative Agent on behalf of one or more Lenders that have expressly requested that such notice be given to the Borrower must be accompanied by a written Net Short Representation from any such Lender (other than an Unrestricted Lender) delivered to the Borrower (with a copy to the Administrative Agent); *provided* that (A) in the absence of any such written Net Short Representation, each such Lender shall be deemed to have represented and warranted to the Borrower and the Administrative Agent that it is not a Net Short Lender (it being understood and agreed that the Borrower and the Administrative Agent shall be entitled to rely conclusively on each such representation and deemed representation (including, with respect to the Administrative Agent, as provided in Section 11.28(f)(i))) and (B) no Net Short Representation shall be required to be delivered during the pendency of a Default or Event of Default caused by a bankruptcy or similar insolvency proceeding.

SECTION 9.03 Application of Funds. After the exercise of remedies provided for in Section 9.02 (or after the Loans have automatically become immediately due and payable as set forth in the proviso to Section 9.02(a)), all amounts received on account of the Obligations (and proceeds of Collateral), all payments or distributions of any kind or nature and all adequate protection payments or plan distributions in any insolvency or similar proceeding (in each case, whether received from any Loan Party, in connection with an exercise of remedies, a credit bid or otherwise) shall, subject to the Existing Junior Lien Intercreditor Agreement and any other applicable Intercreditor Agreement, be applied by the Administrative Agent in the following order (the “**Priority Waterfall**”):

First, to payment of that portion of the Obligations constituting fees, indemnities, expenses and other amounts (other than principal and interest, but including Attorney Costs payable under Section 11.04 and amounts payable under Article III) payable to the Administrative Agent and the Collateral Agent in their capacities as such;

Second, to payment in full of Unfunded Advances/Participations (the amounts so applied to be distributed between or among, as applicable, the Administrative Agent and the Issuing Banks *pro rata* in accordance with the amounts of Unfunded Advances/Participations owed to them on the date of any such distribution);

Third, to payment of that portion of the Obligations constituting fees, indemnities and other amounts (other than principal, interest, Letter of Credit fees, Obligations under Secured Hedge Agreements and Cash Management Obligations) payable to the Revolving Lenders and the Issuing Banks (including Attorney Costs payable under Section 11.04 and amounts payable under Article III) ratably among them in proportion to the amounts described in this clause Third payable to them;

Fourth, to payment of that portion of the Obligations constituting accrued and unpaid Letter of Credit fees and interest on the Revolving Loans and Letter of Credit Usage, ratably among the Revolving Lenders and the Issuing Banks in proportion to the respective amounts described in this clause Fourth held by them;

Fifth, (a) to payment of that portion of the Obligations constituting unpaid principal of the Revolving Loans, the Letter of Credit Usage and the Obligations under Secured Hedge Agreements with respect to which (x) the Hedge Bank is a Revolving Lender or an Affiliate thereof and (y) such Secured Hedge Agreement is intended to hedge exposure under the Facility, and Cash Management Obligations with respect to which the Cash Management Bank is a Revolving Lender or an Affiliate thereof and (b) to Cash Collateralize Letters of Credit (to the extent not otherwise Cash Collateralized pursuant to the terms of this Agreement) (in an amount equal to 105% of the maximum face amount of all outstanding Letters of Credit) and to further permanently reduce the Commitments by the amount of such Cash Collateralization, ratably among the Secured Parties in proportion to the respective amounts described in this clause Fifth held by them; *provided* that (i) any such amounts applied pursuant to the foregoing subclause (b) shall be paid to the Administrative Agent for the ratable account of the Issuing Banks to Cash Collateralize such Letters of Credit, (ii) subject to Sections 2.04 and 2.19, amounts used to Cash Collateralize the aggregate undrawn amount of Letters of Credit pursuant to this clause Fifth shall be applied to satisfy drawings under such Letters of Credit as they occur and (iii) upon the expiration of any Letter of Credit, the *pro rata* share of Cash Collateral attributable to such expired Letter of Credit shall be applied by the Administrative Agent in accordance with the priority of payments set forth in this Section 9.03; *provided, further*, that Excluded Swap Obligations with respect to any Guarantor shall not be paid with amounts received from such Guarantor or its assets, but appropriate adjustments shall be made with respect to payments from other Loan Parties to preserve the allocation to Obligations otherwise set forth above in this Section;

Sixth, to the payment of all other Obligations that are due and payable to the Revolving Lenders on such date, ratably based upon the respective aggregate amounts of all such Obligations owing to the Revolving Lenders on such date;

Seventh, to payment of that portion of the Obligations under Secured Hedge Agreements with respect to which the Hedge Bank is a Revolving Lender or an Affiliate thereof but such Secured Hedge Agreement does not hedge exposure under the Facility, in proportion to the respective amounts described in this clause Seventh held by them; *provided* that Excluded Swap Obligations with respect to any Guarantor shall not be paid with amounts received from such Guarantor or its assets, but appropriate adjustments shall be made with respect to payments from other Loan Parties to preserve the allocation to Obligations otherwise set forth above in this Section;

Eighth, to payment of that portion of the Obligations under Secured Hedge Agreements with respect to which the Hedge Bank is not a Revolving Lender or an Affiliate thereof and Cash Management Obligations with respect to which the Cash Management Bank is not a Revolving Lender or an Affiliate thereof, ratably among the Secured Parties in proportion to the respective amounts described in this clause Eighth held by them; *provided* that Excluded Swap Obligations with respect to any Guarantor shall not be paid with amounts received from such Guarantor or its assets, but appropriate adjustments shall be made with respect to payments from other Loan Parties to preserve the allocation to Obligations otherwise set forth above in this Section;

Ninth, to the payment of all other Obligations that are due and payable to the Administrative Agent and the other Secured Parties on such date, ratably based upon the respective aggregate amounts of all such Obligations owing to the Administrative Agent and other Secured Parties on such date;

Last, the balance, if any, after all of the Obligations have been paid in full, to the Borrower or as otherwise required by Law.

ARTICLE X

Administrative Agent and Other Agents

SECTION 10.01 Appointment and Authority of the Administrative Agent and Collateral Agent

(a) Each Lender and each Issuing Bank hereby irrevocably appoints DNB to act on its behalf as the Administrative Agent hereunder and under the other Loan Documents and authorizes the Administrative Agent to take such actions on its behalf and to exercise such powers as are delegated to the Administrative Agent by the terms hereof or thereof, together with such actions and powers as are reasonably incidental thereto. The provisions of this Article X (other than Sections 10.09 and 10.11) are solely for the benefit of the Administrative Agent and the Lenders, and neither the Borrower nor any Loan Party shall have any rights as a third party beneficiary of any such provision. Each Issuing Bank shall act on behalf of the Revolving Lenders with respect to any Letters of Credit issued by it and the documents associated therewith, and each Issuing Bank shall have all of the benefits and immunities (i) provided to the Agents in this Article X with respect to any acts taken or omissions suffered by such Issuing Bank in connection with Letters of Credit issued by it or proposed to be issued by it and the Letter of Credit Documents pertaining to such Letters of Credit as fully as if the term “Agent” as used in this Article X and the definition of “Agent Related Person” included such Issuing Bank with respect to such acts or omissions, and (ii) as additionally provided herein with respect to each Issuing Bank.

(b) Each Lender and each Issuing Bank hereby irrevocably appoints Wilmington Trust, National Association to act on its behalf as the Collateral Agent hereunder and under the other Loan Documents and authorizes the Collateral Agent to take such actions on its behalf and to exercise such powers as are delegated to the Collateral Agent by the terms hereof or thereof, together with such actions and powers as are reasonably incidental thereto. Wilmington Trust, National Association shall also irrevocably act as the “collateral agent” or “collateral trustee” under the Loan Documents, and each of the Lenders (including in its capacities as a potential Hedge Bank and/or Cash Management Bank) and each of the Issuing Banks hereby irrevocably appoints and authorizes the Collateral Agent to act as the agent of (and to hold any security interest created by the Collateral Documents for and on behalf of or in trust for) such Lender and such Issuing Bank for purposes of acquiring, holding and enforcing any and all Liens on Collateral granted by any of the Loan Parties to secure any of the Obligations, together with such powers and discretion as are reasonably incidental thereto. In this connection, the Collateral Agent, as “collateral agent” or “collateral trustee” (and any co-agents, sub-agents and attorneys-in-fact appointed by the Administrative Agent pursuant to Sections 10.05 and 10.12 for purposes of holding or enforcing any Lien on the Collateral (or any portion thereof) granted under the Collateral Documents, or for exercising any rights and remedies thereunder at the direction of the Administrative Agent), shall be entitled to the benefits of all provisions of this Article X (including Section 10.07, as though such co-agents, sub-agents and attorneys-in-fact were the “collateral agent” or “collateral trustee” under the Loan Documents) as if set forth in full herein with respect thereto. Without limiting the generality of the foregoing, the Lenders hereby expressly authorize the Collateral Agent to execute any and all documents (including releases) with respect to the Collateral and the rights of the Secured Parties with respect thereto (including the Existing Junior Lien Intercreditor Agreement), as contemplated by and in accordance with the provisions of this Agreement and the Collateral Documents and acknowledge and agree that any such action by any Agent shall bind the Lenders.

(c) [Reserved].

SECTION 10.02 Rights as a Lender. Any Lender that is also serving as an Agent (including as Administrative Agent) hereunder shall have the same rights and powers (and no additional duties or obligations) in its capacity as a Lender as any other Lender and may exercise the same as though it were not an Agent, and the term “Lender” or “Lenders” shall, unless otherwise expressly indicated or unless the context otherwise requires, include each Lender (if any) serving as an Agent hereunder in its individual capacity. Any Person serving as an Agent and its Affiliates may accept deposits from, lend money to, own securities of, act as the financial advisor or in any other advisory capacity for and generally engage in any kind of banking, trust or other business with the Borrower or any Subsidiary or other Affiliate thereof as if such Person were not an Agent hereunder and without any duty to account therefor to the Lenders, and may accept fees and other consideration from the Borrower for services in connection herewith and otherwise without having to account for the same to the Lenders. The Lenders acknowledge that, pursuant to such activities, any Agent or its Affiliates may receive information regarding any Loan Party or any of its Affiliates (including information that may be subject to confidentiality obligations in favor of such Loan Party or such Affiliate) and acknowledge that no Agent shall be under any obligation to provide such information to them.

SECTION 10.03 Exculpatory Provisions. None of the Administrative Agent, the Collateral Agent, any of the other Agents, any of their respective Affiliates, nor any of the officers, partners, directors, employees or agents of the foregoing shall have any duties or obligations except those expressly set forth in the Loan Documents. Without limiting the generality of the foregoing or Section 10.11, an Agent or any of their respective officers, partners, directors, employees or agents:

(a) shall not be subject to any fiduciary or other implied duties, regardless of whether a Default has occurred and is continuing and without limiting the generality of the foregoing, the use of the term “agent” herein and in the other Loan Documents with reference to any Agent is not intended to connote any fiduciary or other implied (or express) obligations arising under any agency doctrine of any applicable Law and instead, such term is used merely as a matter of market custom, and is intended to create or reflect only an administrative relationship between independent contracting parties;

(b) shall not have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated hereby or by the other Loan Documents that such Agent is required to exercise as directed in writing by the Required Lenders (or such other number or percentage of the Lenders as shall be expressly provided for herein or in the other Loan Documents), *provided* that, notwithstanding any direction by the Required Lenders to the contrary, no Agent shall be required to take any action that, in its opinion or the opinion of its counsel, may expose such Agent to liability, risk its own funds or incur any financial liability or that is contrary to any Loan Document or applicable Law, including for the avoidance of doubt refraining from any action that, in its opinion or the opinion of its counsel, may be in violation of the automatic stay under any Debtor Relief Law or that may effect a forfeiture, modification or termination of property of a Defaulting Lender in violation of any Debtor Relief Law;

(c) shall not, except as expressly set forth herein and in the other Loan Documents, have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to the Borrower or any of their Affiliates that is communicated to or obtained by any Person serving as an Agent or any of its Affiliates in any capacity;

(d) shall have no responsibility or liability for any loss which may result from any investment or sale of investment made pursuant to this Agreement;

(e) shall have no obligation to file UCC financing statements or monitor security interests and the perfection thereof; and

(f) shall not be liable to the Lenders for any action taken or omitted to be taken under or in connection with any of the Loan Documents except to the extent caused by such Agent's gross negligence or willful misconduct, as determined by a final, non-appealable judgment of a court of competent jurisdiction.

The Agents shall not be liable for any action taken or not taken by it (i) with the consent or at the request of the Required Lenders (or such other number or percentage of the Lenders as shall be necessary, or as the Agent shall believe in good faith shall be necessary, under the circumstances as provided in Sections 9.02 and 11.01) or (ii) in the absence of its own gross negligence or willful misconduct as determined by a final, non-appealable judgment of a court of competent jurisdiction, in connection with its duties expressly set forth herein. The Agents shall be deemed not to have knowledge of any Default or Event of Default unless and until notice describing such Default or Event of Default is given to the Agents by the Borrower or the Required Lenders in writing. The permissive rights of the Agents set forth in this Agreement shall not be construed as a duty or obligation of the Agents.

No Agent-Related Person shall be responsible for or have any duty to ascertain or inquire into (i) any recital, statement, warranty or representation made in or in connection with any Loan Document, (ii) the contents of any certificate, report, statement or agreement or other document delivered hereunder or thereunder or in connection herewith or therewith or referred to or provided for in, or received by the Administrative Agent under or in connection with any Loan Document, (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth in any Loan Document or the occurrence of any Default, (iv) the validity, enforceability, effectiveness or genuineness of any Loan Document or any other agreement, instrument or document, or the creation, perfection or priority of any Lien purported to be created by the Collateral Documents, (v) the value or the sufficiency of any Collateral, or (vi) the satisfaction of any condition set forth in Article IV or elsewhere herein, other than to confirm receipt of items expressly required to be delivered to the Agents, or to inspect the properties, books or records of any Loan Party or any Affiliate thereof.

SECTION 10.04 Reliance by the Agents. The Agents shall be entitled to rely upon, and shall not incur any liability for relying upon, any notice, request, certificate, consent, statement, instrument, legal order, document or other writing (including any electronic message, Internet or intranet website posting or other distribution) believed by it to be genuine and to have been signed, sent or otherwise authenticated by the proper Person. Each Agent also may rely upon any statement made to it orally or by telephone and believed by it to have been made by the proper Person, and shall not incur any liability for relying thereon. In determining compliance with any condition hereunder to the making of a Loan or the issuance of a Letter of Credit that by its terms must be fulfilled to the satisfaction of a Lender or an Issuing Bank, each Agent may presume that such condition is satisfactory to such Lender or Issuing Bank unless the Agents shall have received notice to the contrary from such Lender or Issuing Bank prior to the making of such Loan or the issuance of such Letter of Credit. Each Agent may consult with legal counsel (who may be counsel for the Borrower), independent accountants and other experts selected by it, and shall not be liable for any action taken or not taken by it in accordance with the advice of any such counsel, accountants or experts.

Each Agent shall be fully justified in failing or refusing to take any action that is not required or explicitly approved by the Lenders under any Loan Document unless it shall first receive such advice or concurrence of the Required Lenders (or other requisite percentage of Lenders) as it deems appropriate and, if it so requests, it shall first be indemnified to its satisfaction by the Lenders against any and all liability and expense which may be incurred by it by reason of taking or continuing to take any such action. The Agents shall in all cases be fully protected in taking any action, or in refraining from taking any action, under any Loan Document in accordance with a request or consent of the Required Lenders (or such greater number of Lenders as may be expressly required hereby in any instance) and such request and any action taken or failure to act pursuant thereto shall be binding upon all the Lenders; *provided* that the Agents shall not be required to take any action that, in their opinion or in the opinion of their counsel, may expose such Agent to liability or that is contrary to any Loan Document or applicable Law. Notwithstanding the foregoing, the Administrative Agent and the Collateral Agent shall not act (or refrain from acting, as applicable) upon any direction from the Required Lenders (or other requisite percentage of Lenders) that would cause the Administrative Agent or the Collateral Agent to be in breach of any express term or provision of this Agreement. The Required Lenders agree not to instruct the Administrative Agent or Collateral Agent to take any action, or refrain from taking any action, that would, in each case, cause it to violate an express duty or obligation under this Agreement.

SECTION 10.05 Delegation of Duties. Each Agent may perform any and all of its duties and exercise its rights and powers hereunder or under any other Loan Documents by or through any one or more sub agents appointed by such Agent. Each Agent and any such sub agent may perform any and all of its duties and exercise its rights and powers by or through their respective Agent-Related Persons. The exculpatory provisions of this Article X shall apply to any such sub agent and to the Agent-Related Persons of the Agents and any such sub agent, and shall apply to their respective activities in connection with the syndication of the credit facilities provided for herein as well as activities as the Agents. Notwithstanding anything herein to the contrary, with respect to each sub agent appointed by an Agent, (i) such sub agent shall be a third party beneficiary under this Agreement with respect to all such rights, benefits and privileges (including exculpatory rights and rights to indemnification) and shall have all of the rights and benefits of a third party beneficiary, including an independent right of action to enforce such rights, benefits and privileges (including exculpatory rights and rights to indemnification) directly, without the consent or joinder of any other Person, against any or all of the Loan Parties and the Lenders, (ii) such rights, benefits and privileges (including exculpatory rights and rights to indemnification) shall not be modified or amended without the consent of such sub agent, and (iii) such sub agent shall only have obligations to the Agent that appointed it as sub agent and not to any Loan Party, Lender or any other Person and no Loan Party, Lender or any other Person shall have any rights, directly or indirectly, as a third party beneficiary or otherwise, against such sub agent. Each Agent shall not be responsible for the negligence or misconduct of any sub-agents except to the extent that a court of competent jurisdiction determines in a final and non-appealable judgment that such Agent acted with gross negligence or willful misconduct in the selection of such sub agents.

(a) Each Lender and each Issuing Bank acknowledges that no Agent-Related Person has made any representation or warranty to it, and that no act by any Agent hereafter taken, including any consent to and acceptance of any assignment or review of the affairs of any Loan Party or any Affiliate thereof, shall be deemed to constitute any representation or warranty by any Agent-Related Person to any Lender as to any matter, including whether Agent-Related Persons have disclosed material information in their possession. Each Lender and each Issuing Bank represents to each Agent that it has, independently and without reliance upon any Agent-Related Person and based on such documents and information as it has deemed appropriate, made its own appraisal of, and investigation into, the business, prospects, operations, property, financial and other condition and creditworthiness of the Loan Parties and their respective Subsidiaries, and all applicable bank or other regulatory Laws relating to the transactions contemplated hereby, and made its own decision to enter into this Agreement and to extend credit to the Borrower and the other Loan Parties hereunder. Each Lender and each Issuing Bank also represents that it will, independently and without reliance upon any Agent, any other Lender or any Agent-Related Person and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit analysis, appraisals and decisions in taking or not taking action under this Agreement and the other Loan Documents, and to make such investigations as it deems necessary to inform itself as to the business, prospects, operations, property, financial and other condition and creditworthiness of the Borrower and the other Loan Parties. Except for notices, reports and other documents expressly required to be furnished to the Lenders by any Agent herein, such Agent shall not have any duty or responsibility to provide any Lender with any credit or other information concerning the business, prospects, operations, property, financial and other condition or creditworthiness of any of the Loan Parties or any of their respective Affiliates which may come into the possession of any Agent-Related Person.

(b) Each Lender, by delivering its signature page to this Agreement or an Assignment and Assumption and funding its Revolving Loans on the Closing Date, shall be deemed to have acknowledged receipt of, and consented to and approved, each Loan Document and each other document required to be approved by any Agent, Required Lenders or Lenders, as applicable on the Closing Date.

(c) Each Lender acknowledges that certain Affiliates of the Loan Parties, including the Sponsors or entities controlled by the Sponsors, are Eligible Assignees hereunder and may purchase Loans and/or Commitments hereunder from the Lenders from time to time, subject to the restrictions set forth in this Agreement.

SECTION 10.07 Indemnification of Agents. Whether or not the transactions contemplated hereby are consummated, the Lenders shall indemnify upon demand each Agent, each Issuing Bank and each other Agent-Related Person (solely to the extent any such Agent-Related Person was performing services on behalf of any Agent or any Issuing Bank, as applicable) (to the extent not reimbursed by or on behalf of any Loan Party and without limiting the obligation of any Loan Party to do so), pro rata, and hold harmless the Administrative Agent, each Agent, each Issuing Bank and each other Agent-Related Person (solely to the extent any such Agent-Related Person was performing services on behalf of any Agent or each Issuing Bank, as applicable) from and against any and all Indemnified Liabilities incurred by it; *provided* that no Lender shall be liable for the payment to any Agent-Related Person of any portion of such Indemnified Liabilities resulting from such Agent-Related Person's own gross negligence or willful misconduct, as determined by a final, non-appealable judgment of a court of competent jurisdiction; *provided* that, to the extent each Issuing Bank is entitled to indemnification under this Section 10.07 solely in its capacity and role as an Issuing Bank, only the Revolving Lenders shall be required to indemnify the applicable Issuing Bank in accordance with this Section 10.07 (determined as of the time that the applicable payment is sought based on each Revolving Lender's Pro Rata Share thereof at such time); *provided, further*, that no action taken in accordance with the terms of a Loan Document or in accordance with the directions of the Required Lenders (or such other number or percentage of the Lenders as shall be required by the Loan Documents) shall be deemed to constitute gross negligence or willful misconduct for purposes of this Section 10.07. If any indemnity furnished to any Agent or any Issuing Bank for any purpose shall, in the opinion of such Agent or such Issuing Bank be insufficient or become impaired, such Agent or such Issuing Bank, as applicable, may call for additional indemnity and cease, or not commence, to do the acts indemnified against until such additional indemnity is furnished; *provided*, in no event shall this sentence require any Lender to indemnify any Agent or any Issuing Bank against any Indemnified Liabilities in excess of such Lender's pro rata share thereof; and *provided further*, this sentence shall not be deemed to require any Lender to indemnify any Agent or any Issuing Bank against any Indemnified Liabilities described in the first proviso in the immediately preceding sentence. In the case of any investigation, litigation or proceeding giving rise to any Indemnified Liabilities, this Section 10.07 applies whether any such investigation, litigation or proceeding is brought by any Lender or any other Person. Without limitation of the foregoing, each Lender shall reimburse each Agent or each Issuing Bank, as applicable, upon demand for its ratable share of any costs or out-of-pocket expenses (including Attorney Costs) incurred by such Agent or such Issuing Bank, as applicable, in connection with the preparation, execution, delivery, administration, modification, amendment or enforcement (whether through negotiations, legal proceedings or otherwise) of, or legal advice in respect of rights or responsibilities under, this Agreement, any other Loan Document, or any document contemplated by or referred to herein, to the extent that such Agent or such Issuing Bank, as applicable, is not reimbursed for such expenses by or on behalf of the Borrower; *provided* that such reimbursement by the Lenders shall not affect the Borrower's continuing reimbursement obligations with respect thereto; *provided, further*, that the failure of any Lender to indemnify or reimburse such Agent or such Issuing Bank, as applicable, shall not relieve any other Lender of its obligation in respect thereof. The undertaking in this Section 10.07 shall survive termination of the Aggregate Commitments, the payment of all other Obligations and the resignation of the Administrative Agent, Collateral Agent, other Agents or any Issuing Bank.

SECTION 10.08 No Other Duties; Other Agents, Lead Arrangers, Etc. The Lead Arrangers are each hereby appointed as Lead Arranger hereunder, and each Lender hereby authorizes such Lead Arrangers to act as Lead Arranger in accordance with the terms hereof and the other Loan Documents.

Each Agent hereby agrees to act in its capacity as such upon the express conditions contained herein and the other Loan Documents, as applicable. Anything herein to the contrary notwithstanding, none of the Lead Arranger or the other Agents listed on the cover page hereof (or any of their respective Affiliates) shall have any powers, duties or responsibilities under this Agreement or any of the other Loan Documents, except (x) in its capacity, as applicable, as the Administrative Agent, the Collateral Agent or a Lender hereunder and (y) as provided in Section 11.01(d) and the last sentence of Section 11.01, and such Persons shall have the benefit of this Article X. Without limiting the foregoing, none of the Lenders or other Persons so identified shall have or be deemed to have any agency or fiduciary or trust relationship with any Lender, the Borrower or any of their respective Subsidiaries. Each Lender acknowledges that it has not relied, and will not rely, on any of the Lenders or other Persons so identified in deciding to enter into this Agreement or in taking or not taking action hereunder. Any Agent may resign from such role at any time, with immediate effect, by giving prior written notice thereof to the Administrative Agent and Borrower.

SECTION 10.09 Resignation of Agent. The Agents may at any time give notice of its resignation to the Lenders and the Borrower. Upon receipt of any such notice of resignation, the Required Lenders shall have the right, subject to the consent of the Borrower (such consent not to be unreasonably withheld, conditioned or delayed), at all times other than during the existence of a Specified Event of Default, to appoint a successor, which shall be a Lender or a bank with an office in the United States, or an Affiliate of any such Lender or bank with an office in the United States. If no such successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within thirty (30) days after the retiring Agent gives notice of its resignation, then the retiring Agent may on behalf of the Lenders, appoint a successor Agent meeting the qualifications set forth above; *provided* that if the retiring Agent shall notify the Borrower and the Lenders that no qualifying Person has accepted such appointment, then such resignation shall nonetheless become effective in accordance with such notice and (a) the retiring Agent shall be discharged from its duties and obligations hereunder and under the other Loan Documents (except that in the case of any collateral security held by the Collateral Agent on behalf of the Lenders under any of the Loan Documents, the retiring Agent shall continue to hold such collateral security until such time as a successor of such Agent is appointed) and (b) except for any indemnity payments or other amounts owed to the retiring or retired Agents, all payments, communications and determinations provided to be made by, to or through the retiring Agent shall instead be made by or to each Lender directly, until such time as the Required Lenders appoint a successor Agent as provided for above in this Section. If neither the Required Lenders nor the retired Agent have appointed a successor Agent, the Required Lenders shall be deemed to have succeeded to and become vested with all the rights, powers, privileges and duties of the retiring Agent (subject to the proviso in the sentence above). Upon the acceptance of a successor's appointment as replacement Agent hereunder and upon the execution and filing or recording of such financing statements, or amendments thereto, and such amendments or supplements to the Vessel Mortgages, and such other instruments or notices, as may be necessary or desirable, or as the Required Lenders may request, in order to perfect or continue the perfection of the Liens granted or purported to be granted by the Collateral Documents, such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring (or retired) Agent (other than any rights to indemnity payments or other amounts owed to the retiring or retired Agent), and the retiring Agent shall be discharged from all of its duties and obligations hereunder or under the other Loan Documents (if not already discharged therefrom as provided above in this Section). The fees payable by the Borrower to a successor Agent shall be the same as those payable to its predecessor unless otherwise agreed between the Borrower and such successor. After the retiring Agent's resignation hereunder and under the other Loan Documents, the provisions of this Article X and Sections 11.04 and 11.05 shall continue in effect for the benefit of such retiring Agent, its sub-agents and their respective Agent-Related Persons in respect of any actions taken or omitted to be taken by any of them while the retiring Agent was acting as Agent.

SECTION 10.10 Administrative Agent May File Proofs of Claim; Credit Bidding. In case of the pendency of any proceeding under any Debtor Relief Law or any other judicial proceeding relative to any Loan Party, the Administrative Agent (irrespective of whether the principal of any Loan or in respect of Letter of Credit Obligations shall then be due and payable as herein expressed or by declaration or otherwise and irrespective of whether the Administrative Agent shall have made any demand on the Borrower) shall be entitled and empowered (but not obligated), by intervention in such proceeding or otherwise:

(a) to file a verified statement pursuant to rule 2019 of the Federal Rules of Bankruptcy Procedure that, in its sole opinion, complies with such rule's disclosure requirements for entities representing more than one creditor;

(b) to file and prove a claim for the whole amount of the principal and interest owing and unpaid in respect of the Loans, Letter of Credit Obligations and all other Obligations that are owing and unpaid and to file such other documents as may be necessary or advisable in order to have the claims of the Lenders, the Issuing Banks and the Administrative Agent (including any claim for the reasonable compensation, expenses, disbursements and advances of the Lenders, the Issuing Banks and the Administrative Agent and their respective agents and counsel and all other amounts due the Lenders, the Issuing Banks and the Administrative Agent under Sections 2.11 and 11.04) allowed in such judicial proceeding; and

(c) to collect and receive any monies or other property payable or deliverable on any such claims and to distribute the same;

and any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Lender and each Issuing Bank to make such payments to the Administrative Agent and, in the event that the Administrative Agent shall consent to the making of such payments directly to the Lenders and the Issuing Banks, to pay to the Administrative Agent any amount due for the reasonable compensation, expenses, disbursements and advances of the Agents and their respective agents and counsel, and any other amounts due the Administrative Agent under Sections 2.11 and 11.04. To the extent that the payment of any such compensation, expenses, disbursements and advances of the Administrative Agent, its agents and counsel, and any other amounts due the Administrative Agent under Sections 2.11 and 11.04 out of the estate in any such proceeding, shall be denied for any reason, payment of the same shall be secured by a Lien on, and shall be paid out of, any and all distributions, dividends, money, securities and other properties that the Lenders or the Issuing Banks may be entitled to receive in such proceeding whether in liquidation or under any plan of reorganization or arrangement or otherwise.

Nothing contained herein shall be deemed to authorize the Administrative Agent to authorize or consent to or accept or adopt on behalf of any Lender or any Issuing Bank any plan of reorganization, arrangement, adjustment or composition affecting the Obligations or the rights of any Lender or any Issuing Bank or to authorize the Administrative Agent to vote in respect of the claim of any Lender or any Issuing Bank in any such proceeding.

The Secured Parties hereby irrevocably authorize the Administrative Agent, at the direction of the Required Lenders, to credit bid all or any portion of the Obligations (including accepting some or all of the Collateral in satisfaction of some or all of the Secured Obligations (as defined in the applicable Collateral Agreement) pursuant to a deed in lieu of foreclosure or otherwise) and in such manner purchase (either directly or through one or more acquisition vehicles) all or any portion of the Collateral (i) at any sale thereof conducted under the provisions of the U.S. Bankruptcy Code, including under Sections 363, 1123 or 1129 of the U.S. Bankruptcy Code, or any similar Laws in any other jurisdictions to which a Loan Party is subject, (ii) at any other sale or foreclosure or acceptance of collateral in lieu of debt conducted by (or with the consent or at the direction of) the Administrative Agent (whether by judicial action or otherwise) in accordance with any applicable Law. In connection with any such credit bid and purchase, the Obligations owed to the Secured Parties shall be entitled to be, and shall be, credit bid on a ratable basis (with Obligations with respect to contingent or unliquidated claims receiving contingent interests in the acquired assets on a ratable basis that would vest upon the liquidation of such claims in an amount proportional to the liquidated portion of the contingent claim amount used in allocating the contingent interests) in the asset or assets so purchased (or in the Equity Interests or debt instruments of the acquisition vehicle or vehicles that are used to consummate such purchase). In connection with any such bid (A) the Administrative Agent shall be authorized to form one or more acquisition vehicles to make a bid, (B) to adopt documents providing for the governance of the acquisition vehicle or vehicles (provided that any actions by the Administrative Agent with respect to such acquisition vehicle or vehicles, including any disposition of the assets or Equity Interests thereof, shall be governed, directly or indirectly, by the vote of the Required Lenders, irrespective of the termination of this Agreement and without giving effect to the limitations on actions by the Required Lenders contained in clauses (a) through (g) of Section 11.01 of this Agreement), (C) the Administrative Agent shall be authorized to assign the relevant Obligations to any such acquisition vehicle pro rata by the Lenders, as a result of which each of the Lenders shall be deemed to have received a pro rata portion of any Equity Interests and/or debt instruments issued by such an acquisition vehicle on account of the assignment of the Obligations to be credit bid, all without the need for any Secured Party or acquisition vehicle to take any further action and (D) to the extent that Obligations that are assigned to an acquisition vehicle are not used to acquire Collateral for any reason (as a result of another bid being higher or better, because the amount of Obligations assigned to the acquisition vehicle exceeds the amount of debt credit bid by the acquisition vehicle or otherwise), such Obligations shall automatically be reassigned to the Lenders pro rata and the Equity Interests and/or debt instruments issued by any acquisition vehicle on account of the Obligations that had been assigned to the acquisition vehicle shall automatically be cancelled, without the need for any Secured Party or any acquisition vehicle to take any further action.

SECTION 10.11 Collateral and Guaranty Matters.

(a) Each Agent, each Lender (including in its capacities as a potential Cash Management Bank and a potential Hedge Bank), each Issuing Bank, and each other Secured Party irrevocably authorizes the Administrative Agent and Collateral Agent to be the agent for and representative of the Lenders with respect to the Guaranty, the Collateral and the Collateral Documents and agrees that, notwithstanding anything to the contrary in any Loan Document:

(i) Liens on any property granted to or held by an Agent or in favor of any Secured Party under any Loan Document will be automatically and immediately released, and each Secured Party irrevocably authorizes and directs the Agents to enter into, and each agrees that it will enter into, the necessary or advisable documents requested by the Borrower and associated therewith, upon the occurrence of any of the following events (each, a “**Lien Release Event**”),

(A) the payment in full in cash of all the Obligations (other than (1) Cash Management Obligations, Swap Obligations and Contingent Obligations in respect of which no claim has been made and (2) obligations in respect of Letters of Credit that have been backstopped or cash collateralized on terms satisfactory to the applicable Issuing Bank);

(B) a transfer of the property subject to such Lien as part of, or in connection with, a transaction that is permitted by the terms of the Loan Documents to any Person that is not a Loan Party;

(C) with respect to property owned by any Guarantor or with respect to which any Guarantor has rights, the release of such Guarantor from its obligations under its Guaranty or hereunder, as applicable, pursuant to clause (iii) below;

(D) the approval, authorization or ratification of the release of such Lien by the Required Lenders, or such percentage as may be required pursuant to Section 11.01;

(E) such property becoming an Excluded Asset, Excluded Vessel (including, for the avoidance of doubt, pursuant to any Permitted Reflagging Transaction), Excluded Equity Interest or an asset owned by an Excluded Subsidiary or with respect to which an Excluded Subsidiary has rights;

(F) as to the assets owned by such Excluded Subsidiary (or with respect to which an Excluded Subsidiary has rights), upon any Person becoming an Excluded Subsidiary;

(G) any such property becoming subject to a Securitization Financing to the extent required by the terms of such Securitization Financing; and/or

(H) with respect to Vessel Collateral, such Vessel Collateral becoming subject to a reflagging permitted hereunder;

(ii) upon the request of the Borrower (such request, the “**Release/Subordination Event**”) it will release or subordinate any Lien on any property granted to or held by the Administrative Agent or the Collateral Agent under any Loan Document to the holder of any Lien on such property that is permitted by Sections 7.01(d) and 7.01(n);

(iii) upon the request of the Borrower (such request, the “**Permitted Consent Event**”), each Secured Party irrevocably authorizes and directs the Agents to enter into, and each Secured Party and the Agents agrees that the Agents will enter into, the necessary or advisable documents requested by the Borrower in connection with a transaction that is permitted by the terms of the Loan Documents;

(iv) a Guarantor will be automatically and immediately released from its obligations under the Guaranty upon (A) such Guarantor ceasing to be a Subsidiary of the Borrower, (B) such Guarantor becoming an Immaterial Subsidiary, or (C) such Guarantor becoming an Excluded Subsidiary as a result of a transaction permitted hereunder; *provided* that if such Guarantor becomes an Excluded Subsidiary solely as a result of such Guarantor becoming an Excluded Subsidiary of the type described in clause (a) of the definition thereof, such release shall only be permitted if, at the time such Guarantor becomes such an Excluded Subsidiary, (i) no Default or Event of Default has occurred and is continuing or would result therefrom and (ii) such Guarantor so becomes such an Excluded Subsidiary as a result of a joint venture or other strategic transaction permitted hereunder that was not entered into for the primary purpose of releasing the Guaranty of such Guarantor (as determined by the Borrower in good faith) (~~clauses (A)-(C)~~), each a “**Guaranty Release Event**”), and each Secured Party irrevocably authorizes and directs the Agents to enter into, and each Agent agrees it will enter into, the necessary and advisable documents requested by the Borrower to (1) release (or acknowledge the release of) such Guarantor from its obligations under the Guaranty and (2) release (or acknowledge the release of) any Liens granted by such Subsidiary or Liens on the Equity Interests of such Subsidiary;

(v) the Administrative Agent and the Collateral Agent will exclusively exercise the rights and remedies under the Loan Documents, and neither the Lenders nor any other Secured Party will exercise such rights and remedies (other than the Required Lenders through the Administrative Agent); *provided* that the foregoing shall not preclude any Lender from exercising any right of set-off in accordance with the provisions of Section 11.09 or enforcing compliance with the provisions set forth in Section 11.01(b) or from exercising rights and remedies (other than the enforcement of Collateral) with respect to any payment default after the occurrence of the Maturity Date with respect to any Loans made by it or filing proofs of claim or appearing and filing pleadings on its own behalf during the pendency of a proceeding relative to any Loan Party under the U.S. Bankruptcy Code or any other Debtor Relief Law; and

(vi) the Administrative Agent and Collateral Agent shall, and the Lenders and other Secured Parties irrevocably authorize and instruct the Administrative Agent and Collateral Agent to, from time to time on and after the Closing Date, without any further consent of any Lender, Issuing Bank, counterparty to any Cash Management Obligation or Swap Obligation or other Secured Party, enter into any Intercreditor Agreement or other intercreditor agreement with the collateral agent, collateral trustee or other representative of the holders of Indebtedness that is secured by a Lien on Collateral that is expressly permitted under this Agreement.

Each Agent, each Lender and each other Secured Party agrees that it will promptly take such action and execute any such documents as may be reasonably requested by the Borrower (such actions and such execution, the “**Release Actions**”), at the Borrower’s sole cost and expense, in connection with a Lien Release Event, Release/Subordination Event, Permitted Consent Event or Guaranty Release Event and that such actions are not discretionary. Without limitation, the Release Actions may include, as applicable, (a) executing (if required) and delivering to the Loan Parties (or any designee of the Loan Parties) any such lien releases, mortgage releases, discharges of security interests, pledges and guarantees and other similar discharge or release documents, as are reasonably requested by a Loan Party in connection with the release, as of record, of the Liens (and all notices of security interests and Liens previously filed) the subject of a Lien Release Event or Release/Subordination Event or the release of any applicable Guarantee in connection with a Guaranty Release Event and (b) delivering to the Loan Parties (or any designee of the Loan Parties) all instruments evidencing pledged debt and all equity certificates and any other collateral previously delivered in physical form by the Loan Parties to a Secured Party.

In connection with any Lien Release Event, Release/Subordination Event, Permitted Consent Event, Guaranty Release Event or Release Action, each of the Collateral Agent and the Administrative Agent shall be entitled to rely and shall rely exclusively on an officer’s certificate of the Borrower (the “**Release Certificate**”) confirming that (a) such Lien Release Event, Release/Subordination Event, Permitted Consent Event or a Guaranty Release Event, as applicable, has occurred or will occur upon consummation of one or more identified transactions (an “**Identified Transaction**”) occur, (b) the conditions to any such Lien Release Event, Release/Subordination Event, Permitted Consent Event or Guaranty Release Event have occurred or will occur upon consummation of an Identified Transaction, and (c) that any such Identified Transaction is permitted by (or not prohibited by) the Loan Documents. The Collateral Agent and the Administrative Agent will be fully exculpated from any liability and shall be fully protected and shall not have any liability whatsoever to any Secured Party as a result of such reliance or the consummation of any Release Action. A Release Certificate may be delivered in advance of the consummation of any applicable Identified Transaction.

Each Lender and each Secured Party irrevocably authorizes and irrevocably directs the Collateral Agent and the Administrative Agent to take the Release Actions and consents to reliance on the Release Certificate. The Secured Parties agree not to give any Agent any instruction or direction inconsistent with the provisions of this Section 10.11. Neither the Administrative Agent nor the Collateral Agent shall be responsible for, or have a duty to ascertain or inquire into, any statement in a Release Certificate, the compliance of any Identified Transaction with the terms of a Loan Document, any representation or warranty regarding the existence, value or collectability of the Collateral, the existence, priority or perfection of the Collateral Agent’s Lien thereon, or contained in any certificate prepared or delivered by any Loan Party in connection with the Collateral or compliance with the terms set forth above or in a Loan Document, nor shall the Administrative Agent or Collateral Agent be responsible or liable to the Lenders for any failure to monitor or maintain any portion of the Collateral.

(b) Anything contained in any of the Loan Documents to the contrary notwithstanding, each Agent, each Lender and each Secured Party hereby agree that:

(i) no Lender or other Secured Party shall have any right individually to realize upon any of the Collateral or to enforce the Guaranty or any other Loan Document, it being understood and agreed that all powers, rights and remedies hereunder and under any of the Loan Documents may be exercised solely by the Administrative Agent or the Collateral Agent, as applicable, for the benefit of the Lenders in accordance with the terms hereof and thereof, and all powers, rights and remedies under the Collateral Documents may be exercised solely by the Collateral Agent for the benefit of the Lenders in accordance with the terms thereof;

(ii) in the event of a foreclosure or similar enforcement action by the Collateral Agent on any of the Collateral pursuant to a public or private sale or other disposition (including, without limitation, pursuant to Section 363(k), Section 1129(b)(2)(a)(ii) or otherwise of the U.S. Bankruptcy Code), only the Collateral Agent (except with respect to a “credit bid” pursuant to Section 363(k), Section 1129(b)(2)(a)(ii) or otherwise of the U.S. Bankruptcy Code) may be the purchaser or licensor of any or all of such Collateral at any such sale or other disposition, and the Collateral Agent, as agent for and representative of Lenders (but not any Lender or Lenders in its or their respective individual capacities), shall be entitled, upon instructions from the Required Lenders, for the purpose of bidding and making settlement or payment of the purchase price for all or any portion of the Collateral sold at any such sale or disposition, to use and apply any of the Obligations as a credit on account of the purchase price for any collateral payable by the Collateral Agent at such sale or other disposition;

(iii) no provision of any Loan Documents shall require the creation, perfection or maintenance of pledges of or security interests or hypothecs in, or the obtaining of title insurance or abstracts with respect to, any Excluded Assets and any other particular assets, if and for so long as, in the reasonable judgment of the Administrative Agent (as so directed to the Collateral Agent), the cost of creating, perfecting or maintaining such pledges or security interests or hypothecs in such other particular assets or obtaining title insurance or abstracts in respect of such other particular assets is excessive in view of the Fair Market Value of such assets or the practical benefit to the Lenders afforded thereby; and

(iv) the Administrative Agent (as so directed to the Collateral Agent) may grant extensions of time for the creation or perfection of security interests or hypothecs in or the obtaining of title insurance and surveys with respect to particular assets (including extensions beyond the Closing Date for the creation or perfection of security interests in the assets of the Loan Parties on such date) where it reasonably determines, in consultation with the Borrower, that creation or perfection cannot be accomplished without undue effort or expense by the time or times at which it would otherwise be required by this Agreement or the Collateral Documents.

SECTION 10.12 Appointment of Supplemental Administrative Agents.

(a) It is the purpose of this Agreement and the other Loan Documents that there shall be no violation of any Law of any jurisdiction denying or restricting the right of banking corporations or associations to transact business as agent or trustee in such jurisdiction. It is recognized that in case of litigation under this Agreement or any of the other Loan Documents, and in particular in case of the enforcement of any of the Loan Documents, or in case the Administrative Agent deems that by reason of any present or future Law of any jurisdiction it may not exercise any of the rights, powers or remedies granted herein or in any of the other Loan Documents or take any other action which may be desirable or necessary in connection therewith, the Administrative Agent is hereby authorized to appoint an additional individual or institution selected by the Administrative Agent in its sole discretion as a separate trustee, co-trustee, administrative agent, collateral agent, collateral trustee, administrative sub-agent or administrative co-agent (any such additional individual or institution being referred to herein individually, as a “**Supplemental Administrative Agent**” and, collectively, as “**Supplemental Administrative Agents**”).

(b) In the event that the Administrative Agent appoints a Supplemental Administrative Agent with respect to any Collateral, (i) each and every right, power, privilege or duty expressed or intended by this Agreement or any of the other Loan Documents to be exercised by or vested in or conveyed to the Administrative Agent with respect to such Collateral shall be exercisable by and vest in such Supplemental Administrative Agent to the extent, and only to the extent, necessary to enable such Supplemental Administrative Agent to exercise such rights, powers and privileges with respect to such Collateral and to perform such duties with respect to such Collateral, and every covenant and obligation contained in the Loan Documents and necessary to the exercise or performance thereof by such Supplemental Administrative Agent shall run to and be enforceable by either the Administrative Agent or such Supplemental Administrative Agent, and (ii) the provisions of this Article X and of Sections 11.04 and 11.05 that refer to the Administrative Agent shall inure to the benefit of such Supplemental Administrative Agent and all references therein to the Administrative Agent shall be deemed to be references to the Administrative Agent and/or such Supplemental Administrative Agent, as the context may require.

(c) Should any instrument in writing from any Loan Party be required by any Supplemental Administrative Agent so appointed by the Administrative Agent for more fully and certainly vesting in and confirming to him or it such rights, powers, privileges and duties, the Borrower shall, or shall cause such Loan Party to, execute, acknowledge and deliver any and all such instruments promptly upon request by the Administrative Agent. In case any Supplemental Administrative Agent, or a successor thereto, shall die, become incapable of acting, resign or be removed, all the rights, powers, privileges and duties of such Supplemental Administrative Agent, to the extent permitted by Law, shall vest in and be exercised by the Administrative Agent until the appointment of a new Supplemental Administrative Agent.

SECTION 10.13 Intercreditor Agreements. Notwithstanding anything to the contrary set forth in any Loan Document, to the extent the Administrative Agent enters into a Junior Lien Intercreditor Agreement (including, for the avoidance of doubt, pursuant to a joinder to the Existing Junior Lien Intercreditor Agreement), an Equal Priority Intercreditor Agreement or any other Intercreditor Agreement in accordance with the terms hereof, this Agreement will be subject to the terms and provisions of such Intercreditor Agreements, as applicable. In the event of any inconsistency between the provisions of this Agreement or any other Loan Document and the Junior Lien Intercreditor Agreement or any other Intercreditor Agreement, the provisions of the Junior Lien Intercreditor Agreement or such other Intercreditor Agreement govern and control. The Lenders acknowledge and agree that each Agent is authorized to, and each Agent agrees that, with respect to any secured Indebtedness, upon request by the Borrower, it shall, enter into a Junior Lien Intercreditor Agreement or an Equal Priority Intercreditor Agreement, as applicable, or any other Intercreditor Agreement with the Collateral Agent or other Debt Representative of the holders of such Indebtedness unless such Indebtedness and any related Liens (including the priority of such Liens) are not permitted by Sections 7.01 and 7.03, respectively, of this Agreement. The Lenders hereby authorize and instruct the Administrative Agent to (a) enter into any such Junior Lien Intercreditor Agreement, Equal Priority Intercreditor Agreement or any such other Intercreditor Agreement, (b) bind the Lenders on the terms set forth in such Junior Lien Intercreditor Agreement, Equal Priority Intercreditor Agreement or any such other Intercreditor Agreement and (c) perform and observe its obligations under such Junior Lien Intercreditor Agreement, Equal Priority Intercreditor Agreement or any such other Intercreditor Agreement. The Agents and each Secured Party agree that the Agents shall be entitled to rely and shall rely exclusively on an officer's certificate of the Borrower in determining whether it is permitted to enter into an Intercreditor Agreement pursuant to this Section. Each Secured Party covenants and agrees not to give the Collateral Agent or Administrative Agent any instruction that is not consistent with the provisions of this Section 10.13.

SECTION 10.14 Cash Management Agreements and Hedge Agreements. Except as otherwise expressly set forth herein or in any Guaranty or any Collateral Document, no Cash Management Bank or Hedge Bank that obtains the benefits of Section 9.03, any Guaranty or any Collateral by virtue of the provisions hereof or of any Guaranty or any Collateral Document shall have any right to notice of any action or to consent to, direct or object to any action hereunder or under any other Loan Document or otherwise in respect of the Collateral or any Guaranty (including the release or impairment of any Collateral or Guaranty) other than in its capacity as a Lender and, in such case, only to the extent expressly provided in the Loan Documents. Notwithstanding any other provision of this Article X to the contrary, the Administrative Agent shall not be required to verify the payment of, or that other satisfactory arrangements have been made with respect to, Cash Management Obligations or Obligations arising under Secured Hedge Agreements unless the Administrative Agent has received written notice of such Cash Management Obligations or such Obligations arising under Secured Hedge Agreements, together with such supporting documentation as the Administrative Agent may request, from the applicable Cash Management Bank or Hedge Bank, as the case may be.

SECTION 10.15 Withholding Taxes. To the extent required by any applicable Law, the Administrative Agent may withhold from any payment to any Lender an amount equivalent to any applicable withholding Tax. If any Governmental Authority asserts a claim that the Administrative Agent did not properly withhold Tax from amounts paid to or for the account of any Lender because the appropriate form was not delivered or was not properly executed or because such Lender failed to notify the Administrative Agent of a change in circumstance which rendered the exemption from, or reduction of, withholding tax ineffective or for any other reason, or if the Administrative Agent reasonably determines that a payment was made to a Lender pursuant to this Agreement without deduction of applicable withholding Tax from such payment, such Lender shall indemnify the Administrative Agent fully for all amounts paid, directly or indirectly, by the Administrative Agent as Tax or otherwise, including any penalties or interest and together with all expenses (including legal expenses, allocated internal costs and out-of-pocket expenses) incurred.

SECTION 10.16 Certain ERISA Matters.

(a) Each Lender (1) represents and warrants, as of the date such Person became a Lender party hereto, to, and (2) covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of the Administrative Agent and each other Lead Arranger and their respective Affiliates and not, for the avoidance of doubt, to or for the benefit of any of the Loan Parties, that at least one of the following is and will be true:

(i) such Lender is not using “plan assets” (within the meaning of Section 3(42) of ERISA or otherwise for purposes of Title I of ERISA or Section 4975 of the Code) of one or more Benefit Plans in connection with the Loans, the Letters of Credit, the Commitments or this Agreement;

(ii) the prohibited transaction exemption set forth in one or more PTEs, such as PTE 84-14 (a class exemption for certain transactions determined by independent qualified professional asset managers), PTE 95-60 (a class exemption for certain transactions involving insurance company general accounts), PTE 90-1 (a class exemption for certain transactions involving insurance company pooled separate accounts), PTE 91-38 (a class exemption for certain transactions involving bank collective investment funds) or PTE 96-23 (a class exemption for certain transactions determined by in-house asset managers), is applicable so as to exempt from the prohibitions of Section 406 of ERISA and Section 4975 of the Code such Lender's entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement;

(iii) (A) such Lender is an investment fund managed by a "Qualified Professional Asset Manager" (within the meaning of Part VI of PTE 84-14), (B) such Qualified Professional Asset Manager made the investment decision on behalf of such Lender to enter into, participate in, administer and perform the Loans, the Letters of Credit, the Commitments and this Agreement, (C) the entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement satisfies the requirements of sub-Sections (b) through (g) of Part I of PTE 84-14 and (D) the requirements of subsection (a) of Part I of PTE 84-14 are satisfied with respect to such Lender's entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement; or

(iv) such other representation, warranty and covenant as may be agreed in writing between the Administrative Agent and each other Lead Arranger, on the one hand, in their sole discretion, and such Lender.

(b) In addition, unless either (1) sub-clause (i) in the immediately preceding clause (a) is true with respect to a Lender or (2) a Lender has provided another representation, warranty and covenant in accordance with sub-clause (iv) in the immediately preceding clause (a), such Lender further (1) represents and warrants, as of the date such Person became a Lender party hereto, to and (2) covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of, the Administrative Agent and each other Lead Arranger and their respective Affiliates, and not, for the avoidance of doubt, to or for the benefit of the Borrower or any other Loan Party, that none of the Administrative Agent or any other Lead Arranger or any of their respective Affiliates is a fiduciary with respect to the assets of such Lender involved in the Loans, the Letters of Credit, the Commitments and this Agreement (including in connection with the reservation or exercise of any rights by the Administrative Agent under this Agreement, any Loan Document or any documents related hereto or thereto).

SECTION 10.17 Erroneous Payments.

(a) If the Administrative Agent notifies a Lender, Issuing Bank or Secured Party, or any Person who has received funds on behalf of a Lender, Issuing Bank or Secured Party (any such Lender, Issuing Bank, Secured Party or other recipient, a “**Payment Recipient**”) that the Administrative Agent has determined in its sole discretion (whether or not after receipt of any notice under immediately succeeding clause (b)) that any funds received by such Payment Recipient from the Administrative Agent or any of its Affiliates were erroneously transmitted to, or otherwise erroneously or mistakenly received by, such Payment Recipient (whether or not known to such Lender, Issuing Bank, Secured Party or other Payment Recipient on its behalf) (any such funds, whether received as a payment, prepayment or repayment of principal, interest, fees, distribution or otherwise, individually and collectively, an “**Erroneous Payment**”) and demands the return of such Erroneous Payment (or a portion thereof), such Erroneous Payment shall at all times remain the property of the Administrative Agent and shall be segregated by the Payment Recipient and held in trust for the benefit of the Administrative Agent, and such Lender, Issuing Bank or Secured Party shall (or, with respect to any Payment Recipient who received such funds on its behalf, shall cause such Payment Recipient to) promptly, but in no event later than two Business Days thereafter, return to the Administrative Agent the amount of any such Erroneous Payment (or portion thereof) as to which such a demand was made, in same day funds (in the currency so received), together with interest thereon in respect of each day from and including the date such Erroneous Payment (or portion thereof) was received by such Payment Recipient to the date such amount is repaid to the Administrative Agent in same day funds at the Overnight Rate. A notice of the Administrative Agent to any Payment Recipient under this clause (a) shall be conclusive, absent manifest error.

(b) Without limiting immediately preceding clause (a), each Lender, Issuing Bank or Secured Party, or any Person who has received funds on behalf of a Lender, Issuing Bank or Secured Party, hereby further agrees that if it receives a payment, prepayment or repayment (whether received as a payment, prepayment or repayment of principal, interest, fees, distribution or otherwise) from the Administrative Agent (or any of its Affiliates) (x) that is in a different amount than, or on a different date from, that specified in a notice of payment, prepayment or repayment sent by the Administrative Agent (or any of its Affiliates) with respect to such payment, prepayment or repayment, (y) that was not preceded or accompanied by a notice of payment, prepayment or repayment sent by the Administrative Agent (or any of its Affiliates), or (z) that such Lender, Issuing Bank or Secured Party, or other such recipient, otherwise becomes aware was transmitted, or received, in error or by mistake (in whole or in part) in each case:

(i) (A) in the case of immediately preceding clauses (x) or (y), an error shall be presumed to have been made (absent written confirmation from the Administrative Agent to the contrary) or (B) an error has been made (in the case of immediately preceding clause (z)), in each case, with respect to such payment, prepayment or repayment; and

(ii) such Lender, Issuing Bank or Secured Party shall (and shall cause any other recipient that receives funds on its respective behalf to) promptly (and, in all events, within one Business Day of its knowledge of such error) notify the Administrative Agent of its receipt of such payment, prepayment or repayment, the details thereof (in reasonable detail) and that it is so notifying the Administrative Agent pursuant to this Section 10.17(b).

(c) Each Lender, Issuing Bank or Secured Party hereby authorizes the Administrative Agent to set off, net and apply any and all amounts at any time owing to such Lender, Issuing Bank or Secured Party under any Loan Document against any amount due to the Administrative Agent under immediately preceding clause (a) or under the indemnification provisions of this Agreement.

(d) In the event that an Erroneous Payment (or portion thereof) is not recovered by the Administrative Agent for any reason, after demand therefor by the Administrative Agent in accordance with immediately preceding clause (a), from any Lender or Issuing Bank that has received such Erroneous Payment (or portion thereof) (and/or from any Payment Recipient who received such Erroneous Payment (or portion thereof) on its respective behalf) (such unrecovered amount, an **“Erroneous Payment Return Deficiency”**), upon the Administrative Agent’s notice to such Lender or Issuing Bank at any time, (i) such Lender or Issuing Bank shall be deemed to have assigned its Loans (but not its Commitments) of the relevant Class with respect to which such Erroneous Payment was made (the **“Erroneous Payment Impacted Class”**) in an amount equal to the Erroneous Payment Return Deficiency (or such lesser amount as the Administrative Agent may specify) (such assignment of the Loans (but not Commitments) of the Erroneous Payment Impacted Class, the **“Erroneous Payment Deficiency Assignment”**) at par plus any accrued and unpaid interest (with the assignment fee to be waived by the Administrative Agent in such instance), and is hereby (together with the Borrower) deemed to execute and deliver an Assignment and Assumption (or, to the extent applicable, an agreement incorporating an Assignment and Assumption by reference pursuant to the Platform as to which the Administrative Agent and such parties are participants) with respect to such Erroneous Payment Deficiency Assignment, and such Lender or Issuing Bank shall deliver any Revolving Loan Notes evidencing such Loans to the Borrower or the Administrative Agent, (ii) the Administrative Agent as the assignee Lender shall be deemed to acquire the Erroneous Payment Deficiency Assignment, (iii) upon such deemed acquisition, the Administrative Agent as the assignee Lender shall become a Lender or Issuing Bank, as applicable, hereunder with respect to such Erroneous Payment Deficiency Assignment and the assigning Lender or assigning Issuing Bank shall cease to be a Lender or Issuing Bank, as applicable, hereunder with respect to such Erroneous Payment Deficiency Assignment, excluding, for the avoidance of doubt, its obligations under the indemnification provisions of this Agreement and its applicable Commitments which shall survive as to such assigning Lender or assigning Issuing Bank and (iv) the Administrative Agent may reflect in the Register its ownership interest in the Loans subject to the Erroneous Payment Deficiency Assignment. The Administrative Agent may, in its discretion, sell any Loans acquired pursuant to an Erroneous Payment Deficiency Assignment and upon receipt of the proceeds of such sale, the Erroneous Payment Return Deficiency owing by the applicable Lender or Issuing Bank shall be reduced by the net proceeds of the sale of such Loan (or portion thereof), and the Administrative Agent shall retain all other rights, remedies and claims against such Lender or Issuing Bank (and/or against any recipient that receives funds on its respective behalf). For the avoidance of doubt, no Erroneous Payment Deficiency Assignment will reduce the Commitments of any Lender or Issuing Bank and such Commitments shall remain available in accordance with the terms of this Agreement. In addition, each party hereto agrees that, except to the extent that the Administrative Agent has sold a Loan (or portion thereof) acquired pursuant to an Erroneous Payment Deficiency Assignment, and irrespective of whether the Administrative Agent may be equitably subrogated, the Administrative Agent shall be contractually subrogated to all the rights and interests of the applicable Lender, Issuing Bank or Secured Party under the Loan Documents with respect to each Erroneous Payment Return Deficiency (the **“Erroneous Payment Subrogation Rights”**).

(e) The parties hereto agree that an Erroneous Payment shall not pay, prepay, repay, discharge or otherwise satisfy any Obligations owed by the Borrower or any other Loan Party, except, in each case, to the extent such Erroneous Payment is, and solely with respect to the amount of such Erroneous Payment that is, comprised of funds received by the Administrative Agent from the Borrower or any other Loan Party for the purpose of making such Erroneous Payment.

(f) To the extent permitted by applicable law, no Payment Recipient shall assert any right or claim to an Erroneous Payment, and hereby waives, and is deemed to waive, any claim, counterclaim, defense or right of set-off or recoupment with respect to any demand, claim or counterclaim by the Administrative Agent for the return of any Erroneous Payment received, including without limitation waiver of any defense based on “discharge for value” or any similar doctrine

(g) Each party’s obligations, agreements and waivers under this Section 10.17 shall survive the resignation or replacement of the Administrative Agent, any transfer of rights or obligations by, or the replacement of, a Lender or Issuing Bank, the termination of the Commitments and/or the repayment, satisfaction or discharge of all Obligations (or any portion thereof) under any Loan Document.

ARTICLE XI

Miscellaneous

SECTION 11.01 Amendments, Waivers, Etc.

(a) **General Rule.** Except as otherwise set forth in this Agreement, no amendment or waiver of any provision of this Agreement or any other Loan Document, and no consent to any departure by the Borrower or any other Loan Party therefrom, shall be effective unless in writing signed by the Required Lenders and the Borrower or the applicable Loan Party, as the case may be, and acknowledged by the Administrative Agent and each such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given. Any amendment or waiver of this Agreement or any other Loan Document that affects the Collateral Agent’s rights, protections, immunities, indemnities, duties or obligations, shall not be effective unless consented to by the Collateral Agent.

(b) **Specific Lender Approvals.** Notwithstanding the provisions of Section 11.01(a), no such amendment, waiver or consent shall:

(i) extend or increase the Commitment of any Lender, increase the Total Utilization of Commitments (or otherwise waive any excess of Total Utilization of Commitments above the Commitments then in effect) or extend the final expiration date of any Letter of Credit beyond the Letter of Credit Expiration Date without the written consent of each Lender directly and adversely affected thereby, it being understood that a waiver of any condition precedent set forth in Section 4.03 or the waiver of any Default, mandatory prepayment or mandatory reduction of the Commitments shall not constitute an extension or increase of any Commitment of any Lender;

(ii) postpone any date scheduled for, or reduce the amount of, any payment of principal or interest with respect to any Loan or Letter of Credit or with respect to any fees payable under Section 2.11(b) without the written consent of each Lender directly and adversely affected thereby, it being understood that a waiver of any mandatory prepayment set forth in Section 2.07(b) (other than Section 2.07(b)(i)) or the waiver of any Default (other than a Default under Section 9.01(a)) shall not constitute a postponement of any date scheduled for, or a reduction in the amount of, any payment of interest or any payment of fees;

(iii) reduce the principal of, or the rate of interest specified herein on, any Loan or Letter of Credit or any fees or other amounts payable hereunder or under any other Loan Document (except interest due at the Default Rate or as expressly set forth in clause (h) of this Section 11.01) (including by modifying the “Grid” set forth in the definition of “Applicable Rate”) without the written consent of each Lender, it being understood that any change to the definitions of Total Net Leverage Ratio or in the component definitions thereof shall not constitute a reduction in the rate of interest as long as the intent of such change is not to cause a reduced interest rate;

(iv) change any provision of this Section 11.01 or the definition of “Required Lenders” or “Pro Rata Share” or any other provision specifying the number of Lenders or portion of the Loans or Commitments required to take any action under the Loan Documents, without the written consent of each Lender;

(v) other than in connection with a transfer or other transaction permitted under the Loan Documents (including, for the avoidance of doubt, Permitted Reflagging Transactions), (i) release all or substantially all of the Collateral in any transaction or series of related transactions, without the written consent of each Lender or (ii) release any Vessel Collateral representing in the aggregate for all such released Vessel Collateral a Vessel Collateral Value Amount in excess of the greater of \$180,400,000 or 10% of the aggregate Vessel Collateral Value Amount as determined on or about the applicable release date or date of entry into a binding commitment to release (but, in any case, no earlier than thirty (30) days prior to the applicable release date or entry date, as applicable);

(vi) other than in connection with a transfer or other transaction permitted under the Loan Documents, release all or substantially all of the aggregate value of the Guaranty or all or substantially all of the Guarantors or the Borrower, without the written consent of each Lender;

(vii) modify Section 2.15 or 9.03 without the written consent of each Lender directly and adversely affected thereby;

(viii) modify Section 2.16(b), Section 4.01, Section 4.02 or Section 4.03 without the written consent of each Lender; or

(ix) prior to an Event of Default under Section 9.01(f), amend or modify any term or provision of any Loan Document to permit the issuance or incurrence of any Indebtedness for Borrowed Money (excluding Indebtedness that is expressly permitted by this Agreement as in effect on the Closing Date to be senior to the applicable Class of Obligations and/or to be secured by a Lien that is senior to the Lien securing such Class of Obligations) with respect to which (x) the Liens on the Collateral securing the Obligations of any Class would be subordinated or (y) all or any portion of the Obligations of any Class would be subordinated in right of payment (any such other Indebtedness to which such Liens securing any of the Obligations or such Obligations, as applicable, are subordinated, “**Senior Indebtedness**”), in each case without the written consent of each Lender of such Class directly and adversely affected thereby, unless each adversely affected Lender (A) has been offered a bona fide opportunity to fund or otherwise provide its pro rata share (based on the amount of Obligations that are adversely affected thereby held by each Lender) of the Senior Indebtedness on the same terms (other than bona fide backstop fees and reimbursement of counsel fees and other expenses in connection with the negotiation of the terms of such transaction; such fees and expenses, “**Ancillary Fees**”) as offered to all other providers (or their Affiliates) of the Senior Indebtedness, and (B) decides to participate in the Senior Indebtedness and receives its pro rata share of the fees and any other similar benefit (other than Ancillary Fees) of the Senior Indebtedness afforded to the providers of the Senior Indebtedness (or any of their Affiliates) in connection with providing the Senior Indebtedness; or

(x) modify any provision of this Agreement to permit the Borrower or Restricted Subsidiaries to incur Indebtedness for Borrowed Money that is senior in payment or Lien priority or pari passu in payment priority with the Obligations (excluding any Incremental Facility, which may for the avoidance of doubt be pari passu in payment priority with the Obligations), or otherwise subordinate the Obligations to any other Indebtedness for Borrowed Money, in each case, without the written consent of each Lender of such Class directly and adversely affected thereby.

(c) Other Specific Approvals. Notwithstanding the provisions of Section 11.01(a) or Section 11.01(b),

(i) no amendment, waiver or consent shall, unless in writing and signed by an Issuing Bank in addition to the Lenders required above, affect the rights or duties of, or any fees or other amounts payable to, such Issuing Bank under this Agreement, any Issuance Notice or any other Loan Document relating to any Letter of Credit issued or to be issued by it,

(ii) no amendment, waiver or consent shall, unless in writing and signed by the Administrative Agent in addition to the Lenders required above, affect the rights or duties of, or any fees or other amounts payable to, the Administrative Agent under this Agreement or any other Loan Document,

(iii) no amendment, waiver or consent shall, unless in writing and signed by the Collateral Agent in addition to the Lenders required above, affect the rights or duties of, or any fees or other amounts payable to, the Collateral Agent under this Agreement or any other Loan Document,

(iv) Section 11.07(g) may not be amended, waived or otherwise modified without the consent of each Granting Lender all or any part of whose Loans are being funded by an SPC at the time of such amendment, waiver or other modification, and

(v) any amendments or modifications to the Loan Documents to reflect a Collateral Trust Agreement structure (including replacing references to the Collateral Agent with references to the Collateral Trustee and modifying the Collateral Documents so that such Collateral Documents secure all Indebtedness subject to the Collateral Trust Agreement) shall be effected by an amendment in writing signed by the Borrower, the applicable Loan Parties and the Administrative Agent (such consent to the amendment not to be unreasonably withheld, conditioned or delayed).

(d) Intercreditor Agreements. No Lender or Issuing Bank consent is required to effect any amendment or supplement to the Intercreditor Agreements or any other intercreditor agreement that is, (i) for the purpose of adding the holders of Pari Passu Lien Debt, Junior Lien Debt, Incremental Equivalent Debt, Permitted Pari Passu Secured Refinancing Debt or Permitted Junior Secured Refinancing Debt (or a Debt Representative with respect to any Indebtedness with respect to which it is a representative or agent) as parties thereto, as expressly contemplated by the terms of such intercreditor agreement (it being understood that any such amendment or supplement may make such other changes to the applicable intercreditor agreement as, in the good faith determination of the Administrative Agent, are required to effectuate the foregoing), or (ii) expressly contemplated by the Intercreditor Agreements or any other intercreditor agreement expressly permitted to be entered into hereunder, *provided* that such amendment or supplement in either case shall not effectuate an amendment prohibited by Section 11.01(b)(ix) or (x), without the written consent of each directly and adversely affected Lender.

(e) [Reserved].

(f) [Reserved].

(g) [Reserved].

(h) Certain Amendments to Loan Documents. The Guaranty, the Collateral Documents and related documents executed by the Borrower and/or the Restricted Subsidiaries in connection with this Agreement and the other Loan Documents may be in a form reasonably determined by the Administrative Agent and may be, together with this Agreement, amended and waived with the consent of the Administrative Agent at the request of the Borrower without the need to obtain the consent of any other Lender if such amendment or waiver is delivered in order (i) to comply with local Law or advice of local counsel, (ii) to cure ambiguities, errors or defects (as reasonably determined by the Administrative Agent and the Borrower with such determination being conclusive and binding), (iii) to cause such Guaranty, Collateral Document or other document to be consistent with this Agreement and the other Loan Documents or (iv) for administrative clarity (as conclusively determined by the Administrative Agent and the Borrower in good faith).

(i) Defaulting Lenders, Disqualified Lenders and Net Short Lenders.

(i) Defaulting Lenders and Disqualified Lenders. No Defaulting Lender or Disqualified Lender shall have any right to approve or disapprove any amendment, waiver or consent hereunder (and any amendment, waiver or consent which by its terms requires the consent of all Lenders, the Required Lenders or each affected Lender may be effected with the consent of the applicable Lenders other than Defaulting Lenders or Disqualified Lender), except that (A) the Commitment of any Defaulting Lender or Disqualified Lender may not be increased or extended without the consent of such Defaulting Lender or such Disqualified Lender and (B) any waiver, amendment or modification requiring the consent of all Lenders or each affected Lender that by its terms affects any Defaulting Lender or Disqualified Lender (other than any Disqualified Lender described in clause (d) of the definition thereof) more adversely than other affected Lenders shall require the consent of such Defaulting Lender or Disqualified Lender, as applicable.

(ii) Net Short Lenders. Net Short Lenders shall have the right to approve or disapprove any amendment, waiver or consent only to the extent set forth in Section 11.28.

SECTION 11.02 Notices and Other Communications: Facsimile Copies.

(a) General. Except in the case of notices and other communications expressly permitted to be given by telephone (and except as provided in subsection (b) below), all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by e-mail as follows, and all notices and other communications expressly permitted hereunder to be given by telephone shall be made to the applicable telephone number, as follows:

(i) if to the Borrower, the Issuing Banks, the Collateral Agent or the Administrative Agent, to the address, electronic mail address or telephone number specified for such Person on Schedule 11.02; and

(ii) if to any other Lender, to the address, electronic mail addresses or telephone number specified in its Administrative Questionnaire.

Notices and other communications sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received; and notices deposited in the United States mail with postage prepaid and properly addressed shall be deemed to have been given within three Business Days of such deposit; *provided* that no notice to any Agent shall be effective until received by such Agent. Notices and other communications delivered through electronic communications to the extent provided in subsection (b) below shall be effective as provided in such subsection (b).

(b) Electronic Communication. Notices and other communications to any Agent, the Lenders and the Issuing Banks hereunder may be delivered or furnished by electronic communication (including e-mail and Internet or intranet websites, including the Platform) pursuant to procedures approved by the Administrative Agent, *provided* that the foregoing shall not apply to notices to any Agent, Lender or the Issuing Banks pursuant to Article II if such Person, as applicable, has notified the Administrative Agent that it is incapable of receiving notices under such Article by electronic communication. The Administrative Agent or the Borrower may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it, *provided* that approval of such procedures may be limited to particular notices or communications.

(c) Receipt. Unless the Administrative Agent otherwise prescribes, (i) notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgement), *provided* that if such notice or other communication is not sent during the normal business hours of the recipient, such notice or communication shall be deemed to have been sent at the opening of business on the next Business Day for the recipient, and (ii) notices or communications posted to an Internet or intranet website shall be deemed received upon the deemed receipt by the intended recipient at its e-mail address as described in the foregoing clause (i) of notification that such notice or communication is available and identifying the website address therefor.

(d) Risks of Electronic Communications. Each Loan Party understands that the distribution of materials through an electronic medium is not necessarily secure and that there are confidentiality and other risks associated with such distribution and agrees and assumes the risks associated with such electronic distribution, except to the extent caused by the willful misconduct or gross negligence of the Administrative Agent, any Lender or any Issuing Bank as determined by a final, non-appealable judgment of a court of competent jurisdiction.

(e) The Platform. THE PLATFORM IS PROVIDED “AS IS” AND “AS AVAILABLE.” THE AGENT PARTIES (AS DEFINED BELOW) DO NOT WARRANT THE ACCURACY OR COMPLETENESS OF THE BORROWER MATERIALS OR THE ADEQUACY OF THE PLATFORM, AND EXPRESSLY DISCLAIM LIABILITY FOR ERRORS IN OR OMISSIONS FROM THE BORROWER MATERIALS OR IN THE PLATFORM. NO WARRANTY OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OF THIRD PARTY RIGHTS OR FREEDOM FROM VIRUSES OR OTHER CODE DEFECTS, IS MADE BY ANY AGENT PARTY IN CONNECTION WITH THE BORROWER MATERIALS OR THE PLATFORM. In no event shall the Administrative Agent or any of its Agent-Related Persons or any Lead Arranger (collectively, the “**Agent Parties**”) have any liability to the Borrower, any Lender, any Issuing Bank or any other Person for losses, claims, damages, liabilities or expenses of any kind (whether in tort, contract or otherwise) arising out of the Borrower’s or the Administrative Agent’s transmission of Borrower Materials through the Internet, except to the extent that such losses, claims, damages, liabilities or expenses are determined by a court of competent jurisdiction by a final and non-appealable judgment to have resulted from the gross negligence or willful misconduct of such Agent Party; *provided, however*, that in no event shall any Agent Party have any liability to the Borrower, any Lender, any Issuing Bank or any other Person for indirect, special, incidental, consequential or punitive damages (as opposed to direct or actual damages). Each Loan Party, each Lender, each Issuing Bank and each Agent agrees that the Administrative Agent may, but shall not be obligated to, store any Borrower Materials on the Platform in accordance with the Administrative Agent’s customary document retention procedures and policies.

(f) Change of Address. Each of the Borrower, the Administrative Agent and the Issuing Banks may change its address, electronic mail address or telephone number for notices and other communications hereunder by notice to the other parties hereto. Each other Lender may change its address, electronic mail address or telephone number for notices and other communications hereunder by notice to the Borrower, the Administrative Agent, the Collateral Agent and the Issuing Banks. In addition, each Lender agrees to notify the Administrative Agent from time to time to ensure that the Administrative Agent has on record (i) an effective address, contact name, telephone number and electronic mail address to which notices and other communications may be sent and (ii) accurate wire instructions for such Lender.

(g) Reliance by the Agents, the Issuing Banks and the Lenders. The Agents, the Issuing Banks and the Lenders shall be entitled to rely and act upon any notices (including Committed Loan Notices and Issuance Notices) purportedly given by or on behalf of the Borrower even if (i) such notices were not made in a manner specified herein, were incomplete or were not preceded or followed by any other form of notice specified herein, or (ii) the terms thereof, as understood by the recipient, varied from any confirmation thereof. All telephonic notices to and other telephonic communications with any Agent may be recorded by the Administrative Agent, and each of the parties hereto hereby consents to such recording. The Borrower shall indemnify the Agents, the Issuing Banks and the Lenders and each Agent-Related Person from all losses, costs, expenses and liabilities resulting from the reliance by such Person on each notice purportedly given by or on behalf of the Borrower in the absence of gross negligence or willful misconduct as determined in a final and non-appealable judgment by a court of competent jurisdiction.

(h) Private-Side Information Contacts. Each Public Lender agrees to cause at least one individual at or on behalf of such Public Lender to at all times have selected the “Private-Side Information” or similar designation on the content declaration screen of the Platform in order to enable such Public Lender or its delegate, in accordance with such Public Lender’s compliance procedures and applicable Law, including United States federal and state securities Laws, to make reference to information that is not made available through the “Public-Side Information” portion of the Platform and that may contain Private-Side Information with respect to the Borrower, its Subsidiaries or their respective securities for purposes of United States federal or state securities laws. In the event that any Public Lender has determined for itself to not access any information disclosed through the Platform or otherwise, such Public Lender acknowledges that (i) other Lenders may have availed themselves of such information and (ii) neither the Borrower nor the Administrative Agent has (A) any responsibility for such Public Lender’s decision to limit the scope of the information it has obtained in connection with this Agreement and the other Loan Documents and (B) any duty to disclose such information to such Public Lender or to use such information on behalf of such Public Lender, and shall not be liable for the failure to so disclose or use, such information.

SECTION 11.03 No Waiver; Cumulative Remedies. No forbearance, failure or delay by any Lender or any Agent to exercise, and no delay by any such Person in exercising, any right, remedy, power or privilege hereunder or under any other Loan Document shall impair such right, remedy, power or privilege or operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges herein provided, and provided under each other Loan Document, are cumulative and independent of any rights, remedies, powers and privileges provided by Law.

Notwithstanding anything to the contrary contained herein or in any other Loan Document, the authority to enforce rights and remedies hereunder and under the other Loan Documents against the Borrower shall be vested exclusively in, and all actions and proceedings at law in connection with such enforcement shall be instituted and maintained exclusively by, the Administrative Agent in accordance with Article X for the benefit of all the Lenders and the Issuing Banks; *provided* that the foregoing shall not prohibit (i) the Administrative Agent from exercising on its own behalf the rights and remedies that inure to its benefit (solely in its capacity as Administrative Agent) hereunder and under the other Loan Documents, (ii) any Issuing Bank from exercising on its own behalf the rights and remedies that inure to its benefit (solely in its capacity as an Issuing Bank) hereunder and under the other Loan Documents, (iii) any Lender from exercising setoff rights in accordance with Section 11.09 (subject to the terms of Section 2.15) or (iv) any Lender from filing proofs of claim or appearing and filing pleadings on its own behalf during the pendency of a proceeding relative to the Borrower under any Debtor Relief Law; *provided, further*, that if at any time there is no Person acting as Administrative Agent hereunder and under the other Loan Documents, then (A) the Required Lenders shall have the rights otherwise provided to the Administrative Agent pursuant to Article X and (B) in addition to the matters set forth in clauses (ii), (iii) and (iv) of the preceding proviso and subject to Section 2.15, any Lender may, with the consent of the Required Lenders, enforce any rights or remedies available to it and as authorized by the Required Lenders.

SECTION 11.04 Attorney Costs and Expenses. The Borrower agrees (a) to pay or reimburse the Administrative Agent, the Collateral Agent, the Lead Arranger, the Supplemental Administrative Agents, the Revolving Lenders and the Issuing Banks for all reasonable and documented in reasonable detail out-of-pocket expenses in connection with the preparation, execution, delivery and administration of this Agreement and the other Loan Documents and any amendment, waiver, consent or other modification of the provisions hereof and thereof (whether or not the transactions contemplated thereby are consummated) including all Attorney Costs, and (b) to pay or reimburse the Administrative Agent, the Collateral Agent, the Lead Arranger, the Supplemental Administrative Agents, the Issuing Banks and the Lenders for all out-of-pocket costs and expenses incurred in connection with the enforcement or protection of any rights or remedies under this Agreement or the other Loan Documents (including all such costs and expenses incurred during any legal proceeding, including any proceeding under any Debtor Relief Law, and including all Attorney Costs (and, if reasonably necessary, local counsel in any relevant material jurisdiction (which may be a single local counsel acting in multiple material jurisdictions) and, solely in the event of an actual or perceived conflict of interest between the Administrative Agent, the Collateral Agent, the Lead Arranger, the Supplemental Administrative Agents, the Issuing Banks and the Lenders, where the Person or Persons affected by such conflict of interest inform the Borrower in writing of such conflict of interest, one additional counsel in each relevant material jurisdiction to each affected Persons)). The agreements in this Section 11.04 shall survive the termination of the Aggregate Commitments and repayment of all other Obligations. All amounts due under this Section 11.04 shall be paid promptly following receipt by the Borrower of an invoice relating thereto setting forth such expenses in reasonable detail, and in any event within thirty (30) days of receipt of such invoice . If any Loan Party fails to pay when due any costs, expenses or other amounts payable by it hereunder or under any Loan Document, such amount may be paid on behalf of such Loan Party by the Administrative Agent in its sole discretion. Expenses shall be deemed to be documented in accordance with this Section 11.04 only if they provide the detail required to enable the Borrower, acting in good faith, to determine that such expenses relate to the activities with respect to which reimbursement is required hereunder. The Borrower and each other Loan Party hereby acknowledge that the Administrative Agent and/or any Lender may receive a benefit, including a discount, credit or other accommodation, from any of such counsel based on the fees such counsel may receive on account of their relationship with the Administrative Agent and/or such Lender, including fees paid pursuant to this Agreement or any other Loan Document.

SECTION 11.05 Indemnification by the Borrower. The Borrower shall indemnify and hold harmless the Administrative Agent, any Supplemental Administrative Agent, the Collateral Agent, the Issuing Banks, each Lender, each Lead Arranger, each Bookrunner and their respective Affiliates, directors, officers, directors, employees, agents, advisors, partners, shareholders, trustees, controlling persons, and other representatives (collectively, the “**Indemnitees**”) from and against any and all liabilities, obligations, losses, damages, penalties, claims, demands, actions, judgments, suits, costs, expenses and disbursements (including Attorney Costs) of any kind or nature whatsoever which may at any time be imposed on, incurred by or asserted against any such Indemnitee in any way relating to or arising out of or in connection with (but limited, in the case of legal fees and expenses, to the Attorney Costs for each Indemnitee and, if reasonably necessary, a single local counsel for each Indemnitee in each relevant jurisdiction that is material to the interest of such Indemnitees (which may be a single local counsel acting in multiple material jurisdictions), and solely in the case of an actual or perceived conflict of interest between Indemnitees (where the Indemnitee affected by such conflict of interest informs the Borrower in writing of such conflict of interest), one additional counsel in each relevant jurisdiction to each affected Indemnitee),

(a) the execution, delivery, enforcement, performance or administration of any Loan Document or any other agreement, letter or instrument delivered in connection with the transactions contemplated thereby or the consummation of the transactions contemplated thereby (including the reliance in good faith by any Indemnitee on any notice purportedly given by or on behalf of the Borrower or any Loan Party),

(b) the Transaction,

(c) any Commitment, Loan, Letter of Credit or the use or proposed use of the proceeds therefrom (including any refusal by any Issuing Bank to honor a demand for payment under a Letter of Credit if the documents presented in connection with such demand do not strictly comply with the terms of such Letter of Credit),

(d) any actual or alleged release of, or exposure to, any Hazardous Materials on or from any property currently or formerly owned or operated by the Borrower or any other Loan Party, or any Environmental Claim or Environmental Liability of the Borrower or any other Loan Party, or

(e) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory (including any investigation of, preparation for, or defense of any pending or threatened claim, investigation, litigation or proceeding) and regardless of whether any Indemnitee is a party thereto (all the foregoing, collectively, the “**Indemnified Liabilities**”);

provided that such indemnity shall not, as to any Indemnitee, be available to the extent that a court of competent jurisdiction determines in a final, non-appealable judgment that any such liabilities, obligations, losses, damages, penalties, claims, demands, actions, judgments, suits, costs, expenses or disbursements resulted from (i) the gross negligence or willful misconduct of such Indemnitee or of any Related Indemnified Person of such Indemnitee or (ii) any dispute solely among Indemnitees or of any Related Indemnified Person of such Indemnitee other than any claims against an Indemnitee in its capacity or in fulfilling its role as the Administrative Agent, the Collateral Agent, an Issuing Bank or a Lead Arranger (or other Agent role) under the Facility and other than any claims arising out of any act or omission of the Borrower or any of their Affiliates. To the extent that the undertakings to indemnify and hold harmless set forth in this Section 11.05 may be unenforceable in whole or in part because they are violative of any applicable law or public policy, the Borrower shall contribute the maximum portion that they are permitted to pay and satisfy under applicable law to the payment and satisfaction of all Indemnified Liabilities incurred by the Indemnitees or any of them. No Indemnitee shall be liable for any damages arising from the use by others of any information or other materials obtained through Syndtrak or other similar information transmission systems in connection with this Agreement, except to the extent resulting from the willful misconduct or gross negligence of such Indemnitee or any Related Indemnified Person (as determined by a final and non-appealable judgment of a court of competent jurisdiction), nor shall any Indemnitee or any Loan Party have any liability for any special, punitive, indirect or consequential damages relating to this Agreement or any other Loan Document or arising out of its activities in connection herewith or therewith (whether before or after the Closing Date) (other than, in the case of any Loan Party, in respect of any such damages incurred or paid by an Indemnitee to a third party). In the case of an investigation, litigation or other proceeding to which the indemnity in this Section 11.05 applies, such indemnity shall be effective whether or not such investigation, litigation or proceeding is brought by any Loan Party, its directors, stockholders or creditors or an Indemnitee or any other Person, whether or not any Indemnitee is otherwise a party thereto and whether or not any of the transactions contemplated hereunder or under any of the other Loan Documents is consummated. All amounts due under this Section 11.05 (after the determination of a court of competent jurisdiction, if required pursuant to the terms of this Section 11.05) shall be paid within ten (10) Business Days after written demand therefor. The agreements in this Section 11.05 shall survive the resignation of the Administrative Agent, the Collateral Agent or any Issuing Bank, replacement of any Lender, the termination of the Aggregate Commitments and the repayment, satisfaction or discharge of all the other Obligations. This Section 11.05 shall not apply to Taxes, except it shall apply to any Taxes that represent losses, claims, damages, etc. arising from a non-Tax claim.

SECTION 11.06 Marshaling; Payments Set Aside. None of the Administrative Agent, any Lender, the Collateral Agent or any Issuing Bank shall be under any obligation to marshal any assets in favor of the Loan Parties or any other Person or against or in payment of any or all of the Obligations. To the extent that any payment by or on behalf of the Borrower is made to any Agent, any Lender or any Issuing Bank (or to the Administrative Agent, on behalf of any Lender or any Issuing Bank), or any Agent or any Lender enforces any security interests or exercises its right of setoff, and such payments or the proceeds of such enforcement or setoff or any part thereof are subsequently invalidated, declared to be fraudulent or preferential, set aside and/or required (including pursuant to any settlement entered into by such Agent or such Lender in its discretion) to be repaid to a trustee, receiver or any other party, in connection with any proceeding under any Debtor Relief Law or otherwise, then (a) to the extent of such recovery, the obligation or part thereof originally intended to be satisfied and all Liens, rights and remedies therefor or related thereto, shall be revived and continued in full force and effect as if such payment or payments had not been made or such enforcement or setoff had not occurred and (b) each Lender and each Issuing Bank severally agrees to pay to the Administrative Agent upon demand its applicable share (without duplication) of any amount so recovered from or repaid by the Administrative Agent, *plus* interest thereon from the date of such demand to the date such payment is made at a rate *per annum* equal to the Federal Funds Rate from time to time in effect. The obligations of the Lenders under clause (b) of the preceding sentence shall survive the payment in full of the Obligations and the termination of this Agreement.

SECTION 11.07 Successors and Assigns.

(a) The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, except that none of the Borrower may, except as permitted by Section 7.04, assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of the Administrative Agent, the Collateral Agent and each Lender and no Lender may assign or otherwise transfer any of its rights or obligations hereunder except,

(i) to an assignee in accordance with the provisions of subsection (b) of this Section,

(ii) by way of participation in accordance with the provisions of subsection (d) of this Section,

(iii) by way of pledge or assignment of a security interest subject to the restrictions of subsection (f) of this Section, or

(iv) to an SPC in accordance with the provisions of subsection (g) of this Section (and any other attempted assignment or transfer by any party hereto shall be null and void).

Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby, Participants to the extent provided in subsection (d) of this Section and, to the extent expressly contemplated hereby, the Agent-Related Persons of each of the Administrative Agent, the Collateral Agent, the Issuing Banks and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) Assignments by Lenders. Any Lender may at any time assign to one or more assignees all or a portion of its rights and obligations under this Agreement, including all or a portion of its Commitment and the Loans (including, for purposes of this Section 11.07(b), participations in Letters of Credit) at the time owing to it; *provided* that any such assignment shall be subject to the following conditions:

(i) Minimum Amounts.

(A) in the case of an assignment of the entire remaining amount of the assigning Lender's Commitment and Revolving Loans at the time held by it or in the case of an assignment to a Lender, an Affiliate of a Lender or an Approved Fund, no minimum amount need be assigned; and

(B) with respect to any assignment not described in subsection (b)(i)(A) of this Section, such assignment shall be in an aggregate amount of not less than \$5,000,000, unless each of the Administrative Agent, and so long as no Specified Event of Default has occurred and is continuing at the time of such assignment, the Borrower otherwise consent (such consent not to be unreasonably withheld or delayed).

(ii) Proportionate Amounts. Each partial assignment of Commitments and/or Revolving Loans shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement with respect to the Commitments and/or Revolving Loans being assigned, except that this clause (ii) shall not prohibit any Lender from assigning all or a portion of its rights and obligations among separate Facilities on a non-pro rata basis.

(iii) Required Consents. No consent shall be required for any assignment except to the extent required by Section 11.07(b)(i)(B) and the following:

(A) the consent of the Borrower upon not less than ten (10) Business Days' prior written notice from the assigning Lender to the Borrower of the proposed assignment, the amount of such assigning Lender's Commitment and Revolving Loans that will be so assigned and the Person that is proposed to receive such assignment (such consent not to be unreasonably withheld or delayed) shall be required unless (1) a Specified Event of Default has occurred and is continuing at the time of such assignment, (2) any other Event of Default has occurred and is continuing that has not been cured to the satisfaction of the Lenders or waived within thirty (30) days of occurrence; (3) such assignment is made to an existing Lender or an Affiliate of the assigning Lender, or (4) such assignment is made to an Pre-Approved Lender; *provided*, that if the Borrower does not reject such assignment or otherwise respond within such ten (10) Business Day period, the Borrower shall be deemed to have consented to such assignment;

(B) the consent of the Administrative Agent (such consent not to be unreasonably withheld or delayed, it being acknowledged that a failure of any new lender to clear the Administrative Agent's KYC process shall be deemed reasonable) shall be required if such assignment is to a Person that is not a Lender, an Affiliate of such Lender or an Approved Fund; and

(C) with respect to assignments of Revolving Loans and/or Commitments, each Issuing Bank (such consent not to be unreasonably withheld, conditioned or delayed).

(iv) Assignment and Assumption. The parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Assumption, together with a processing and recordation fee of \$3,500; *provided* that (A) the Administrative Agent may, in its sole discretion, elect to waive such processing and recordation fee in the case of any assignment and (B) no processing and recordation fee shall be payable in connection with an assignments by or to a Lead Arranger or its Affiliates. The Eligible Assignee, if it is not a Lender, shall deliver to the Administrative Agent an Administrative Questionnaire and any KYC documentation including any tax forms required under Sections 3.01(b), (c), (d) and (e), as applicable. Upon receipt of the processing and recordation fee and any written consent to assignment required by Section 11.07(b)(iii), the Administrative Agent shall promptly accept such Assignment and Assumption and record the information contained therein in the Register.

(v) No Assignments to Certain Persons. No such assignment shall be made,

(A) to the Borrower or any of the Subsidiaries of the Borrower,

(B) any of the Borrower's Affiliates,

(C) to any Defaulting Lender or any of its Subsidiaries, or any Person who, upon becoming a Lender hereunder, would constitute any of the foregoing persons described in this clause,

(D) to a natural person, or

(E) to any Person described in the proviso to the definition of "Eligible Assignee".

A Lender shall be entitled to rely conclusively on any Net Short Representation made (or deemed made) to it in any Assignment and Assumption and shall have no duty to inquire as to or investigate the accuracy of any Net Short Representation.

(vi) Defaulting Lenders Assignments. In connection with any assignment of rights and obligations of any Defaulting Lender hereunder, no such assignment shall be effective unless and until, in addition to the other conditions thereto set forth herein, the parties to the assignment shall make such additional payments to the Administrative Agent in an aggregate amount sufficient, upon distribution thereof as appropriate (which may be outright payment, purchases by the assignee of participations or sub-participations, or other compensating actions, including funding, with the consent of the Borrower and the Administrative Agent, the applicable Pro Rata Share of Loans previously requested but not funded by the Defaulting Lender, to each of which the applicable assignee and assignor hereby irrevocably consent), to (A) pay and satisfy in full all payment liabilities then owed by such Defaulting Lender to the Administrative Agent, the Issuing Banks and each other Lender hereunder (and interest accrued thereon), and (B) acquire (and fund as appropriate) its full Pro Rata Share of all Loans and participations in Letters of Credit. Notwithstanding the foregoing, in the event that any assignment of rights and obligations of any Defaulting Lender hereunder shall become effective under applicable Law without compliance with the provisions of this paragraph, then the assignee of such interest shall be deemed to be a Defaulting Lender for all purposes of this Agreement until such compliance occurs.

Subject to acceptance and recording thereof by the Administrative Agent pursuant to clause (c) of this Section 11.07, from and after the effective date specified in each Assignment and Assumption, the assignee thereunder shall be a party to this Agreement (except in the case of an assignment to or purchase by the Borrower or any of the Borrower's Subsidiaries) and, to the extent of the interest assigned by such Assignment and Assumption and as permitted by this Section 11.07, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto but shall continue to be entitled to the benefits of Sections 3.01, 3.04, 3.05, 11.04 and 11.05 with respect to facts and circumstances occurring prior to the effective date of such assignment); *provided* that anything contained in any of the Loan Documents to the contrary notwithstanding, each Issuing Bank shall continue to have all rights and obligations with respect to any Letters of Credit issued by it until the cancellation or expiration of such Letters of Credit and the reimbursement of any amounts drawn thereunder. Upon request, and the surrender by the assigning Lender of its applicable Revolving Loan Notes under this Agreement, the Borrower (at their expense) shall execute and deliver a Revolving Loan Note to the assignee Lender. Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this subsection shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with subsection (d) of this Section.

(c) Register. The Administrative Agent, acting solely for this purpose as a non-fiduciary agent of the Borrower (and such agency being solely for Tax purposes), shall maintain at one of the Administrative Agent's Offices a copy of each Assignment and Assumption delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Commitments of, and principal amounts and stated interest of the Loans and Letter of Credit Obligations (specifying the Reimbursement Obligations), Letter of Credit Borrowings and other amounts due under Section 2.04 owing to each Lender pursuant to the terms hereof from time to time (the "**Register**"). The entries in the Register shall be conclusive absent manifest error, and the Borrower, the Agents and the Lenders shall treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. The Register shall be available for inspection by the Borrower, the Collateral Agent or any Lender (but only, in the case of a Lender at the Administrative Agent's Office and with respect to any entry relating to such Lender's Commitments, Loans, Letter of Credit Obligations and other Obligations), at any reasonable time and from time to time upon reasonable prior written notice. This Section 11.07(c) and Section 2.13 shall be construed so that all Loans are at all times maintained in "registered form" within the meaning of Sections 163(f), 871(h)(2) and 881(c)(2) of the Code and any related Treasury regulations (or any other relevant or successor provisions of the Code or of such Treasury regulations).

(d) Participations. Any Lender may at any time, without the consent of, or notice to, the Borrower, the Administrative Agent, the Issuing Banks or any other Person sell participations to any Person (other than to (1) a natural person, (2) the Borrower or any of the Borrower's Affiliates or Subsidiaries, (3) any Disqualified Lender or (4) any Person described in the proviso to the definition of "Eligible Assignee") (each, a "**Participant**") in all or a portion of such Lender's rights and/or obligations under this Agreement (including all or a portion of its Commitment and/or the Loans (including such Lender's participations in Letters of Credit) owing to it); *provided* that (i) such Lender's obligations under this Agreement shall remain unchanged, (ii) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (iii) the Borrower, the Agents and the other Lenders shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement. Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and the other Loan Documents and to approve any amendment, modification or waiver of any provision of this Agreement or any other Loan Document; *provided* that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, waiver or other modification described in Section 11.01(b) (other than clause (iv) thereof) that directly and adversely affects such Participant. Subject to subsection (e) of this Section, the Borrower agrees that each Participant shall be entitled to the benefits of Sections 3.01 (subject to the requirements of Sections 3.01(b), (c), (d) and (e), as applicable (it being understood that the documentation required under such Sections shall be delivered to the participating Lender)), 3.04 and 3.05 (through the applicable Lender) to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to subsection (b) of this Section 11.07. To the extent permitted by applicable Law, each Participant also shall be entitled to the benefits of Section 11.09 as though it were a Lender; *provided* that such Participant agrees to be subject to Section 2.15 as though it were a Lender. To the extent that any participation is purported to be made to a Disqualified Lender (other than a Net Short Lender) or to any Person that was (at the time of such participation) a Net Short Lender on a pro forma basis for such participation, such transaction shall be subject to the applicable provisions of Section 11.28(a) (and the Borrower shall be entitled to seek specific performance in any applicable court of law or equity to enforce this sentence); *provided* that a Lender shall be entitled to rely conclusively on any Net Short Representation made (or deemed made) to it in any agreement or instrument documenting or otherwise evidencing such participation and shall have no duty to inquire as to or investigate the accuracy of any Net Short Representation therein or provided in connection with such participation.

(e) Limitations upon Participant Rights. A Participant shall not be entitled to receive any greater payment under Section 3.01, 3.04 or 3.05 than the applicable Lender would have been entitled to receive with respect to the participation sold to such Participant, unless the sale of the participation to such Participant is made with the Borrower's prior written consent, such consent not to be unreasonably withheld or delayed, or such entitlement to a greater payment results from a change in law that occurs after the Participant acquired the participation. Each Lender that sells a participation or has a loan funded by an SPC shall (acting solely for this purpose as a non-fiduciary agent of the Borrower) maintain a register complying with the requirements of Sections 163(f), 871(h) and 881(c)(2) of the Code and the Treasury regulations (or any other relevant or successor provisions of the Code or of such Treasury regulations) issued thereunder relating to the exemption from withholding for portfolio interest on which is entered the name and address of each Participant or SPC and the principal amounts (and stated interest) of each Participant's or SPC's interest in the Loans or other obligations under this Agreement (the "**Participant Register**"). A Lender shall not be obligated to disclose the Participant Register to any Person except to the extent such disclosure is necessary to establish that any Loan or other obligation is in registered form under Section 5f.103-1(c) or proposed Section 1.163-5(b) of the United States Treasury regulations (or any amended or successor version). The entries in the Participant Register shall be conclusive absent manifest error, and such Lender shall treat each person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary.

(f) Liens on Loans. Any Lender may, at any time without the consent of the Borrower or the Administrative Agent, pledge or assign a security interest in all or any portion of its rights under this Agreement (including under its Revolving Loan Notes, if any) to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank or any other central bank; *provided* that no such pledge or assignment shall release such Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

(g) Special Purpose Funding Vehicles. Notwithstanding anything to the contrary contained herein, any Lender (a “**Granting Lender**”) may grant to a special purpose funding vehicle identified as such in writing from time to time by the Granting Lender to the Administrative Agent and the Borrower (an “**SPC**”) the option to provide all or any part of any Loan that such Granting Lender would otherwise be obligated to make pursuant to this Agreement; *provided* that (i) nothing herein shall constitute a commitment by any SPC to fund any Loan, and (ii) if an SPC elects not to exercise such option or otherwise fails to make all or any part of such Loan, the Granting Lender shall be obligated to make such Loan pursuant to the terms hereof. Each party hereto hereby agrees that (A) neither the grant to any SPC nor the exercise by any SPC of such option shall increase the costs or expenses or otherwise increase or change the obligations of the Borrower under this Agreement (including their obligations under Sections 3.01, 3.04 and 3.05), (B) no SPC shall be liable for any indemnity or similar payment obligation under this Agreement for which a Lender would be liable, and (C) the Granting Lender shall for all purposes, including the approval of any amendment, waiver or other modification of any provision of any Loan Document, remain the lender of record hereunder. The making of a Loan by an SPC hereunder shall utilize the Commitment of the Granting Lender to the same extent, and as if, such Loan were made by such Granting Lender. In furtherance of the foregoing, each party hereto hereby agrees (which agreement shall survive the termination of this Agreement) that, prior to the date that is one year and one day after the payment in full of all outstanding commercial paper or other senior debt of any SPC, it will not institute against, or join any other Person in instituting against, such SPC any bankruptcy, reorganization, arrangement, insolvency, or liquidation proceeding under the laws of the United States or any State thereof. Notwithstanding anything to the contrary contained herein, any SPC may (1) with notice to, but without prior consent of the Borrower and the Administrative Agent and with the payment of a processing fee of \$3,500 (which processing fee may be waived by the Administrative Agent in its sole discretion), assign all or any portion of its right to receive payment with respect to any Loan to the Granting Lender and (2) disclose on a confidential basis any non-public information relating to its funding of Loans to any rating agency, commercial paper dealer or provider of any surety or Guarantee or credit or liquidity enhancement to such SPC.

(h) [Reserved].

(i) [Reserved].

(j) [Reserved].

(k) Resignation of Issuing Bank. Notwithstanding anything to the contrary contained herein, any Issuing Bank may, upon thirty (30) days' notice to the Borrower and the Revolving Lenders, resign as an Issuing Bank; *provided* that on or prior to the expiration of such 30-day period with respect to such resignation, the relevant Issuing Bank shall have identified a successor Issuing Bank reasonably acceptable to the Borrower willing to accept its appointment as successor Issuing Bank hereunder. In the event of any such resignation of an Issuing Bank, the Borrower shall be entitled to appoint from among the Lenders willing to accept such appointment a successor Issuing Bank hereunder; *provided* that no failure by the Borrower to appoint any such successor shall affect the resignation of the relevant Issuing Bank, except as expressly provided above. If an Issuing Bank resigns as an Issuing Bank, it shall retain all the rights and obligations of an Issuing Bank hereunder with respect to all Letters of Credit outstanding as of the effective date of its resignation as an Issuing Bank and all Letter of Credit Obligations with respect thereto (including the right to require the Lenders to make Base Rate Loans or fund risk participations in Letters of Credit pursuant to Section 2.04(c)). Upon the appointment by the Borrower of a successor Issuing Bank hereunder (which successor shall in all cases be a Lender other than a Defaulting Lender), (i) such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring Issuing Bank, (ii) the retiring Issuing Bank shall be discharged from all of their respective duties and obligations hereunder or under the other Loan Documents, and (iii) the successor Issuing Bank shall issue letters of credit in substitution for the Letters of Credit, if any, outstanding at the time of such succession or make other arrangements satisfactory to the retiring Issuing Bank to effectively assume the obligations of the retiring Issuing Bank with respect to such Letters of Credit.

(l) [Reserved].

(m) [Reserved].

SECTION 11.08 Confidentiality. Each of the Administrative Agent, the Collateral Agent, the Lead Arranger, the Issuing Banks and the Lenders agrees to maintain the confidentiality of the Information in accordance with its customary procedures (as set forth below), except that Information may be disclosed,

(a) to its Affiliates and to its and its Affiliates' respective partners, directors, officers, employees, agents, trustees, advisors and representatives (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to keep such Information confidential and in no event shall such disclosure be made to any Disqualified Lender (other than a Net Short Lender (x) that provides a Net Short Representation at the time of such disclosure or (y) as to which the disclosing party does not have actual knowledge that such Person is a Net Short Lender) pursuant to this clause (a) but only to the extent that a list of such Disqualified Lenders is available to all Lenders upon request),

(b) to the extent requested by any regulatory authority purporting to have jurisdiction over it (including the Federal Reserve Bank or any other central bank or any self-regulatory authority, such as the National Association of Insurance Commissioners),

(c) to the extent required by applicable laws or regulations or by any subpoena or similar legal process, *provided* that the Administrative Agent, the Collateral Agent, such Lead Arranger or such Lender or Issuing Bank, as applicable, agrees that it will notify the Borrower as soon as practicable in the event of any such disclosure by such Person (other than at the request of a regulatory authority) unless such notification is prohibited by law, rule or regulation,

(d) to any other party hereto (it being understood that in no event shall such disclosure be made to any Disqualified Lender (other than a Net Short Lender (x) that provides a Net Short Representation at the time of such disclosure or (y) as to which the disclosing party does not have actual knowledge that such Person is a Net Short Lender) pursuant to this clause (d) but only to the extent the list of such Disqualified Lenders is available to all Lenders upon request),

(e) in connection with the exercise of any remedies hereunder or under any other Loan Document or any action or proceeding relating to this Agreement or any other Loan Document or the enforcement of rights hereunder or thereunder,

(f) subject to an agreement containing provisions at least as restrictive as those of this Section 11.08 (it being understood that in no event shall such disclosure be made to any Disqualified Lender (other than a Net Short Lender (x) that provides a Net Short Representation at the time of such disclosure or (y) as to which the disclosing party does not have actual knowledge that such Person is a Net Short Lender) pursuant to this clause (f) but only to the extent that a list of such Disqualified Lenders is available to all Lenders upon request), to (i) any *bona fide* assignee of or Participant in, or any prospective assignee of or Participant in, any of its rights or obligations under this Agreement or any Eligible Assignee invited to be an Additional Lender or (ii) any actual or prospective direct or indirect counterparty (or its advisors) to any swap or derivative transaction relating to the Borrower or any of their Subsidiaries or any of their respective obligations,

(g) with the prior written consent of the Borrower,

(h) to any rating agency when required by it (it being understood that, prior to any such disclosure, such rating agency shall undertake to preserve the confidentiality of any Information relating to the Loan Parties received by it from such Lender),

(i) to any credit insurance providers of the Lenders; *provided* that prior to the disclosure of any proprietary or non-public information relating to the Company, other than any Loan Document, in connection with this clause (i), the credit insurance provider shall enter into an agreement containing confidentiality obligations to the disclosing Lender on terms similar to this Agreement, or

(j) to the extent such Information (i) becomes publicly available other than as a result of a breach of this Section 11.08 or (ii) becomes available to the Administrative Agent, the Collateral Agent, any Lead Arranger, any Lender, any Issuing Bank or any of their respective Affiliates on a non-confidential basis from a source other than the Borrower or any Subsidiary thereof, and which source is not known by such Person to be subject to a confidentiality restriction in respect thereof in favor of the Borrower or any Affiliate of the Borrower.

In addition, each of the Administrative Agent, the Collateral Agent, the Lead Arranger, the Issuing Bank and the Lenders may disclose the existence of this Agreement and the information about this Agreement to the CUSIP Service Bureau or any similar agency in connection with the issuance and monitoring of CUSIP numbers with respect to the Loans, market data collectors, similar service providers to the lending industry, and service providers to the Administrative Agent, the Collateral Agent, the Lead Arranger, the Issuing Banks and the Lenders in connection with the administration and management of this Agreement and the other Loan Documents.

For purposes of this Section 11.08, “**Information**” means all information received from or on behalf of any Loan Party or any Subsidiary thereof relating to any Loan Party or any Subsidiary thereof or their respective businesses, other than any such information that is available to the Administrative Agent, the Collateral Agent or any Lender on a non-confidential basis prior to disclosure by any Loan Party or any Subsidiary thereof; it being understood that all information received from the Borrower or any Subsidiary after the date hereof shall be deemed confidential unless such information is clearly identified at the time of delivery as not being confidential. Any Person required to maintain the confidentiality of Information as provided in this Section 11.08 shall be considered to have complied with its obligation to do so in accordance with its customary procedures if such Person has exercised the same degree of care to maintain the confidentiality of such Information as such Person would accord to its own confidential information.

Each of the Administrative Agent, the Collateral Agent, the Lead Arranger and the Lenders acknowledges that (A) the Information may include Private-Side Information concerning the Borrower or a Subsidiary, as the case may be, (B) it has developed compliance procedures regarding the use of Private-Side Information and (C) it will handle such Private-Side Information in accordance with applicable Law, including United States federal and state securities laws.

Notwithstanding anything to the contrary therein, nothing in any Loan Document shall require the Borrower or any of its subsidiaries to provide information (i) that constitutes non-financial trade secrets or non-financial proprietary information, (ii) in respect of which disclosure is prohibited by applicable Law, (iii) that is subject to attorney client or similar privilege or constitutes attorney work product or (iv) the disclosure of which is restricted by binding agreements not entered into primarily for the purpose of qualifying for the exclusion in this clause (iv).

SECTION 11.09 Set-off. If an Event of Default shall have occurred and be continuing, each Lender and each Issuing Bank and each of their respective Affiliates is hereby authorized at any time and from time to time, without prior notice to the Administrative Agent, any Loan Party or to any other Person, any such notice being hereby expressly waived, to the fullest extent permitted by applicable law, to set off and apply any and all deposits (general or special, time or demand, provisional or final, in whatever currency) at any time held and other obligations (in whatever currency) at any time owing by such Lender or such Issuing Bank or any such Affiliate to or for the credit or the account of the Borrower or any other Loan Party against any and all of the obligations of such Borrower or such Loan Party now or hereafter existing under this Agreement or any other Loan Document to such Lender or such Issuing Bank, the Letters of Credit and participations therein, irrespective of whether or not (a) such Lender or such Issuing Bank shall have made any demand under this Agreement or any other Loan Document and (b) the principal of or the interest on the Loans or any amounts in respect of the Letters of Credit or any other amounts due hereunder shall have become due and payable pursuant to Article II and although such obligations of such Borrower or such Loan Party may be contingent or unmatured or are owed to a branch or office of such Lender or such Issuing Bank different from the branch or office holding such deposit or obligated on such indebtedness; *provided* that in the event that any Defaulting Lender shall exercise any such right of setoff, (i) all amounts so set off shall be paid over immediately to the Administrative Agent for further application in accordance with the provisions of Sections 2.15 and 2.19 and, pending such payment, shall be segregated by such Defaulting Lender from its other funds and deemed held in trust for the benefit of the Administrative Agent, the Issuing Banks, and the Lenders, and (ii) the Defaulting Lender shall provide promptly to the Administrative Agent a statement describing in reasonable detail the Obligations owing to such Defaulting Lender as to which it exercised such right of setoff. The rights of each Lender and each Issuing Bank and their respective Affiliates under this Section are in addition to other rights and remedies (including other rights of set-off) that such Lender or such Issuing Bank or Affiliates may have. Each Lender agrees to notify the Borrower and the Administrative Agent promptly after any such set-off and application, provided that the failure to give such notice shall not affect the validity of such set-off and application.

SECTION 11.10 Interest Rate Limitation. Notwithstanding anything to the contrary contained in any Loan Document, the interest paid or agreed to be paid under the Loan Documents with respect to any of the Obligations shall not exceed the maximum rate of non-usurious interest permitted by applicable Law (the “**Maximum Rate**”). If any Agent or any Lender shall receive interest in an amount that exceeds the Maximum Rate, the excess interest shall be applied to the principal of the Loans or, if it exceeds such unpaid principal, refunded to the Borrower. In determining whether the interest contracted for, charged, or received by an Agent or a Lender exceeds the Maximum Rate, such Person may, to the extent permitted by applicable Law, (a) characterize any payment that is not principal as an expense, fee, or premium rather than interest, (b) exclude voluntary prepayments and the effects thereof, and (c) amortize, prorate, allocate, and spread in equal or unequal parts the total amount of interest throughout the contemplated term of the Obligations hereunder. If the rate of interest under this Agreement at any time exceeds the Maximum Rate, the outstanding amount of the Loans made hereunder shall bear interest at the Maximum Rate until the total amount of interest due hereunder equals the amount of interest which would have been due hereunder if the stated rates of interest set forth in this Agreement had at all times been in effect. In addition, if when the Loans made hereunder are repaid in full the total interest due hereunder (taking into account the increase provided for above) is less than the total amount of interest which would have been due hereunder if the stated rates of interest set forth in this Agreement had at all times been in effect, then to the extent permitted by law, the Borrower shall pay to the Administrative Agent an amount equal to the difference between the amount of interest paid and the amount of interest which would have been paid if the Maximum Rate had at all times been in effect. Notwithstanding the foregoing, it is the intention of the Lenders and the Borrower to conform strictly to any applicable usury laws.

SECTION 11.11 Counterparts; Integration; Effectiveness.

This Agreement may be executed in counterparts (and by different parties hereto in different counterparts), each of which when so executed shall be deemed to be an original and all of which when taken together shall constitute one and the same instrument. Any signature to this Agreement may be delivered by facsimile, electronic mail (including pdf) or any electronic signature complying with the U.S. federal ESIGN Act of 2000 or the New York Electronic Signature and Records Act or other transmission method and any counterpart so delivered shall be deemed to have been duly and validly delivered and be valid and effective for all purposes to the fullest extent permitted by applicable Law. For the avoidance of doubt, the foregoing also applies to any amendment, extension or renewal of this Agreement. This Agreement and the other Loan Documents constitute the entire contract among the parties relating to the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof.

Each party hereto represents and warrants to the other parties hereto that it has the corporate capacity and authority to execute this Agreement through electronic means and there are no restrictions for doing so in such party's constitutive documents.

SECTION 11.12 Electronic Execution of Assignments and Certain Other Documents. The words "execution," "signed," "signature," and words of like import in this Agreement, any Assignment and Assumption, in or related to any document to be signed in connection with this Agreement and the transactions contemplated hereby or in any amendment or other modification hereof (including waivers and consents) shall be deemed to include electronic signatures or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, as the case may be, relating to the electronic execution of agreements; *provided* that notwithstanding anything contained herein to the contrary, the Administrative Agent is under no obligation to agree to accept electronic signatures in any form or any format unless expressly agreed to by the Administrative Agent pursuant to procedures approved by it.

SECTION 11.13 Survival. All representations and warranties made hereunder and in any other Loan Document or other document delivered pursuant hereto or thereto or in connection herewith or therewith shall survive the execution and delivery hereof and thereof. Such representations and warranties have been or will be relied upon by the Administrative Agent, each Issuing Bank and each Lender, regardless of any investigation made by the Administrative Agent, any Issuing Bank or any Lender or on their behalf and notwithstanding that the Administrative Agent, any Issuing Bank or any Lender may have had notice or knowledge of any Default at the time of any Borrowing or issuance of a Letter of Credit, and shall continue in full force and effect as long as any Loan or any other Obligation hereunder shall remain unpaid or unsatisfied or any Letter of Credit remain outstanding. Notwithstanding anything herein or implied by law to the contrary, the agreements of each Loan Party set forth in Sections 3.01, 3.04, 3.05, 11.04, 11.05 and 11.09 and the agreements of the Lenders set forth in Sections 2.15, 10.03 and 10.07 shall survive the satisfaction of the Termination Conditions, and the termination hereof.

SECTION 11.14 Severability. If any provision of this Agreement or the other Loan Documents is held to be illegal, invalid or unenforceable in any jurisdiction, (a) the legality, validity and enforceability of the remaining provisions or obligations, or of such provision or obligation in any other jurisdiction, of this Agreement and the other Loan Documents shall not be affected or impaired thereby and (b) the parties shall endeavor in good faith negotiations to replace the illegal, invalid or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the illegal, invalid or unenforceable provisions. The invalidity of a provision in a particular jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. Without limiting the foregoing provisions of this Section 11.14, if and to the extent that the enforceability of any provisions in this Agreement relating to Defaulting Lenders shall be limited by Debtor Relief Laws, as determined in good faith by the Administrative Agent or any Issuing Bank, as applicable, then such provisions shall be deemed to be in effect only to the extent not so limited.

SECTION 11.15 GOVERNING LAW.

(a) THIS AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER (INCLUDING ANY CLAIMS SOUNDING IN CONTRACT LAW OR TORT LAW ARISING OUT OF THE SUBJECT MATTER HEREOF AND ANY DETERMINATIONS WITH RESPECT TO POST-JUDGMENT INTEREST) AND EACH OTHER LOAN DOCUMENT SHALL BE GOVERNED BY, AND SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK.

(b) BY EXECUTING AND DELIVERING THIS AGREEMENT, EACH PARTY HERETO (AND BY ITS ACCEPTANCE OF ITS APPOINTMENT IN SUCH CAPACITY, EACH LEAD ARRANGER) IRREVOCABLY AND UNCONDITIONALLY SUBMITS, FOR ITSELF AND ITS PROPERTY, TO THE EXCLUSIVE JURISDICTION AND VENUE OF THE COURTS OF THE STATE OF NEW YORK SITTING IN NEW YORK CITY IN THE BOROUGH OF MANHATTAN AND OF ANY UNITED STATES FEDERAL COURT SITTING IN THE BOROUGH OF MANHATTAN, AND ANY APPELLATE COURT FROM ANY THEREOF, IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT (OTHER THAN WITH RESPECT TO ACTIONS BY ANY AGENT IN RESPECT OF RIGHTS UNDER ANY COLLATERAL DOCUMENT GOVERNED BY A LAW OTHER THAN THE LAWS OF THE STATE OF NEW YORK (INCLUDING ANY VESSEL MORTGAGE) OR WITH RESPECT TO ANY COLLATERAL SUBJECT THERETO), OR FOR RECOGNITION OR ENFORCEMENT OF ANY JUDGMENT, AND EACH OF THE PARTIES HERETO (AND BY ITS ACCEPTANCE OF ITS APPOINTMENT IN SUCH CAPACITY, EACH LEAD ARRANGER) IRREVOCABLY AND UNCONDITIONALLY AGREES THAT ALL CLAIMS IN RESPECT OF ANY SUCH ACTION OR PROCEEDING MAY BE HEARD AND DETERMINED IN SUCH NEW YORK STATE COURT OR, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, IN SUCH FEDERAL COURT. EACH OF THE PARTIES HERETO (AND BY ITS ACCEPTANCE OF ITS APPOINTMENT IN SUCH CAPACITY, EACH LEAD ARRANGER) AGREES THAT A FINAL JUDGMENT IN ANY SUCH ACTION OR PROCEEDING SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN OTHER JURISDICTIONS BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY LAW. EACH PARTY HERETO (AND BY ITS ACCEPTANCE OF ITS APPOINTMENT IN SUCH CAPACITY, EACH LEAD ARRANGER) AGREES THAT THE AGENTS AND LENDERS RETAIN THE RIGHT TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY LAW OR TO BRING PROCEEDINGS AGAINST ANY LOAN PARTY IN THE COURTS OF ANY OTHER JURISDICTION IN CONNECTION WITH THE EXERCISE OF ANY RIGHTS UNDER ANY COLLATERAL DOCUMENT OR THE ENFORCEMENT OF ANY JUDGMENT.

(c) EACH LOAN PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY OBJECTION THAT IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT IN ANY COURT REFERRED TO IN PARAGRAPH (b) OF THIS SECTION 11.15. EACH OF THE PARTIES HERETO (AND BY ITS ACCEPTANCE OF ITS APPOINTMENT IN SUCH CAPACITY, EACH LEAD ARRANGER) HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF SUCH ACTION OR PROCEEDING IN ANY SUCH COURT.

SECTION 11.16 WAIVER OF RIGHT TO TRIAL BY JURY. EACH PARTY HERETO (AND BY ITS ACCEPTANCE OF ITS APPOINTMENT IN SUCH CAPACITY, EACH LEAD ARRANGER) HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). THE SCOPE OF THIS WAIVER IS INTENDED TO BE ALL-ENCOMPASSING OF ANY AND ALL DISPUTES THAT MAY BE FILED IN ANY COURT AND THAT RELATE TO THE SUBJECT MATTER OF THIS TRANSACTION, INCLUDING CONTRACT CLAIMS, TORT CLAIMS, BREACH OF DUTY CLAIMS AND ALL OTHER COMMON LAW AND STATUTORY CLAIMS. EACH PARTY HERETO (AND BY ITS ACCEPTANCE OF ITS APPOINTMENT IN SUCH CAPACITY, EACH LEAD ARRANGER) (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PERSON HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 11.16, THAT EACH HAS ALREADY RELIED ON THIS WAIVER IN ENTERING INTO THIS AGREEMENT, AND THAT EACH WILL CONTINUE TO RELY ON THIS WAIVER IN ITS RELATED FUTURE DEALINGS. EACH PARTY HERETO (AND BY ITS ACCEPTANCE OF ITS APPOINTMENT IN SUCH CAPACITY, EACH LEAD ARRANGER) FURTHER WARRANTS AND REPRESENTS THAT IT HAS REVIEWED THIS WAIVER WITH ITS LEGAL COUNSEL AND THAT IT KNOWINGLY AND VOLUNTARILY WAIVES ITS JURY TRIAL RIGHTS FOLLOWING CONSULTATION WITH LEGAL COUNSEL. THIS WAIVER IS IRREVOCABLE, MEANING THAT IT MAY NOT BE MODIFIED EITHER ORALLY OR IN WRITING (OTHER THAN BY A MUTUAL WRITTEN WAIVER SPECIFICALLY REFERRING TO THIS SECTION 11.16 AND EXECUTED BY EACH OF THE PARTIES HERETO AND THE LEAD ARRANGER), AND THIS WAIVER SHALL APPLY TO ANY SUBSEQUENT AMENDMENTS, RENEWALS, SUPPLEMENTS OR MODIFICATIONS HERETO OR ANY OF THE OTHER LOAN DOCUMENTS OR TO ANY OTHER DOCUMENTS OR AGREEMENTS RELATING TO THE LOANS MADE HEREUNDER. IN THE EVENT OF LITIGATION, THIS AGREEMENT MAY BE FILED AS A WRITTEN CONSENT TO A TRIAL BY THE COURT.

SECTION 11.17 Limitation of Liability. The Loan Parties agree that no Indemnitee shall have any liability (whether in contract, tort or otherwise) to any Loan Party or any of their respective Subsidiaries or any of their respective equity holders or creditors for or in connection with the transactions contemplated hereby and in the other Loan Documents, except to the extent such liability is determined in a final, non-appealable judgment by a court of competent jurisdiction to have resulted from such Indemnitee's gross negligence or willful misconduct by such Indemnitee of its obligations under this Agreement. In no event, shall any party hereto, any Loan Party or any Indemnitee be liable on any theory of liability for any special, indirect, consequential or punitive damages (including any loss of profits, business or anticipated savings) (other than, in the case of the Borrower, in respect of any such damages incurred or paid by an Indemnitee to a third party).

SECTION 11.18 Use of Name, Logo, Etc. Each Loan Party consents to the publication in the ordinary course by the Administrative Agent or any Lead Arranger of customary advertising material relating to the financing transactions contemplated by this Agreement using such Loan Party's name, product photographs, logo or trademark; *provided* that any such trademarks or logos are used solely in a manner that is not intended to or reasonably likely to harm or disparage the Borrower or any of their Subsidiaries or the reputation or goodwill of any of them. Such consent shall remain effective until revoked by such Loan Party in writing to the Administrative Agent and such Lead Arranger, as applicable.

SECTION 11.19 USA PATRIOT Act Notice. Each Lender that is subject to the USA PATRIOT Act and the Agents (for itself and not on behalf of any Lender) hereby notifies each Loan Party that pursuant to the requirements of the USA PATRIOT Act, it is required to obtain, verify and record information that identifies each Loan Party, which information includes the name and address of each Loan Party and other information that will allow such Lender or the Agents, as applicable, to identify each Loan Party in accordance with the USA PATRIOT Act. Each Loan Party shall, promptly following a request by the Agents or any Lender, provide all documentation and other information that the Agents or such Lender requests in order to comply with its ongoing obligations under applicable "know your customer" and anti-money laundering rules and regulations, including the USA PATRIOT Act.

SECTION 11.20 Force Majeure. The Collateral Agent shall in no event be responsible or liable for any failure or delay in the performance of its obligations hereunder arising out of or caused by, directly or indirectly, forces beyond its control, including, without limitation, strikes, work stoppages, accidents, acts of war or terrorism, pandemics, epidemics, civil or military disturbances, nuclear or natural catastrophes or acts of God, and interruptions, loss or malfunctions of utilities, communications or computer (software and hardware) services or the unavailability of the Federal Reserve Bank wire or telex or other wire or communication facility.

SECTION 11.21 Collateral Agent Merger. Any organization or entity into which the Collateral Agent may be converted or merged, or with which it may be consolidated, or to which it may sell or transfer all or substantially all of its corporate trust business and assets as a whole or substantially as a whole, or any organization or entity resulting from any such conversion, sale, merger, consolidation or transfer to which the Collateral Agent is a party, will be and become the successor to the Collateral Agent under this Agreement and will have and succeed to the rights, powers, duties, immunities and privileges as its predecessor, without the execution or filing of any instrument or paper or the performance of any further act.

SECTION 11.22 Service of Process. EACH PARTY HERETO (AND BY ITS ACCEPTANCE OF ITS APPOINTMENT IN SUCH CAPACITY, EACH LEAD ARRANGER) IRREVOCABLY CONSENTS TO SERVICE OF PROCESS IN THE MANNER PROVIDED FOR NOTICES IN SECTION 11.02. NOTHING IN THIS AGREEMENT WILL AFFECT THE RIGHT OF ANY PARTY HERETO TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY APPLICABLE LAW.

SECTION 11.23 No Advisory or Fiduciary Responsibility. In connection with all aspects of each transaction contemplated hereby (including in connection with any amendment, waiver or other modification hereof or of any other Loan Document), each Loan Party acknowledges and agrees, and acknowledges its Affiliates' understanding that: (a) (i) the transactions contemplated by the Loan Documents (including the exercise of rights and remedies hereunder and thereunder) are arm's-length commercial transactions between the Agents, the Lenders, the Issuing Banks and the Lead Arranger on the one hand, and the Loan Parties and their Affiliates, on the other hand, (ii) each of the Loan Parties has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate, and (iii) each of the Loan Parties is capable of evaluating, and understands and accepts, the terms, risks and conditions of the transactions contemplated hereby and by the other Loan Documents; (b) (i) the Agents, the Issuing Banks and the Lead Arranger are and have been, and each Lender is and has been, acting solely as a principal and, except as expressly agreed in writing by the relevant parties, have or has not been, are or is not, and will not be acting as an advisor, agent or fiduciary for the Loan Parties, its stockholders or its Affiliates (irrespective of whether any Lender has advised, is currently advising or will advise any Loan Party, its stockholders or its Affiliates on other matters), or any other Person and (ii) none of the Agents, the Issuing Banks, the Lead Arranger nor any Lender has any obligation to the Borrower or any of its Affiliates with respect to the transactions contemplated hereby except those obligations expressly set forth herein and in the other Loan Documents; and (c) the Agents, the Issuing Banks, the Lead Arranger, the Lenders and their respective Affiliates may be engaged in a broad range of transactions that involve economic interests that conflict with those of the Loan Parties, their stockholders and/or their affiliates, and none of the Agents, the Issuing Banks, the Lead Arranger nor any Lender has any obligation to disclose any of such interests to the Borrower or any of its respective Affiliates. Each Loan Party agrees that nothing in the Loan Documents or otherwise will be deemed to create an advisory, fiduciary or agency relationship or fiduciary or other implied duty between any Lender, on the one hand, and such Loan Party, its stockholders or its affiliates, on the other. To the fullest extent permitted by law, each Loan Party hereby waives and releases any claims that it may have against the Agents, the Issuing Banks, the Lead Arranger or any Lender with respect to any breach or alleged breach of agency or fiduciary duty in connection with any aspect of any transaction contemplated hereby.

SECTION 11.24 Binding Effect. This Agreement shall become effective when it shall have been executed by the Borrower and the Administrative Agent and the Administrative Agent shall have been notified by each Lender and each Issuing Bank that each such Lender or each such Issuing Bank has executed it and thereafter shall be binding upon and inure to the benefit of the Borrower, each Agent, each Lender and each Issuing Bank and their respective successors and assigns.

SECTION 11.25 Obligations Several; Independent Nature of Lender's Rights. The obligations of the Lenders hereunder are several and not joint and no Lender shall be responsible for the obligations or - Commitments of any other Lender hereunder. Nothing contained herein or in any other Loan Document, and no action taken by the Lenders pursuant hereto or thereto, shall be deemed to constitute the Lenders as a partnership, an association, a joint venture or any other kind of entity. The amounts payable at any time hereunder to each Lender shall be a separate and independent debt, and each Lender shall be entitled to protect and enforce its rights arising out hereof and it shall not be necessary for any other Lender to be joined as an additional party in any proceeding for such purpose.

SECTION 11.26 Headings. Section headings herein are included herein for convenience of reference only and shall not constitute a part hereof for any other purpose or be given any substantive effect.

SECTION 11.27 Acknowledgement and Consent to Bail-In of Affected Financial Institutions.

Notwithstanding anything to the contrary in any Loan Document or in any other agreement, arrangement or understanding among any such parties, each party hereto acknowledges that any liability of any Lender that is an Affected Financial Institution arising under any Loan Document, to the extent such liability is unsecured, may be subject to the Write-Down and Conversion Powers of the applicable Resolution Authority and agrees and consents to, and acknowledges and agrees to be bound by:

(a) the application of any Write-Down and Conversion Powers by the applicable Resolution Authority to any such liabilities arising hereunder which may be payable to it by any party hereto that is an Affected Financial Institution; and

(b) the effects of any Bail-In Action on any such liability, including, if applicable:

(i) a reduction in full or in part or cancellation of any such liability;

(ii) a conversion of all, or a portion of, such liability into shares or other instruments of ownership in such Affected Financial Institution, its parent entity, or a bridge institution that may be issued to it or otherwise conferred on it, and that such shares or other instruments of ownership will be accepted by it in lieu of any rights with respect to any such liability under this Agreement or any other Loan Document; or

(iii) the variation of the terms of such liability in connection with the exercise of the Write-Down and Conversion Powers of the applicable Resolution Authority.

The provisions of this Section 11.25 are intended to comply with, and shall be interpreted in light of, Article 55 of Directive 2014/59/EU of the European Parliament and of the Council of the European Union.

SECTION 11.28 Acknowledgment Regarding Any Supported QFCs. (a) To the extent that the Loan Documents provide support, through a guarantee or otherwise (including the Guaranty), for any Hedge Agreement or any other agreement or instrument that is a QFC (such support, “**QFC Credit Support**”, and each such QFC, a “**Supported QFC**”), the parties acknowledge and agree as follows with respect to the resolution power of the Federal Deposit Insurance Corporation under the Federal Deposit Insurance Act and Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act (together with the regulations promulgated thereunder, the “**U.S. Special Resolution Regimes**”) in respect of such Supported QFC and QFC Credit Support (with the provisions below applicable notwithstanding that the Loan Documents and any Supported QFC may in fact be stated to be governed by the laws of the State of New York and/or of the United States or any other state of the United States):

In the event a Covered Entity that is party to a Supported QFC (each, a “**Covered Party**”) becomes subject to a proceeding under a U.S. Special Resolution Regime, the transfer of such Supported QFC and the benefit of such QFC Credit Support (and any interest and obligation in or under such Supported QFC and such QFC Credit Support, and any rights in property securing such Supported QFC or such QFC Credit Support) from such Covered Party will be effective to the same extent as the transfer would be effective under the U.S. Special Resolution Regime if the Supported QFC and such QFC Credit Support (and any such interest, obligation and rights in property) were governed by the laws of the United States or a state of the United States. In the event a Covered Party or a BHC Act Affiliate of a Covered Party becomes subject to a proceeding under a U.S. Special Resolution Regime, Default Rights under the Loan Documents that might otherwise apply to such Supported QFC or any QFC Credit Support that may be exercised against such Covered Party are permitted to be exercised to no greater extent than such Default Rights could be exercised under the U.S. Special Resolution Regime if the Supported QFC and the Loan Documents were governed by the laws of the United States or a state of the United States. Without limitation of the foregoing, it is understood and agreed that rights and remedies of the parties with respect to a Defaulting Lender shall in no event affect the rights of any Covered Party with respect to a Supported QFC or any QFC Credit Support.

SECTION 11.29 [Reserved].

SECTION 11.30 Disqualified Lenders and Net Short Positions.

(a) Replacement of Disqualified Lenders.

(i) To the extent that any assignment or participation is made or purported to be made to a Disqualified Lender described in clause (a) or clause (d) of the definition thereof (notwithstanding the other restrictions in this Agreement with respect to Disqualified Lenders), or if any Lender or Participant becomes a Disqualified Lender described in clause (a) or clause (d) of the definition thereof, in each case, without limiting any other provision of the Loan Documents,

(A) upon the request of the Borrower, such Disqualified Lender shall be required immediately (and in any event within five Business Days) to assign all or any portion of the Loans and Commitments then owned by such Disqualified Lender (or held as a participation) to another Lender (other than a Defaulting Lender or another Disqualified Lender), Eligible Assignee or the Borrower, and

(B) the Borrower shall have the right to prepay all or any portion of the Loans and Commitments then owned by such Disqualified Lender (or held as a participation), and if applicable, terminate the Commitments of such Disqualified Lender, in whole or in part.

(ii) Any such assignment or prepayment shall be made in exchange for an amount equal to the lesser of (A) the face principal amount of the Loans so assigned and (B) the amount that such Disqualified Lender paid to acquire such Commitments and/or Loans, in each case without interest thereon (it being understood that if the effective date of any such assignment is not an Interest Payment Date, such assignee shall be entitled to receive on the next succeeding Interest Payment Date interest on the principal amount of the Loans so assigned that has accrued and is unpaid from the Interest Payment Date last preceding such effective date (except as may be otherwise agreed between such assignee and the Borrower)).

(iii) The Borrower shall be entitled to seek specific performance in any applicable court of law or equity to enforce this Section 11.28. In addition, in connection with any such assignment, (A) if such Disqualified Lender does not execute and deliver to the Administrative Agent a duly completed Assignment and Assumption and/or any other documentation necessary or appropriate (in the good faith determination of the Administrative Agent or the Borrower, which determination shall be conclusive) to reflect such replacement by the later of (1) the date on which the replacement Lender executes and delivers such Assignment and Assumption and/or such other documentation and (2) the date as of which such Disqualified Lender shall be paid by the assignee Lender (or, at its option, the Borrower) the amount required pursuant to this Section 11.28, then such Disqualified Lender shall be deemed to have executed and delivered such Assignment and Assumption and/or such other documentation as of such date and the Borrower shall be entitled (but not obligated) to execute and deliver such Assignment and Assumption and/or such other documentation on behalf of such Disqualified Lender, and the Administrative Agent shall record such assignment in the Register, (B) each Lender (whether or not then a party hereto) agrees to disclose to the Borrower the amount that the applicable Disqualified Lender paid to acquire Commitments and/or Loans from such Lender and (C) each Lender that is a Disqualified Lender agrees to disclose to the Borrower the amount it paid to acquire the Commitments and/or Loans held by it.

(b) Amendments, Consents and Waivers under the Loan Documents. No Net Short Lender shall have the right to approve or disapprove any amendment, waiver or consent pursuant to Section 11.01 or under any Loan Document. In connection with any determination as to whether the requisite Lenders (including whether the Required Lenders) have provided any amendment, waiver or consent pursuant to Section 11.01 or under any other Loan Document:

(i) Net Short Lenders shall not be considered, and

(ii) Net Short Lenders shall be deemed to have consented to any such amendment, waiver or consent with respect to its interest as a Lender in the same proportion as the allocation of voting with respect to such matter by Lenders who are not Net Short Lenders.

Each Lender that is not an Unrestricted Lender that delivers a written consent to any amendment, waiver or consent pursuant to Section 11.01 or under any other Loan Document shall concurrently deliver (or in the absence of any written Net Short Representation will be deemed to have delivered, concurrently with providing such consent) to the Borrower (with a copy to the Administrative Agent) a Net Short Representation.

(c) Limitation on Rights and Privileges of Disqualified Lenders. Except as otherwise provided in Section 11.01(i) or in Section 11.28(b)(ii), no Disqualified Lenders shall have the right to, and each such Person covenants and agrees not to, instruct the Administrative Agent, Collateral Agent or any other Person in writing in respect of the exercise of remedies with respect to the Loans or other Obligations. Further, no Disqualified Lender that purports to be a Lender or Participant (notwithstanding any provisions of this Agreement that may have prohibited such Disqualified Lender from becoming Lender or Participant) shall be entitled to any of the rights or privileges enjoyed by the other Lenders with respect to voting (other than to the extent provided in Section 11.01(i) and Section 11.28(b)(ii)), Information and Lender meetings and shall be deemed for all purposes to be, at most, a Defaulting Lender until such time as such Disqualified Lender no longer owns any Loans or Commitments.

(d) [Reserved].

(e) Survival. The provisions of this Section 11.28 shall apply and survive with respect to each Lender and Participant notwithstanding that any such Person may have ceased to be a Lender or Participant (or any purported participation to any such Lender shall be void) hereunder or this Agreement may have been terminated.

(f) Administrative Agent.

(i) Reliance. The Administrative Agent shall be entitled to rely conclusively on any Net Short Representation delivered, provided or made (or deemed delivered, provided or made) to it in accordance with this Agreement, shall have no duty to inquire as to or investigate the accuracy of any Net Short Representation, verify any statements in any officer's certificate delivered to it, or otherwise make any calculations, investigations or determinations with respect to any Derivative Instruments or Net Short Positions or any Person. The Administrative Agent shall have no liability to the Borrower, any Lender or any other Person in acting in good faith on any notice of Default or acceleration.

(ii) Disqualified Lender Lists. The Administrative Agent shall have no responsibility or liability for monitoring or enforcing the list of Disqualified Lenders or for any assignment or participation to a Disqualified Lender.

(iii) Liability Limitations. The Administrative Agent shall not be responsible or have any liability for, or have any duty to ascertain, inquire into, monitor or enforce, compliance with the provisions hereof relating to Disqualified Lenders. Without limiting the generality of the foregoing, the Administrative Agent shall not (A) be obligated to ascertain, monitor or inquire as to whether any Lender or Participant or prospective Lender or Participant is a Disqualified Lender or (B) have any liability with respect to or arising out of any assignment or participation of Loans, or disclosure of confidential information (including Information), to any Disqualified Lender.

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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first above written.

HORNBECK OFFSHORE SERVICES, INC., as Borrower

By: /s/ James O. Harp, Jr.
Name: James O. Harp, Jr.
Title: Executive Vice President and Chief Financial Officer

[SIGNATURE PAGE TO CREDIT AGREEMENT]

DNB BANK ASA, NEW YORK BRANCH,

as Administrative Agent

By: /s/ Jack Price
Name: Jack Price
Title: Assistant Vice President

By: /s/ Samantha Stone
Name: Samantha Stone
Title: Vice President

[SIGNATURE PAGE TO CREDIT AGREEMENT]

WILMINGTON TRUST, NATIONAL ASSOCIATION,

as Collateral Agent

By: /s/ Jeffery Rose
Name: Jeffery Rose
Title: Vice President

[SIGNATURE PAGE TO CREDIT AGREEMENT]

DNB CAPITAL LLC, as Lender

By: /s/ Andrew J. Shohet
Name: Andrew J. Shohet
Title: SVP & Head of Ocean Industries, North America

By: /s/ Jessika Kai-Tseng Larsson
Name: Jessika Kai-Tseng Larsson
Title: First Vice President

[SIGNATURE PAGE TO CREDIT AGREEMENT]

By: /s/ Randi Hebert
Name: Randi Hebert
Title: Director

[SIGNATURE PAGE TO CREDIT AGREEMENT]

JPMORGAN CHASE BANK, N.A., as Lender

By: /s/ Caroline Eagan
Name: Caroline Eagan
Title: Vice President

[SIGNATURE PAGE TO CREDIT AGREEMENT]

BARCLAYS BANK PLC, as Lender

By: /s/ Sydney G. Dennis
Name: Sydney G. Dennis
Title: Director

[SIGNATURE PAGE TO CREDIT AGREEMENT]

FIRST AMENDMENT TO CREDIT AGREEMENT

This FIRST AMENDMENT TO CREDIT AGREEMENT (this "Amendment"), dated as of December 27, 2024, is entered into by and among (i) Hornbeck Offshore Services, Inc., a Delaware corporation, as borrower (the "Borrower"), (ii) the Lenders constituting Required Lenders under Section 11.01 of the Existing Credit Agreement (as defined below) (such Lenders, the "Consenting Lenders"), (iii) Wilmington Trust, National Association ("WT"), as Collateral Agent (in such capacity, the "Collateral Agent") under the Existing Credit Agreement and as Collateral Trustee (in such capacity, the "Collateral Trustee") under the Credit Agreement and the First Amendment Collateral Trust Agreement (in each case, as defined below), and (iv) DNB Bank ASA, New York Branch ("DNB"), as administrative agent (the "Administrative Agent").

WHEREAS, the Borrower, the Lenders, the Collateral Agent and the Administrative Agent are each party to that certain Credit Agreement, dated as of August 13, 2024 (as amended, restated, amended and restated, supplemented or otherwise modified and in effect immediately prior to the First Amendment Effective Date (as defined below), the "Existing Credit Agreement" and, the Existing Credit Agreement as modified by this Amendment, the "Credit Agreement");

WHEREAS, the Borrower has notified the Lenders that it intends to enter into, in accordance with the provisions of the Credit Agreement, a Second Lien Term Loan Credit Agreement, dated as of the date hereof (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the "Stonebriar Credit Agreement"), among the Borrower as borrower, Stonebriar Commercial Finance LLC, as administrative agent (the "Junior Lien Administrative Agent"), the Collateral Trustee, and the lenders and financial institutions from time to time party thereto (the "Junior Lien Lenders"), pursuant to which the Junior Lien Lenders shall agree to make certain term loans and provide certain other financial accommodations constituting, in each case, Second Lien Credit Agreement Refinancing Indebtedness, to the Borrower on the terms and conditions set forth therein;

WHEREAS, in connection with the Stonebriar Credit Agreement, the Borrower has requested that the Administrative Agent and the Collateral Trustee enter into (a) a Collateral Trust Agreement pursuant to which WT shall be named as Collateral Trustee by the Junior Lien Administrative Agent and the Administrative Agent, (b) a Junior Lien Intercreditor Agreement in connection with the Second Lien Credit Agreement Refinancing Indebtedness arising under the Stonebriar Credit Agreement and (c) certain other amendments to the Loan Documents to effectuate the Collateral Trust Agreement;

WHEREAS, in furtherance of the foregoing, the parties hereto have agreed to, among other things, amend certain provisions of the Existing Credit Agreement, in each case as of the First Amendment Effective Date, as provided for herein.

NOW, THEREFORE, in accordance with Section 11.01 of the Existing Credit Agreement and in consideration of the mutual agreements herein contained and other good and valuable consideration, the sufficiency and receipt of which are hereby acknowledged, the parties hereto agree as follows:

Section 1. Definitions; Interpretive Provisions. Unless otherwise indicated, any capitalized term used in this Amendment shall have the meaning ascribed to such term in the Credit Agreement. The rules of construction and other interpretive provisions specified in Section 1.02 and Section 1.05 of the Credit Agreement shall apply to this Amendment, including terms defined in the preamble and recitals hereto.

Section 2. Amendments. Subject to the satisfaction of the conditions precedent set forth in Section 3 of this Amendment, effective as of the First Amendment Effective Date (as defined below), the Existing Credit Agreement is hereby amended to delete the stricken text (indicated textually in the same manner as the following example: ~~stricken text~~) and to add the double-underlined text (indicated textually in the same manner as the following example: double-underlined text) as set forth in the pages of the Existing Credit Agreement attached as Exhibit A hereto. For the avoidance of doubt, the Exhibits and Schedules to the Existing Credit Agreement not specifically amended hereby shall remain in full force and effect.

Section 3. Conditions Precedent. This Amendment shall become effective upon the satisfaction of the following conditions precedent (such date of satisfaction, the “First Amendment Effective Date”):

(a) The Administrative Agent shall have received:

(i) Counterparts of this Amendment executed by the Borrower, the Administrative Agent, each of the Consenting Lenders, the Collateral Agent and the Collateral Trustee.

(ii) Duly executed copies of (a) the Stonebriar Credit Agreement, (b) the First Amendment Collateral Trust Agreement, in the form attached hereto as Exhibit B, (c) the First Amendment Collateral Agreement, in the form attached hereto as Exhibit C, (d) the First Amendment Junior Lien Intercreditor Agreement, in the form attached hereto as Exhibit D and (e) the First Amendment A&R Vessel Mortgages, in substantially the form attached hereto as Exhibit E (collectively, the “First Amendment Loan Documents”), together with evidence that such First Amendment A&R Vessel Mortgages have been submitted for filing with the U.S. Coast Guard National Vessel Documentation Center.

(iii) (A) Certificates of good standing from the secretary of state or other applicable office of the state of organization or formation or provincial or territorial corporate registry of the Borrower and each other Loan Party, (B) organizational documents of each Loan Party, certified by the secretary (or equivalent officer) of such Loan Party (or, if delivered previously to the Administrative Agent, a certification that such documents have not been amended, modified or revoked since such delivery and that they remain in full force and effect on the First Amendment Effective Date), (C) resolutions or other applicable action of each Loan Party, as certified by the secretary (or equivalent officer) of such Loan Party (or, if delivered previously to the Administrative Agent, a certification that such resolutions have not been amended, modified or revoked since such delivery and that they remain in full force and effect on the First Amendment Effective Date), (D) an incumbency certificate and/or other certificate of Responsible Officers of each Loan Party, in each case evidencing the identity, authority and capacity of each Responsible Officer thereof authorized to act as a Responsible Officer in connection with this Amendment and the other First Amendment Loan Documents to which it is a party or is to be a party on the First Amendment Effective Date, and (E) a certificate of a Responsible Officer of the Borrower that the conditions specified in paragraphs (b) and (c), below have been satisfied.

(iv) Legal opinions of (a) Kirkland & Ellis LLP, counsel to the Loan Parties, with respect to matters of New York law and certain aspects of Delaware law, and (b) Jones Walker LLP, maritime counsel to the Loan Parties, with respect to matters of U.S. maritime law, in each case reasonably satisfactory to the Administrative Agent.

(v) Evidence that UCC-3 financing statement amendments naming the Collateral Trustee as secured party, relating to the Liens granted under the First Amendment Collateral Agreement, have been submitted for filing in the State of Delaware.

(b) On the First Amendment Effective Date, the representations and warranties of the Borrower contained in Section 4 hereof are true and correct.

(c) On the First Amendment Effective Date, immediately after giving effect to the Amendment, no Default or Event of Default shall have occurred and be continuing.

Section 4. Representations and Warranties. The Borrower hereby represents and warrants to the Administrative Agent and the Consenting Lenders that each of the representations and warranties contained in the Loan Documents shall be true and correct in all material respects as of the date hereof (unless stated to relate to a specific earlier date, in which case such representations and warranties shall have been true and correct in all material respects as of such earlier date); provided that, notwithstanding the foregoing, each representation and warranty qualified by a Material Adverse Effect or materiality (or similar) standard shall be true and correct in all respects.

Section 5. Consent to First Amendment Loan Documents. Each of the Consenting Lenders consents to and approves, and instructs the Collateral Agent and the Administrative Agent, as applicable, to execute and deliver, each First Amendment Loan Document to which it is (or shall be) a party.

Section 6. Miscellaneous.

(a) References. Upon effectiveness of this Amendment, references in the Existing Credit Agreement to “this Agreement” (and indirect references such as “hereunder”, “hereby”, “herein” and “hereof”) and in each other Loan Document to the Existing Credit Agreement (however described, including as “the Credit Agreement”), shall be deemed to be references to the Credit Agreement.

(b) No Modification. This Amendment shall constitute a Loan Document for purposes of the Credit Agreement and the other Loan Documents, and except as specifically modified by this Amendment and the First Amendment Loan Documents, the Credit Agreement and the other Loan Documents shall remain unchanged and shall remain in full force and effect and are hereby ratified and confirmed. Except as expressly set forth herein, (i) this Amendment shall not by implication or otherwise limit, impair, constitute a waiver of or otherwise affect the rights and remedies of the Consenting Lenders, the Administrative Agent or any other Agent, in each case under the Credit Agreement or any other Loan Document, and (ii) shall not alter, modify, amend or in any way affect any of the terms, conditions, obligations, covenants or agreements contained in the Credit Agreement or any other provision of either such agreement or any other Loan Document.

(c) Applicable Law. THIS AMENDMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER (INCLUDING ANY CLAIMS SOUNDING IN CONTRACT LAW OR TORT LAW ARISING OUT OF THE SUBJECT MATTER HEREOF AND ANY DETERMINATIONS WITH RESPECT TO POST-JUDGMENT INTEREST) SHALL BE GOVERNED BY, AND SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK.

(d) Counterparts. This Amendment may be executed in counterparts (and by different parties hereto on different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract, in accordance with Section 11.12 of the Credit Agreement. Any signature to this Amendment may be delivered by facsimile, electronic mail (including pdf) or any electronic signature complying with the U.S. federal ESIGN Act of 2000 or the New York Electronic Signature and Records Act or other transmission method and any counterpart so delivered shall be deemed to have been duly and validly delivered and be valid and effective for all purposes to the fullest extent permitted by applicable law. For the avoidance of doubt, the foregoing also applies to any amendment of this Amendment.

(e) Costs and Expenses. The Borrower agrees to reimburse the Administrative Agent for its reasonable and documented out of pocket expenses in connection with this Amendment and the transactions contemplated hereby, including the reasonable fees, charges and disbursements of Seward & Kissel LLP, counsel for the Administrative Agent.

(f) No Novation. Neither the execution and delivery of this Amendment nor the consummation of any other transaction contemplated hereunder is intended to constitute a novation of the Existing Credit Agreement or of any of the other Loan Documents or any obligations thereunder, except to the extent modified hereby.

(g) Incorporation of Existing Credit Agreement Miscellaneous Provisions. Each of the provisions provided in the following sections of the Existing Credit Agreement is hereby incorporated herein by this reference with the same effect as though set forth in its entirety herein, mutatis mutandis, and as if references to "this Agreement" in any such provision read "this Amendment": Section 11.01 (Amendments, Waivers, Etc.); Section 11.02 (Notices and Other Communications; Facsimile Copies); Section 11.14 (Severability); Section 11.15 (Governing Law); Section 11.16 (Waiver of Right to Trial by Jury); and Section 11.26 (Headings).

[Signature pages follow]

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

HORNBECK OFFSHORE SERVICES, INC.,
as Borrower

By: /s/ James O. Harp, Jr.
Name: James O. Harp, Jr.
Title: Executive Vice President and Chief Financial Officer

[Signature Page to First Amendment to Credit Agreement]

DNB BANK ASA, NEW YORK BRANCH,
as Administrative Agent

By: /s/ Jack Price

Name: Jack Price

Title: Assistance Vice President

By: /s/ Samantha Stone

Name: Samantha Stone

Title: Vice President

[Signature Page to First Amendment to Credit Agreement]

WILMINGTON TRUST, NATIONAL ASSOCIATION,
as Collateral Agent and Collateral Trustee

By: /s/ Jeffery Rose

Name: Jeffery Rose

Title: Vice President

[Signature Page to First Amendment to Credit Agreement]

DNB CAPITAL LLC

By: /s/ Andrew J. Shohet

Name: Andrew J. Shohet

Title: SVP & Head of Ocean Industries, North America

By: /s/ Jason Fitzpatrick

Name: Jason Fitzpatrick

Title: FVP

[Signature Page to First Amendment to Credit Agreement]

JPMORGAN CHASE BANK, N.A.

By: /s/ Caroline Eagan

Name: Caroline Eagan

Title: Vice President

[Signature Page to First Amendment to Credit Agreement]

BARCLAYS BANK PLC

By: /s/ Sydney G. Dennis

Name: Sydney G. Dennis

Title: Director

[Signature Page to First Amendment to Credit Agreement]

CAPITAL ONE, NATIONAL ASSOCIATION

By: /s/ Randi Herbert

Name: Randi Herbert

Title: Director

[Signature Page to First Amendment to Credit Agreement]

EXHIBIT A

Credit Agreement

[Attached]

CREDIT AGREEMENT
dated as of August 13, 2024
by and among

HORNBECK OFFSHORE SERVICES, INC.,
as Borrower

DNB BANK ASA, NEW YORK BRANCH,
as Administrative Agent,

WILMINGTON TRUST, NATIONAL ASSOCIATION,
as Collateral Agent and Collateral Trustee

and

THE LENDERS PARTY HERETO

DNB MARKETS, INC., JPMORGAN CHASE BANK, N.A AND BARCLAYS BANK PLC

as Lead Arrangers and Physical Bookrunners

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M	Vessel Mortgage

CREDIT AGREEMENT

This CREDIT AGREEMENT is entered into as of August 13, 2024, by and among HORNBECK OFFSHORE SERVICES, INC., a Delaware corporation (the “**Borrower**”), DNB BANK ASA, NEW YORK BRANCH (“**DNB**”), as administrative agent (in such capacity, including any successor thereto, the “**Administrative Agent**”), WILMINGTON TRUST, NATIONAL ASSOCIATION as ~~collateral agent (in such capacity, including any successor thereto, the “Collateral Agent”)~~ and Collateral Trustee, each Issuing Bank from time to time party hereto, DNB MARKETS, INC., JPMORGAN CHASE BANK, N.A. and BARCLAYS BANK PLC, as Lead Arrangers and Bookrunners (collectively, the “**Lead Arranger**” and “**Bookrunners**”), and each lender from time to time party hereto (collectively, the “**Lenders**” and, individually, a “**Lender**”).

PRELIMINARY STATEMENTS

The Borrower has requested that (a) substantially simultaneously with the satisfaction of the conditions precedent set forth in Article IV below, the Lenders extend credit to the Borrower in the form of \$75,000,000 of Commitments on the Closing Date as a secured credit facility and (b) from time to time, the Revolving Lenders make Revolving Loans and the Issuing Banks issue Letters of Credit, in each case, pursuant to the terms of this Agreement.

The proceeds of the Revolving Loans will be used from time to time for general corporate purposes, including (a) working capital, (b) acquisitions (including Permitted Investments) that are not prohibited by the terms of this Agreement and (c) standby letters of credit.

The applicable Lenders have indicated their willingness to lend, and each Issuing Bank has indicated its willingness to issue Letters of Credit, in each case on the terms and subject to the conditions set forth herein.

In consideration of the mutual covenants and agreements herein contained, the parties hereto covenant and agree as follows:

ARTICLE I Definitions and Accounting Terms

SECTION 1.01 Defined Terms. As used in this Agreement, the following terms have the meanings set forth below:

“**Accounting Change**” has the meaning specified in the definition of “GAAP.”

“**Acquired Indebtedness**” means with respect to any Person (x) Indebtedness of any other Person or any of its Subsidiaries existing at the time such other Person becomes a Restricted Subsidiary or merges or amalgamates with or into or consolidates or otherwise combines with the Borrower or any Restricted Subsidiary and (y) Indebtedness secured by a Lien encumbering any asset acquired by such Person. Acquired Indebtedness shall be deemed to have been incurred, with respect to clause (x) of the preceding sentence, on the date such Person becomes a Restricted Subsidiary or on the date of the relevant merger, amalgamation, consolidation, acquisition or other combination.

“**Additional Lender**” means, at any time, any bank, other financial institution or institutional investor that, in any case, is not an existing Lender and that agrees to provide any portion of any Incremental Loan in accordance with Section 2.16; *provided* that each Additional Lender (other than any Person that is a Lender, an Affiliate of a Lender or an Approved Fund of a Lender at such time) shall be subject to the approval of the Administrative Agent and/or the Issuing Banks (such approval not to be unreasonably withheld, conditioned or delayed), in each case to the extent any such consent would be required from the Administrative Agent and/or the Issuing Banks under Section 11.07(b)(iii)(B) and/or (C), respectively, for an assignment of Loans to such Additional Lender.

“**Adjusted Term SOFR**” means the applicable Term SOFR, plus the Term SOFR Adjustment.

“**Administrative Agent**” has the meaning specified in the introductory paragraph to this Agreement.

“**Administrative Agent’s Office**” means the Administrative Agent’s address and, as appropriate, account as set forth on Schedule 11.02, or such other address or account as the Administrative Agent may from time to time notify the Borrower and the Lenders.

“**Administrative Questionnaire**” means an Administrative Questionnaire in a form supplied by the Administrative Agent.

“**Affected Financial Institution**” means (a) any EEA Financial Institution or (b) any UK Financial Institution.

“**Affiliate**” means, with respect to any Person, another Person that directly, or indirectly through one or more intermediaries, Controls or is Controlled by or is under common Control with the Person specified. “**Control**” means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise. “**Controlled**” has the meaning correlative thereto. For the avoidance of doubt, none of the Lead Arranger, the Agents or their respective lending affiliates shall be deemed to be an Affiliate of the Borrower or any of its Subsidiaries.

“**Affiliate Transaction**” has the meaning specified Section 6.18.

“**After-Acquired High Specification Vessels**” has the meaning specified in the definition of “Excluded Foreign Flag Vessel.”

“**Agency Fee Letter**” means the Agency Fee Letter, dated as of August 13, 2024 by and among the Borrower and DNB, as amended, restated, amended and restated, supplemented or otherwise modified from time to time in accordance with the terms thereof.

“**Agent Parties**” has the meaning specified in Section 11.02(e).

“**Agent-Related Persons**” means the Agents, together with their respective Affiliates, and the officers, directors, shareholders, employees, agents, attorney-in-fact, partners, trustees, advisors and other representatives of such Persons and of such Persons’ Affiliates.

“**Agents**” means, collectively, the Administrative Agent, the Collateral Agent, the Bookrunners, the Supplemental Administrative Agents (if any) and the Lead Arrangers.

“**Aggregate Commitments**” means the Commitments of all the Lenders.

“**Agreement**” means this Credit Agreement, as amended, restated, amended and restated, modified or supplemented from time to time in accordance with the terms hereof.

“**Agreement Currency**” has the meaning specified in Section 2.21(b).

“**Ancillary Fees**” has the meaning specified in Section 11.01(b)(ix).

“**Anti-Corruption Laws**” means all laws, rules, and regulations of any jurisdiction applicable to the Borrower or any of its Subsidiaries from time to time concerning or relating to bribery, or corruption, including, but not limited to, the U.S. Foreign Corrupt Practices Act of 1977, as amended, and the UK Bribery Act 2010.

“**Applicable Commitment Fee**” means a percentage *per annum* equal to 1.00%.

“**Applicable Creditor**” has the meaning specified in Section 2.21(b).

“**applicable decimal place**” has the meaning specified in Section 1.04.

“**Applicable Indebtedness**” has the meaning specified in the definition of “Weighted Average Life to Maturity.”

“**Applicable Jurisdiction**” means the United States and any other jurisdiction approved by the Required Lenders of the applicable Class and the Administrative Agent, in each case, acting reasonably and in good faith.

“**Applicable Proceeds Threshold Amount**” has the meaning specified in Section 7.05(c).

“**Applicable Rate**” means, for any day, with respect to any Revolving Loans, SOFR Rate Loan or Base Rate Loan, as the case may be, the rate *per annum* set forth in the grid below, based upon the Total Net Leverage Ratio set forth below:

<i>Grid</i>			
Pricing Level	Total Net Leverage Ratio	SOFR Rate Margin	Base Rate Margin
1	≤ 0.50:1.00	2.75%	1.75%
2	≤ 1.50:1.00	3.00%	2.00%
3	≤ 2.00:1.00	3.25%	2.25%
4	≤ 2.50:1.00	3.50%	2.50%
5	> 2.50:1.00	3.75%	2.75%

Any increase or decrease in the Applicable Rate under the grid set forth above with respect to Base Rate Loans or SOFR Rate Loans, as the case may be, resulting from a change in the Total Net Leverage Ratio shall become effective as of the first Business Day immediately following the date a Compliance Certificate is delivered in respect of the preceding fiscal quarter pursuant to Section 6.02(b); *provided, however*, that if a Compliance Certificate is not delivered when due in accordance with Section 6.02(b), then Pricing Level 5 shall apply as of the first Business Day after the date on which such Compliance Certificate was required to have been delivered until such Compliance Certificate is delivered to the Administrative Agent. From the Closing Date until such time as a compliance certificate is delivered to the Administrative Agent in accordance with Section 6.02(b), the Applicable Rate shall be determined based on the Compliance Certificate delivered pursuant to Section 4.01(h).

Within one Business Day of receipt of the applicable information under Section 6.02(a), the Administrative Agent shall give each Lender electronic (including e-mail and Internet or intranet websites, including the Platform) notice of the Applicable Rate in effect from such date. In the event that any financial statement or certificate delivered pursuant to Section 6.02 is determined to be inaccurate (at a time prior to the satisfaction of the Termination Conditions), and such inaccuracy, if corrected, would have led to the application of a higher Applicable Rate for any period (an “**Applicable Rate Period**”) than the Applicable Rate applied for such Applicable Rate Period, then (a) the Borrower shall promptly (and in any event within five Business Days) following such determination deliver to the Administrative Agent correct financial statements and certificates required by Section 6.02 for such Applicable Rate Period, (b) the Applicable Rate for such Applicable Rate Period shall be determined as if the Total Net Leverage Ratio were determined based on the amounts set forth in such correct financial statements and certificates and (c) the Borrower shall promptly (and in any event within ten Business Days) following delivery of such corrected financial statements and certificates pay to the Administrative Agent the accrued additional interest owing as a result of such increased Applicable Rate for such Applicable Rate Period. Notwithstanding anything to the contrary set forth herein, the provisions of this paragraph (but not any of the other provisions of this definition preceding this paragraph) may be amended or waived with respect to any Class with the consent of only the Borrower and the Required Lenders of such Class.

“**Applicable Rate Period**” has the meaning specified in the definition of “Applicable Rate.”

“**Appropriate Lender**” means, at any time, with respect to Loans of any Class, the Lenders of such Class.

“**Approved Flag Jurisdiction**” means (x) the United States of America, Mexico, Brazil, Vanuatu, Marshall Islands, Guyana, Colombia, and (y) any other flag state constituting an internationally recognized open ship registry used by U.S. shipping companies (as determined in good faith by the Borrower) or other flag state instituting a cabotage regime, which in the Borrower’s or any Restricted Subsidiary’s good faith judgment is necessary or desirable in order to pursue customer opportunities in such non-U.S. jurisdictions, in each case under this clause (y) subject to the approval of the Administrative Agent, such approval not to be unreasonably withheld, conditioned or delayed.

“**Approved Fund**” means, with respect to any Lender, any Fund that is administered, advised or managed by (a) such Lender, (b) an Affiliate of such Lender or (c) an entity or an Affiliate of an entity that administers, advises or manages such Lender.

“**Assignment and Assumption**” means an Assignment and Assumption substantially in the form of Exhibit D or any other form (including electronic documentation generated by an electronic platform) approved by the Administrative Agent.

“**Associate**” means (i) any Person engaged in a Similar Business of which the Borrower or its Restricted Subsidiaries are the legal and beneficial owners of between 20% and 50% of all outstanding Voting Stock and (ii) any joint venture entered into by the Borrower or any Restricted Subsidiary.

“**Attorney Costs**” means all reasonable (so long as no Event of Default has occurred and is continuing) and documented in reasonable detail fees, expenses, charges and disbursements of any law firm or other external legal counsel.

“**Auto-Renewal Letter of Credit**” has the meaning specified in Section 2.04(b)(iii).

“**Available Amount**” has the meaning specified in Section 7.06(d)(v).

“**Available Tenor**” means, as of any date of determination and with respect to the then-current Benchmark, as applicable, any tenor for such Benchmark or payment period for interest calculated with reference to such Benchmark, as applicable, that is or may be used for determining the length of an Interest Period pursuant to this Agreement as of such date and not including, for the avoidance of doubt, any tenor for such Benchmark that is then-removed from the definition of “Interest Period” pursuant to Section 3.09(e).

“**Bail-In Action**” means the exercise of any Write-Down and Conversion Powers by the applicable Resolution Authority in respect of any liability of an Affected Financial Institution.

“**Bail-In Legislation**” means (a) with respect to any EEA Member Country implementing Article 55 of Directive 2014/59/EU of the European Parliament and of the Council of the European Union, the implementing law, regulation, rule or requirement for such EEA Member Country from time to time which is described in the EU Bail-In Legislation Schedule and (b) with respect to the United Kingdom, Part I of the United Kingdom Banking Act 2009 (as amended from time to time) and any other law, regulation or rule applicable in the United Kingdom relating to the resolution of unsound or failing banks, investment firms or other financial institutions or their Affiliates (other than through liquidation, administration or other insolvency proceedings).

“**Base Rate**” means for any day a fluctuating rate *per annum* equal to the highest of (a) the Federal Funds Rate *plus* 1/2 of 1%, (b) the Prime Rate, and (c) the SOFR on such day (or, if such day is not a Business Day, the immediately preceding Business Day) for an Interest Period of one month after giving effect to a “floor” of 0.00% *per annum* plus 1.00%; *provided* that, notwithstanding the foregoing, the “Base Rate” with respect to any Revolving Loans shall in no event be less than 0.00% *per annum*. If the Administrative Agent shall have determined (which determination shall be conclusive absent manifest error) that it is unable to ascertain the Federal Funds Rate or Adjusted Term SOFR for any reason, including the inability or failure of the Administrative Agent to obtain sufficient quotations in accordance with the terms of the definition of Federal Funds Rate, the Base Rate shall be determined without regard to clause (b) or (c) above, as applicable, until the circumstances giving rise to such inability no longer exist. Any change in the Base Rate due to a change in the Prime Rate, the Federal Funds Rate or Adjusted Term SOFR shall be effective from and including the effective day of such change in the Prime Rate, the Federal Funds Rate or Adjusted Term SOFR, respectively. If the Base Rate is being used as an alternate rate of interest pursuant to Section 3.09 (for the avoidance of doubt, only until an amendment to the applicable rate of interest has become effective in accordance with the terms of this Agreement), then the Base Rate shall be the greater of clauses (a) and (b) above and shall be determined without reference to clause (c) above.

“**Base Rate Loan**” means a Loan that bears interest based on the Base Rate.

“**Benchmark**” means, initially, in the case of Term SOFR Borrowings, Adjusted Term SOFR; *provided* that if a replacement of the Benchmark has occurred pursuant to Section 3.09(b), then “Benchmark” means the applicable Benchmark Replacement to the extent that such Benchmark Replacement has become effective pursuant to Section 3.09(b).

“**Benchmark Replacement**” means, for any Available Tenor, the first alternative set forth in the order below that can be determined by the Administrative Agent for the applicable Benchmark Replacement Date:

(1) the sum of (a) Adjusted Term SOFR and (b) the related Benchmark Replacement Adjustment;

(2) the sum of (a) Daily Simple SOFR and (b) the related Benchmark Replacement Adjustment;

(3) the sum of (a) the alternate benchmark rate that has been selected by the Administrative Agent and the Borrower as the replacement for the then-current Benchmark for the applicable Corresponding Tenor giving due consideration to (i) any selection or recommendation of a replacement benchmark rate or the mechanism for determining such a rate by the Relevant Governmental Body or (ii) any evolving or then-prevailing market convention for determining a benchmark rate as a replacement for the then-current Benchmark for syndicated credit facilities denominated in Dollars and (b) the related Benchmark Replacement Adjustment;

provided that, in the case of clause (1), such Unadjusted Benchmark Replacement is displayed on a screen or other information service that publishes such rate from time to time as selected by the Administrative Agent in its reasonable discretion; *provided, further*, that, notwithstanding anything to the contrary in this Agreement or in any other Loan Document, upon the occurrence of a Term SOFR Transition Event, and the delivery of a Term SOFR Notice, on the applicable Benchmark Replacement Date the “Benchmark Replacement” shall revert to and shall be deemed to be the sum of (a) Adjusted Term SOFR and (b) the related Benchmark Replacement Adjustment, as set forth in clause (1) of this definition (subject to the first proviso above).

“**Benchmark Replacement Adjustment**” means, with respect to any replacement of the then-current Benchmark with an Unadjusted Benchmark Replacement for any applicable Interest Period and Available Tenor for any setting of such Unadjusted Benchmark Replacement:

(1) for purposes of clauses (1) and (2) of the definition of “Benchmark Replacement,” the first alternative set forth in the order below that can be determined by the Administrative Agent:

(a) the spread adjustment, or method for calculating or determining such spread adjustment, (which may be a positive or negative value or zero) as of the Reference Time such Benchmark Replacement is first set for such Interest Period that has been selected or recommended by the Relevant Governmental Body for the replacement of such Benchmark with the applicable Unadjusted Benchmark Replacement for the applicable Corresponding Tenor;

(b) the spread adjustment (which may be a positive or negative value or zero) as of the Reference Time such Benchmark Replacement is first set for such Interest Period that would apply to the fallback rate for a derivative transaction referencing the ISDA Definitions to be effective upon an index cessation event with respect to such Benchmark for the applicable Corresponding Tenor; and

(2) for purposes of clause (3) of the definition of “Benchmark Replacement,” the spread adjustment, or method for calculating or determining such spread adjustment, (which may be a positive or negative value or zero) that has been selected by the Administrative Agent and the Borrower for the applicable Corresponding Tenor giving due consideration to (i) any selection or recommendation of a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of such Benchmark with the applicable Unadjusted Benchmark Replacement by the Relevant Governmental Body on the applicable Benchmark Replacement Date or (ii) any evolving or then-prevailing market convention for determining a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of such Benchmark with the applicable Unadjusted Benchmark Replacement for syndicated credit facilities denominated in Dollars;

provided that, in the case of clause (1) above, such adjustment is displayed on a screen or other information service that publishes such Benchmark Replacement Adjustment from time to time as selected by the Administrative Agent in its reasonable discretion.

“Benchmark Replacement Conforming Changes” means, with respect to any Benchmark Replacement, any technical, administrative or operational changes (including changes to the definition of “Base Rate,” the definition of “Business Day,” the definition of “Interest Period,” timing and frequency of determining rates and making payments of interest, timing of borrowing requests or prepayment, conversion or continuation notices, length of lookback periods, the applicability of breakage provisions, and other technical, administrative or operational matters) that the Administrative Agent reasonably decides in consultation with the Borrower may be appropriate to reflect the adoption and implementation of such Benchmark Replacement and to permit the administration thereof by the Administrative Agent in a manner substantially consistent with market practice (or, if the Administrative Agent reasonably decides that adoption of any portion of such market practice is not administratively feasible or if the Administrative Agent reasonably determines that no market practice for the administration of such Benchmark Replacement exists, in such other manner of administration as the Administrative Agent decides is reasonably necessary in connection with the administration of this Agreement and the other Loan Documents).

“Benchmark Replacement Date” means the earliest to occur of the following events with respect to the then-current Benchmark:

(1) in the case of clause (1) or (2) of the definition of “Benchmark Transition Event,” the later of (a) the date of the public statement or publication of information referenced therein and (b) the date on which the administrator of such Benchmark (or the published component used in the calculation thereof) permanently or indefinitely ceases to provide all Available Tenors of such Benchmark (or such component thereof);

(2) in the case of clause (3) of the definition of “Benchmark Transition Event,” the date of the public statement or publication of information referenced therein; or

(3) in the case of a Term SOFR Transition Event, the date that is thirty (30) days after the date a Term SOFR Notice is provided to the Lenders and the Borrower pursuant to this Section 3.09.

For the avoidance of doubt, (i) if the event giving rise to the Benchmark Replacement Date occurs on the same day as, but earlier than, the Reference Time in respect of any determination, the Benchmark Replacement Date will be deemed to have occurred prior to the Reference Time for such determination and (ii) the “Benchmark Replacement Date” will be deemed to have occurred in the case of clause (1) or (2) with respect to any Benchmark upon the occurrence of the applicable event or events set forth therein with respect to all then-current Available Tenors of such Benchmark (or the published component used in the calculation thereof).

“**Benchmark Transition Event**” means, with respect to any Benchmark, the occurrence of one or more of the following events with respect to the then-current Benchmark:

(1) a public statement or publication of information by or on behalf of the administrator of such Benchmark (or the published component used in the calculation thereof) announcing that such administrator has ceased or will cease to provide all Available Tenors of such Benchmark (or such component thereof), permanently or indefinitely; *provided* that, at the time of such statement or publication, there is no successor administrator that will continue to provide any Available Tenor of such Benchmark (or such component thereof);

(2) a public statement or publication of information by the regulatory supervisor for the administrator of such Benchmark (or the published component used in the calculation thereof), the Federal Reserve Board, the NYFRB, an insolvency official with jurisdiction over the administrator for such Benchmark (or such component), a resolution authority with jurisdiction over the administrator for such Benchmark (or such component) or a court or an entity with similar insolvency or resolution authority over the administrator for such Benchmark (or such component), in each case, which states that the administrator of such Benchmark (or such component) has ceased or will cease to provide all Available Tenors of such Benchmark (or such component thereof) permanently or indefinitely; *provided* that, at the time of such statement or publication, there is no successor administrator that will continue to provide any Available Tenor of such Benchmark (or such component thereof); or

(3) a public statement or publication of information by the regulatory supervisor for the administrator of such Benchmark (or the published component used in the calculation thereof) announcing that all Available Tenors of such Benchmark (or such component thereof) are no longer representative.

For the avoidance of doubt, a “Benchmark Transition Event” will be deemed to have occurred with respect to any Benchmark if a public statement or publication of information set forth above has occurred with respect to each then-current Available Tenor of such Benchmark (or the published component used in the calculation thereof).

“**Benchmark Unavailability Period**” means, with respect to any Benchmark, the period (if any) (x) beginning at the time that a Benchmark Replacement Date pursuant to clauses (1) or (2) of that definition has occurred if, at such time, no Benchmark Replacement has replaced the then-current Benchmark for all purposes hereunder and under any Loan Document in accordance with this Section 3.09 and (y) ending at the time that a Benchmark Replacement has replaced the then-current Benchmark for all purposes hereunder and under any Loan Document in accordance with this Section 3.09.

“**Beneficial Ownership Certification**” means a certification regarding beneficial ownership as required by the Beneficial Ownership Regulation.

“**Beneficial Ownership Regulation**” means 31 C.F.R. § 1010.230.

“**Benefit Plan**” means any of (a) an “employee benefit plan” (as defined in ERISA) that is subject to Title I of ERISA, (b) a “plan” as defined in and subject to Section 4975 of the Code or (c) any Person whose assets include (for purposes of ERISA Section 3(42) or otherwise for purposes of Title I of ERISA or Section 4975 of the Code) the assets of any such “employee benefit plan” or “plan.”

“**BHC Act Affiliate**” of a party means an “affiliate” (as such term is defined under, and interpreted in accordance with, 12 U.S.C. 1841(k)) of such party.

“**Blocked Account**” has the meaning assigned to such term in Section 6.11(c).

“**Blocking Event**” has the meaning assigned to such term in Section 9.01(e)(ii).

“**Board of Directors**” means, as to any Person, the board of directors, board of managers or other governing body of such Person, or if such Person is owned or managed by a single entity, the board of directors, board of managers or other governing body of such entity, and the term “directors” means members of the Board of Directors.

“**Bookrunners**” has the meaning specified in the introductory paragraph to this Agreement.

“**Borrower**” has the meaning specified in the introductory paragraph to this Agreement.

“**Borrower Materials**” has the meaning specified in Section 6.02.

“**Borrowing**” means a borrowing consisting of Loans of the same Class and Type made, converted or continued on the same date and, in the case of SOFR Rate Loans, having the same Interest Period.

“**Business Day**” means (i) any day that is not a Saturday, Sunday or other day on which commercial banks in New York City are authorized or required by law to remain closed and (ii) with respect to all notices, determinations, fundings and payments in connection with any SOFR Rate Loans, the term “Business Day” means any day which is a Business Day described in clause (i) and which is also a U.S. Government Securities Business Day.

“**Business Successor**” means (i) any former Subsidiary of the Borrower and (ii) any Person that, after the Closing Date, has acquired, merged or consolidated with a Subsidiary of the Borrower (that results in such Subsidiary ceasing to be a Subsidiary of the Borrower), or acquired (in one transaction or a series of transactions) all or substantially all of the property and assets or business of a Subsidiary or assets constituting a business unit, line of business or division of a Subsidiary of the Borrower.

“Capitalized Lease Obligation” means, at the time any determination thereof is to be made, the amount of the liability in respect of a Capitalized Lease that would at such time be required to be capitalized and reflected as a liability on a balance sheet (excluding the footnotes thereto) prepared in accordance with GAAP.

“Capitalized Leases” means all capital or finance leases that have been or are required to be, in accordance with GAAP as in effect on the Closing Date, recorded as capitalized leases; *provided* that for all purposes hereunder the amount of obligations under any Capitalized Lease shall be the amount thereof accounted for as a liability in accordance with GAAP as in effect on the Closing Date; *provided, further*, that all obligations of the Borrower and its Restricted Subsidiaries that are or would be characterized as an operating lease as determined in accordance with GAAP prior to the adoption of Accounting Standards Codification Topic 842, “Leases,” shall be accounted for as an operating lease (and not as a Capitalized Lease) for purposes of this Agreement regardless of any change in GAAP following the Closing Date (that would otherwise require such obligation to be recharacterized as a Capitalized Lease).

“Captive Insurance Subsidiary” means any Subsidiary of the Borrower that is subject to regulation as an insurance company (or any Subsidiary thereof).

“Cash Collateral Account” means an account held at (or through), and subject to the sole dominion and control of, the Administrative Agent.

“Cash Collateralize” means, in respect of an Obligation, to provide and pledge (as a first priority perfected security interest) cash collateral in Dollars, at a location and pursuant to documentation in form and substance satisfactory to Administrative Agent or an Issuing Bank, as applicable (and **“Cash Collateralization”** has a corresponding meaning). **“Cash Collateral”** shall have a meaning correlative to the foregoing and shall include the proceeds of such cash collateral and other credit support.

“Cash Equivalents” means any of the following types of Investments (including for the avoidance of doubt, cash), to the extent owned by the Borrower or any Restricted Subsidiary:

(a) Dollars;

(b) securities issued or directly and fully guaranteed or insured by the United States, government, a member of the European Union or, in each case any agency or instrumentality thereof the securities of which are guaranteed as a full faith and credit obligation of such government with maturities of one year or less from the date of acquisition;

(c) certificates of deposit, time deposits, eurodollar time deposits, overnight bank deposits, demand deposits or bankers’ acceptances with maturities of one year or less from the date of acquisition, in each case with a Lender or any other financial institution whose short-term unsecured debt rating is A or A2 or above as obtained from either S&P or Moody’s having capital and surplus of not less than \$250,000,000 (or the foreign currency equivalent thereof as of the date of such investment);

(d) repurchase obligations for underlying securities of the types described in clauses (c) and (d) above or clauses (g) and (h) below and securities with maturities of one year or less from the date of acquisition backed by standby letters of credit, in each case, entered into with any financial institution meeting the qualifications specified in clause (d) above;

(e) commercial paper and variable or fixed rate notes issued by any financial institution meeting the qualifications specified in clause (d) above (or by the parent company thereof) with maturities of one year or less from the date of creation;

(f) marketable short-term money market and similar highly liquid funds having a rating of at least P-2 or A-2 from Moody's or S&P, respectively (or, if at any time neither Moody's nor S&P shall be rating such obligations, an equivalent rating from another nationally recognized statistical rating agency);

(g) readily marketable direct obligations issued by and directly and fully guaranteed or insured by any state, commonwealth, province or territory of the United States or any political subdivision or taxing authority thereof, in each case rated at least A by S&P or A by Moody's (or, if at any time neither Moody's nor S&P shall be rating such obligations, an equivalent rating from another nationally recognized statistical rating agency) with maturities of 12 months or less from the date of acquisition; and

(h) Investments with average maturities of 12 months or less from the date of acquisition in money market funds rated AAA (or the equivalent thereof) or better by S&P or Aaa (or the equivalent thereof) or better by Moody's (or, if at any time neither Moody's nor S&P shall be rating such obligations, an equivalent rating from another nationally recognized statistical rating agency) and have portfolio assets of at least U.S.\$1,000,000,000.

In the case of Investments by any Foreign Subsidiary that is a Restricted Subsidiary or Investments made in a jurisdiction outside the United States of America, Cash Equivalents shall also include (i) investments of the type and maturity described in clauses (a) through (h) above in foreign obligors, which Investments or obligors (or the parents of such obligors) have ratings described in such clauses or equivalent ratings from comparable foreign rating agencies and (ii) other short-term investments in accordance with normal investment practices for cash management in investments analogous to the foregoing investments in clauses (a) through (h) above and in this paragraph. Notwithstanding the foregoing, Cash Equivalents shall include amounts denominated in Dollars, Canadian dollars, Australian dollars, pounds sterling, yen, euro, or any other national currency of any member state of the European Union; provided that (other than as set forth in clause (a) above) such amounts, except amounts used to pay obligations of the Borrower or any Restricted Subsidiary denominated in any currency other than Dollars in the ordinary course of business, are converted into Dollars as promptly as practicable and in any event within ten Business Days following the receipt of such amounts.

"Cash Management Bank" means any Person that is a Lender or Agent or an Affiliate of a Lender or Agent (a) on the Closing Date (with respect to any Cash Management Services entered into prior to the Closing Date), (b) at the time it initially provides any Cash Management Services to the Borrower or any Restricted Subsidiary, or (c) at the time that the Person to whom the Cash Management Services are provided is merged with the Borrower or becomes or is merged with a Restricted Subsidiary (with respect to any Cash Management Services entered into prior to the date of such merger or such Person becoming a Restricted Subsidiary), in each case whether or not such Person subsequently ceases to be a Lender or Agent or an Affiliate of a Lender or Agent.

“**Cash Management Obligations**” means obligations owed by the Borrower or any Restricted Subsidiary to any Cash Management Bank in respect of or in connection with any Cash Management Services and designated by the Cash Management Bank and the Borrower in writing to the Administrative Agent as “Cash Management Obligations.”

“**Cash Management Services**” means any agreement or arrangement to provide cash management services, including treasury, depository, overdraft, credit card processing, credit or debit card, purchase card, electronic funds transfer and other cash management arrangements.

“**Casualty Event**” means any event that gives rise to the receipt by a Loan Party of any insurance proceeds or condemnation awards in respect of any equipment, fixed assets or real property (including any improvements thereon) to replace or repair such equipment, fixed assets or real property.

“**Change in Law**” means the occurrence, after the date of this Agreement, of any of the following:

(a) the adoption or taking effect of any law, rule, regulation or treaty (excluding the taking effect after the date of this Agreement of a law, rule, regulation or treaty adopted prior to the date of this Agreement),

(b) any change in any law, rule, regulation or treaty or in the administration, interpretation or application thereof by any Governmental Authority or

(c) the making or issuance of any request, guideline or directive (whether or not having the force of law) by any Governmental Authority. It is understood and agreed that (i) the Dodd-Frank Wall Street Reform and Consumer Protection Act (Pub. L. 111-203, H.R. 4173), all Laws relating thereto, all interpretations and applications thereof and any compliance by a Lender with any and all requests, rules, guidelines, requirements and directives thereunder or issued in connection therewith or in implementation thereof or relating thereto and (ii) all requests, rules, guidelines, requirements or directives issued by any United States or foreign regulatory authority in connection with the implementation of the recommendations of the Bank for International Settlements or the Basel Committee on Banking Regulations and Supervisory Practices (or any successor or similar authority) in each case pursuant to Basel III, shall, for the purposes of this Agreement, be deemed to be adopted subsequent to the date hereof and a Change in Law regardless of the date enacted, adopted, issued, promulgated or implemented.

“Change of Control” means the earliest to occur of:

(a) (i) at any time while the Voting Stock of the Borrower (or any Parent Entity) is publicly traded, the Borrower (or such Parent Entity) becomes aware of (by way of a report or any other filing pursuant to Section 13(d) of the Exchange Act, proxy, vote, written notice or otherwise) or (ii) at any other time, any “person” or “group” (as each term is used in Sections 13(d) and 14(d) of the Exchange Act as in effect on the Closing Date), other than one or more Permitted Holders or any Parent Entity, that is or becomes the “beneficial owner” (as defined in Rules 13d-3 and 13d-5 of the Exchange Act as in effect on the Closing Date) of more than 50% of the total voting power of the Voting Stock of the Borrower (or any Parent Entity); *provided* that (x) so long as the Borrower is a Subsidiary of any Parent Entity, no person shall be deemed to be or become a beneficial owner of more than 50% of the total voting power of the Voting Stock of the Borrower unless such person shall be or become a beneficial owner of more than 50% of the total voting power of the Voting Stock of such Parent Entity (other than a Parent Entity that is a Subsidiary of another Parent Entity) and (y) any Voting Stock of which any Permitted Holder is the beneficial owner shall not in any case be included in any Voting Stock of which any such person is the beneficial owner; *provided, further*, notwithstanding the foregoing or the other provisions of this Agreement, so long as the change in total voting power of the Voting Stock of the Borrower (or any Parent Entity) as set forth in this clause (a) is a result of the Sponsors ceasing to hold their Equity Interests in connection with any Qualifying IPO or any other Equity Offering after any Qualifying IPO (including, for the avoidance of doubt, any block trades and/or secondary offering), no “Change of Control” shall occur; or

(b) the sale or transfer, in one or a series of related transactions, of all or substantially all of the assets of the Borrower and its Restricted Subsidiaries, taken as a whole, to a Person (other than the Borrower or any of its Restricted Subsidiaries or one or more Permitted Holders) and any “person” or “group” (each, as defined in clause (a) above), other than one or more Permitted Holders or any Parent Entity, is or becomes the “beneficial owner” (as so defined) of more than 50% of the total voting power of the Voting Stock of the transferee Person in such sale or transfer of assets, as the case may be; *provided* that (x) so long as the Borrower is a Subsidiary of any Parent Entity, no person shall be deemed to be or become a beneficial owner of more than 50% of the total voting power of the Voting Stock of the Borrower unless such person shall be or become a beneficial owner of more than 50% of the total voting power of the Voting Stock of such Parent Entity (other than a Parent Entity that is a Subsidiary of another Parent Entity) and (y) any Voting Stock of which any Permitted Holder is the beneficial owner shall not in any case be included in any Voting Stock of which any such person is the beneficial owner;

Notwithstanding the preceding or any provision of Section 13d-3 of the Exchange Act, (i) a Person or group shall not be deemed to beneficially own Voting Stock subject to a stock or asset purchase agreement, merger agreement, option agreement, warrant agreement or similar agreement (or voting or option or similar agreement related thereto) until the consummation of the acquisition of the Voting Stock in connection with the transactions contemplated by such agreement, (ii) if any group includes one or more Permitted Holders, the issued and outstanding Voting Stock of the Borrower owned, directly or indirectly, by any Permitted Holders that are part of such group shall not be treated as being beneficially owned by such group or any other member of such group for purposes of determining whether a Change of Control has occurred, (iii) a Person or group will not be deemed to beneficially own the Voting Stock of another Person as a result of its ownership of Voting Stock or other securities of such other Person’s parent entity (or related contractual rights) unless it owns 50% or more of the total voting power of the Voting Stock entitled to vote for the election of directors of such parent entity having a majority of the aggregate votes on the board of directors (or similar body) of such parent entity, (iv) the right to acquire Voting Stock (so long as such Person does not have the right to direct the voting of the Voting Stock subject to such right) or any veto power in connection with the acquisition or disposition of Voting Stock will not cause a party to be a beneficial owner, (v) for purposes of this definition, a time charter of, bareboat charter or other contract for, vessels to customers in the ordinary course of business shall not be deemed a sale or transfer of assets under clause (a) above and (vi) a Change of Control shall not occur as a result of any Reorganization Transactions and any transactions relating thereto.

“**Class**” when used in reference to,

(a) any Loan or Borrowing, refers to whether such Loan, or the Loans comprising such Borrowing, are Revolving Loans, Incremental Loans, Refinancing Loans or Extended Loans,

(b) any Commitment, refers to whether such Commitment is a Commitment in respect of Revolving Loans, Refinancing Commitment (and, in the case of a Refinancing Commitment, the Class of Loans to which such commitment relates) or a Commitment in respect of a Class of Loans to be made pursuant to an Incremental Amendment or an Extension Amendment, and

(c) any Lender, refers to whether such Lender has a Loan or Commitment with respect to a particular Class of Loans or Commitments. Refinancing Commitments and Refinancing Loans that have different terms and conditions shall be construed to be in different Classes.

“**Closing Date**” means August 13, 2024.

“**Closing Date Consolidated Net Tangible Assets**” means \$818,331,499.

“**Closing Date Total Net Leverage Ratio**” means 1.67 to 1.00.

“**Code**” means the U.S. Internal Revenue Code of 1986, as amended from time to time.

“**Collateral**” means all the “Collateral” (or equivalent term) as defined in any Collateral Document (including the Vessel Collateral), and all other property that is subject or purported to be subject to any Lien in favor of the Collateral Agent for the benefit of the Secured Parties pursuant to any Collateral Document, but in any event excluding all Excluded Assets.

“Collateral Agent” means, initially, Wilmington Trust, National Association, (a) prior to the First Amendment Effective Date, as collateral agent under the Loan Documents, and (b) thereafter, as Collateral Trustee under the First Amendment Collateral Trust Agreement and the other Loan Documents, and any successor thereto.

“Collateral Agency Fee Letter” means the Fee Letter, dated as of August 13, 2024, by and among the Borrower and the Collateral Agent, as amended, restated, amended and restated, supplemented or otherwise modified from time to time in accordance with the terms thereof.

“Collateral Agreement” means (a) the First Lien Guaranty and Amendment Collateral Agreement executed by the Loan Parties party thereto, or (b) a first lien guaranty and collateral agreement substantially in the form of Exhibit E, in each case together with each Collateral Agreement Supplement thereto executed and delivered pursuant to Section 6.11.

“Collateral Agreement Supplement” has the meaning specified in the Collateral Agreement.

“Collateral Coverage Ratio” means as of any date of determination, the ratio of (a) Collateral Value Amount to (b) Consolidated First and Second Lien Debt, in each case, as of such date of determination.

“Collateral Documents” means, collectively, the Collateral Agreement, the Collateral Trust Agreement ~~(if any)~~, the Vessel ~~Mortgage~~ Mortgages, the Mortgages (if any), each of the collateral assignments, Collateral Agreement Supplements, security agreements, collateral assignments of vessel construction contracts, pledge agreements, account control agreements (if any) or other similar agreements delivered to the Agents and the Lenders pursuant to Sections 4.01(a), (iii), 6.11, 6.12 or 6.15 or pursuant to the First Amendment Junior Lien Intercreditor Agreement (or any other Intercreditor Agreement), and each of the other agreements, instruments or documents that creates or purports to create a Lien in favor of the Collateral Agent for the benefit of the Secured Parties.

“Collateral Trust Agreement” means (a) the First Amendment Collateral Trust Agreement, (b) a collateral trust agreement substantially in the form attached hereto as Exhibit L (as the same may be modified in a manner satisfactory to the Administrative Agent, the Collateral Agent, the Required Lenders and the Borrower), or, (c) if requested by the providers of other secured Indebtedness permitted hereunder, another collateral trust arrangement reasonably satisfactory to the Administrative Agent, the Collateral Trustee, the Required Lenders and the Borrower, in each case as amended, restated, amended and restated, modified or supplemented from time to time in accordance with the terms hereof and thereof. Upon the request of the Borrower, the Administrative Agent and the Collateral Trustee will execute and deliver a Collateral Trust Agreement (or a joinder or supplement to an existing Collateral Trust Agreement) with one or more Debt Representatives for Indebtedness permitted hereunder; provided that the Borrower shall not make such request unless such Indebtedness and related Liens are permitted by (including with respect to priority) the Loan Documents; provided, further, that any amendments or modifications to the Loan Documents to reflect a Collateral Trust Agreement structure (including replacing references to the Collateral Agent with references to the Collateral Trustee and modifying the Collateral Documents so that such Collateral Documents secure all Indebtedness subject to the Collateral Trust Agreement) shall require the consent of the Administrative Agent (such consent not to be unreasonably withheld, conditioned or delayed).

“**Collateral Trustee**” means the Collateral Agent under the Loan Documents in their role as collateral trustee under any Collateral Trust Agreement, as applicable, together with any successors thereto.

“**Collateral Value Amount**” means an amount equal to the sum of (a) the Vessel Collateral Value Amount as determined on or about the applicable Measurement Date (but, in any case, no earlier than thirty (30) days prior to the applicable Measurement Date and no later than five days after the Measurement Date), *plus* (b) cash Collateral provided in favor of the Secured Parties in a blocked account (which, at the option of the Borrower, may be an interest-bearing blocked account with interest bearing at market rates) prior to the applicable Measurement Date.

“**Commitment**” means the commitment of a Lender to make or otherwise fund any Revolving Loan and to acquire participations in Letters of Credit hereunder and “Commitments” means such commitments of all Lenders in the aggregate. The amount of each Lender’s Commitment, if any, is set forth on Schedule 2.01 under the caption “Commitment” or in the applicable Assignment and Assumption, subject to any increase, adjustment or reduction pursuant to the terms and conditions hereof including Section 2.16. The aggregate amount of the Commitments as of the Closing Date is \$75,000,000.

“**Commitment Period**” means the period from the Closing Date to but excluding the Commitment Termination Date.

“**Commitment Termination Date**” means the earliest to occur of (a) one day prior to the Maturity Date, (b) the date the Commitments, including Commitments in respect of Letters of Credit, are permanently reduced to zero pursuant to Section 2.08, and (c) the date of the termination of the Commitments pursuant to Section 9.02.

“**Committed Loan Notice**” means a written notice of a Borrowing pursuant to Article II, which shall be substantially in the form of Exhibit A-1 or such other form as the Administrative Agent may reasonably agree.

“**Commodity Exchange Act**” means the Commodity Exchange Act (7 U.S.C. § 1 et seq.), as amended from time to time, and any successor statute.

“**Compliance Certificate**” means a certificate substantially in the form of Exhibit C.

“**Connection Income Taxes**” means Other Connection Taxes that are imposed on or measured by net income (however denominated) or capital or that are franchise Taxes or branch profits Taxes.

“**Consolidated Adjusted EBITDA**” means, with respect to any Person for any Test Period, the Consolidated Net Income of such Person for such Test Period:

(1) increased (without duplication) by:

(a) to the extent deducted (and not added back) in computing Consolidated Net Income, Consolidated Interest Expense of such Person for such period (including (x) net payments and losses or any obligations on any Swap Obligations or other derivative instruments, (y) bank, letter of credit and other financing fees and (z) costs of surety bonds in connection with financing activities, plus amounts excluded from the definition of “Consolidated Interest Expense”); *plus*

(b) to the extent deducted (and not added back) in computing Consolidated Net Income, (x) provision for Taxes based on gross receipts, income, profits, revenue or capital, including federal, foreign, state, provincial, territorial, local, unitary, excise, property, franchise, value added and similar Taxes (such as Delaware franchise Tax, Pennsylvania capital Tax and Texas margin Tax) and withholding Taxes (including any future Taxes or other levies which replace or are intended to be in lieu of such Taxes and any penalties, additions to Tax, and interest related to such Taxes or arising from Tax examinations) and similar Taxes of such Person paid or accrued during such period (including in respect of repatriated funds), (y) any distributions made to a Parent Entity or other direct or indirect holder of Equity Interests in the Borrower in respect of any such Taxes attributable to such Parent Entity or holder or pursuant to a Tax sharing arrangement or as a result of a Tax distribution or repatriated funds and (z) the net Tax expense associated with any adjustments made pursuant to the definition of “Consolidated Net Income”; *plus*

(c) to the extent deducted (and not added back) in computing Consolidated Net Income, consolidated depreciation and amortization expense (as determined by the Borrower in accordance with GAAP) of such Person for such period; *plus*

(d) to the extent deducted (and not added back) in computing Consolidated Net Income, any fees, costs, expenses or charges (other than consolidated depreciation and amortization expense (as determined by the Borrower in accordance with GAAP)) related to any actual, proposed or contemplated Equity Offering (including any expense relating to enhanced accounting functions or other transaction costs associated with becoming a public company, including Public Company Costs), Permitted Investment, Restricted Payment, acquisition, disposition or other transaction outside the ordinary course of business (whether or not successful or completed and including any such transaction consummated prior to the Closing Date), including (i) such fees, expenses or charges (including rating agency fees, consulting fees and other related expenses and/or letter of credit or similar fees) related to the offering or incurrence of, or ongoing administration of this Agreement, the Second Lien Credit Agreement, any other credit facilities or debt instruments and any Securitization Fees, and (ii) any amendment, waiver or other modification of this Agreement, the Second Lien Credit Agreement, any Receivables Facilities, Securitization Facilities, any other credit facilities or debt instruments, any Securitization Fees, any other Indebtedness or any Equity Offering, in each case, whether or not consummated; provided, that the amount of adjustments made for cash items pursuant to sub-clauses (d), (e), (g), (h), and (i) of this clause (1) in any period shall not exceed 30% of the aggregate amount of Consolidated Adjusted EBITDA for such period (calculated prior to giving effect to such capped amount under such clauses); *plus*

(e) (i) the amount of any restructuring charge, accrual, reserve (and adjustments to existing reserves) or expense, integration cost, inventory optimization programs or other business optimization, realignment or restructuring expense or cost (including charges directly related to the implementation of cost-savings initiatives and Tax restructurings) that is deducted (and not otherwise added back) in such period in computing Consolidated Net Income, including any costs incurred in connection with acquisitions or divestitures after the Closing Date, and (ii) fees, costs and expenses associated with litigation and settlement thereof; provided, that the amount of adjustments for cash items made pursuant to sub-clauses (d), (e), (g), (h), and (i) of this clause (1) in any period shall not exceed 30% of the aggregate amount of Consolidated Adjusted EBITDA for such period (calculated prior to giving effect to such capped amount under such clauses); *plus*

(f) any other non-cash charges, write-downs, expenses, losses or items reducing Consolidated Net Income for such period including, without limitation, (i) any write-offs or write-downs, deferred revenue or impairment charges, (ii) impairment charges, amortization (or write offs) of financing costs (including debt discount, early extinguishments, debt issuance costs and commissions and other fees associated with Indebtedness, including Indebtedness under this Agreement) of such Person and its Subsidiaries and/or (iii) the impact of acquisition method accounting adjustment and any non-cash write-up, write-down or write-off with respect to re-valuing assets and liabilities in connection with any Investment, deferred revenue or any effects of adjustments resulting from the application of purchase accounting, purchase price accounting (including any step-up in inventory and loss of profit on the acquired inventory) (excluding non-cash losses on the sale of assets) (provided that if any such non-cash charge, write-down, expense, loss or item represents an accrual or reserve for potential cash items in any future period, (A) the Borrower may elect not to add back such non-cash charge, expense or loss in the current period and (B) to the extent the Borrower elects to add back such non-cash charge, the cash payment in respect thereof in such future period shall be subtracted from Consolidated Adjusted EBITDA when paid), or other items classified by the Borrower as special items less other non-cash items of income increasing Consolidated Net Income (excluding any amortization of a prepaid cash item that was paid in a prior period or such non-cash item of income to the extent it represents a receipt of cash in any future period and excluding non-cash gains on the sale of assets); *plus*

(g) the amount of readily identifiable and factually supportable pro forma “run rate” cost savings (including cost savings with respect to salary, benefit and other direct savings resulting from workforce reductions and facility, benefit and insurance savings and any savings expected to result from the reduction of Public Company Costs), operating expense reductions, other operating improvements (it is understood and agreed that “run rate” means the full recurring benefit for a period that is associated with any action taken, committed to be taken or expected to be taken, net of the amount of actual benefits realized during such period from such actions) projected by the Borrower in good faith to result from actions taken or expected to be taken within 24 months of the date thereof (including from any actions taken in whole or in part prior to such date), which will be added to Consolidated Adjusted EBITDA as so projected until fully realized and calculated on a pro forma basis as though such cost savings (including cost savings with respect to salary, benefit and other direct savings resulting from workforce reductions and facility, benefit and insurance savings and any savings expected to result from the reduction of Public Company Costs), operating expense reductions, other operating improvements and initiatives and synergies had been realized on the first day of such period, net of the amount of actual benefits realized prior to or during such period from such actions (it being understood that the foregoing amounts or adjustments need not be made in compliance with Regulation S-X or other securities laws or regulations); *provided*, that the amount of adjustments for cash items made pursuant to sub-clauses (d), (e), (g), (h), and (i) of this clause (1) in any period shall not exceed 30% of the aggregate amount of Consolidated Adjusted EBITDA for such period (calculated prior to giving effect to such capped amount under such clauses); *plus*

(h) to the extent deducted (and not added back) in computing Consolidated Net Income, any costs or expenses incurred by the Borrower or a Restricted Subsidiary or a Parent Entity pursuant to any management equity plan, stock option plan, phantom equity plan, profits interests or any other management, employee benefit or other compensatory plan or agreement (and any successor plans or arrangements thereto), employment, termination or severance agreement, or any stock subscription or equityholder agreement, and any costs or expenses in connection with the roll-over, acceleration or payout of Equity Interests held by management, to the extent that such costs or expenses are non-cash or otherwise funded with cash proceeds contributed to the capital of the Borrower or net cash proceeds of an issuance of Equity Interests (other than Disqualified Equity Interests) of the Borrower; *provided*, that the amount of adjustments for cash items made pursuant to sub-clauses (d), (e), (g), (h), and (i) of this clause (1) in any period shall not exceed 30% of the aggregate amount of Consolidated Adjusted EBITDA for such period (calculated prior to giving effect to such capped amount under such clauses); *plus*

(i) (i) unrealized or realized foreign exchange losses resulting from the impact of foreign currency changes and (ii) gains and losses due to fluctuations in currency values and related Tax effects determined in accordance with GAAP, provided, that the amount of adjustments for cash items made pursuant to sub-clauses (d), (e), (g), (h), and (i) of this clause (1) in any period shall not exceed 30% of the aggregate amount of Consolidated Adjusted EBITDA for such period (calculated prior to giving effect to such capped amount under such clauses); *plus*

(j) the amount of any non-cash costs, charges or expenses relating to payments made to stock appreciation or similar rights, stock option, restricted stock, phantom equity, profits interests or other interests or rights holders of the Borrower or any of its Subsidiaries or any Parent Entity in connection with, or as a result of, any distribution being made to equityholders of such Person or any of its Subsidiaries or any Parent Entities, which payments are being made to compensate such holders as though they were equityholders at the time of, and entitled to share in, such distribution; *plus*

(k) any recovery of the Borrower or any of its Restricted Subsidiaries on account of any litigation, arbitration or bona fide dispute (whether determined through settlement, arbitration, judicial adjudication or otherwise) and any recovery of the Borrower or any of its Restricted Subsidiaries arising under or in respect of surety or similar arrangements to the extent such amounts were actually received and deducted (and not added back) in computing Consolidated Net Income; *plus*

(l) any mark-to-market fair value adjustment to liability-classified warrants and any other similar liability-classified adjustments in respect of any warrants, options and similar arrangements in respect of Equity Interests of the Borrower, any Parent Entity or any of their Subsidiaries to the extent deducted (and not added back) in computing Consolidated Net Income; *plus*

(m) any other non-cash adjustments to Consolidated Net Income included by the Borrower in calculating Consolidated Adjusted EBITDA for such period of a type reported in any public filing with the SEC, in each case, on a consolidated basis and consistent with applicable SEC guidelines regarding non-GAAP financial measures,

(2) decreased (without duplication) to the extent added back in or otherwise increasing Consolidated Net Income for such period, by non-cash items of such Person for such period, excluding any non-cash items to the extent they represent the reversal of an accrual or reserve for a potential cash item that reduced Consolidated Adjusted EBITDA in any prior period (other than non-cash gains relating to the application of Accounting Standards Codification Topic 842—Leases (or any successor provision or other financial accounting standard having a similar result or effect)).

In addition, “Consolidated Adjusted EBITDA” shall be calculated on a pro forma basis with such pro forma adjustments as are appropriate and consistent with the pro forma provisions set forth in the definition of “Fixed Charge Coverage Ratio” and Section 1.08 and to also give effect to (i) any acquisition of a Vessel (whether by out-right purchase thereof or by virtue of a merger of a company that is not the Borrower or a Restricted Subsidiary into the Borrower or a Restricted Subsidiary or acquisition by the Borrower or a Restricted Subsidiary of any other company that is not the Borrower or a Restricted Subsidiary (which acquisitions or mergers are not otherwise prohibited by this Agreement)), (ii) any acquisition or delivery of a newly constructed or converted Vessel of the Borrower or a Restricted Subsidiary (whether constructed or converted directly for the Borrower or a Restricted Subsidiary or constructed or converted for a third party and acquired by the Borrower or a Restricted Subsidiary within twelve (12) months after its delivery), or (iii) any reactivated Vessel that has been a Stacked Vessel for more than twelve months (including prior to the time of acquisition by the Borrower or any Restricted Subsidiary) (Vessels of the type described in clauses (i)–(iii), the “**Specified Vessels**”) (including, but not limited to, offshore supply vessels, offshore service vessels, multi-purpose support vessels, service operation vessels, commissioning service operation vessels, other offshore wind-related vessels, construction support offshore vessels, flotels, other specialty vessels, other construction vessels, crewboats, fast supply vessels, anchor handling and towing supply vessels, tankers, tugs and tank barges) usable in the normal course of business of the Borrower or any of its Restricted Subsidiaries, that is (or are) subject to a Qualified Services Contract.

For purposes of this paragraph, the amount of Consolidated Adjusted EBITDA attributable to such Specified Vessel (or Specified Vessels) shall be factually supportable and calculated in good faith by a responsible financial or accounting officer of the Borrower, and shall include in the calculation of the Consolidated Adjusted EBITDA the revenues to be earned pursuant to the Qualified Services Contract relating to such Specified Vessel (or Specified Vessels), taking into account, where applicable, only contractual minimum amounts (and not, for the avoidance of doubt, on an annualized or other extended basis in excess of the minimum contractual length), and the estimated expenses related thereto. Such estimated expenses shall be based on the expenses previously incurred by any reactivated Stacked Vessel or, in the case of a new Specified Vessel (or Specified Vessels), the expenses of the most nearly comparable vessel in the Borrower’s fleet or, if no such comparable vessel exists, then on the industry average for expenses of comparable vessels; provided, *however*, in determining the estimated expenses attributable to such new Specified Vessel (or Specified Vessels), the calculation shall give effect to the interest expense attributable to the incurrence, assumption or guarantee of any Indebtedness relating to the construction, delivery, acquisition or reactivation of such new Specified Vessel (or Specified Vessels). Notwithstanding the foregoing, in any calculation of Consolidated Adjusted EBITDA based on this paragraph, the pro forma inclusion of Consolidated Adjusted EBITDA attributable to such Qualified Services Contract for the applicable period shall be reduced by the actual Consolidated Adjusted EBITDA from such new Specified Vessel (or Specified Vessels) previously earned and accounted for in the actual results for the applicable period. Any such adjustments pursuant to this paragraph shall be (x) reasonably acceptable to the Required Lenders (and deemed acceptable unless the Required Lenders, through the Administrative Agent, notify that the Borrower that such adjustments are not reasonable), (y) supported by delivery of an abstract of the relevant Qualified Services Contract, and (z) in the case of Qualified Services Contracts for Specified Vessels which are reactivated, off-set by any amounts included in Consolidated Adjusted EBITDA in respect of any Vessel taken off-contract which such Specified Vessel is replacing.

To the extent that trailing actual Consolidated Adjusted EBITDA is not available for a newly acquired Specified Vessel, when determining Consolidated Adjusted EBITDA for such Specified Vessel, the pro forma calculation for such Specified Vessel will be based on the reasonably anticipated actual number of days of employment for such Specified Vessel for the year after acquisition and other reference data provided by the chief financial officer of the Parent Entity acting in good faith to the reasonable satisfaction of the Administrative Agent, which may include revenues to be earned pursuant to any Qualified Service Contract in accordance with the preceding paragraph.

All references to “Restricted Subsidiary” in this definition may apply equally to any existing, any newly created or any newly acquired Restricted Subsidiaries.

The adjustments described in the foregoing five paragraphs shall be referred to herein as a “**QSC Adjustment**”.

“**Consolidated First and Second Lien Debt**” means, as of any date of determination, the amount of Consolidated Total Debt outstanding under the Facility and outstanding under any other Indebtedness (other than Intercompany Indebtedness) that is First Lien Debt or “second lien” Junior Lien Debt.

“**Consolidated Interest Expense**” means, with respect to any Person for any period, the sum, without duplication, of (a) the consolidated interest expense of such Person and its Restricted Subsidiaries for such period, whether paid or accrued (including, without limitation, amortization of original issue discount, the interest component of any deferred payment obligations, the interest component of all payments associated with Capitalized Lease Obligations, commissions, discounts and other fees and charges incurred in respect of letter of credit or bankers’ acceptance financings, and net payments (if any) pursuant to Swap Obligations but excluding (i) amortization of debt issuance costs and (ii) any nonrecurring charges relating to any premium or penalty paid, write off of deferred finance costs or original issue discount or other charges in connection with redeeming or otherwise retiring any Indebtedness prior to its maturity date, to the extent that any of such nonrecurring charges constitute interest expense) and (b) the consolidated interest expense of such Person and its Restricted Subsidiaries that was capitalized during such period; provided that Consolidated Interest Expense shall exclude any interest that is paid-in-kind or is imputed non-cash interest expense in accordance with GAAP.

But excluding solely for purposes of determining “Fixed Charges”, for the avoidance of doubt, (i) amortization of deferred financing costs, debt issuance costs, commissions, fees and expenses and any other amounts of non-cash interest other than referred to in clause (b) above (including as a result of the effects of acquisition method accounting or pushdown accounting), (ii) non-cash interest expense attributable to the movement of the mark-to-market valuation of obligations under hedging agreements or other derivative instruments pursuant to FASB Accounting Standards Codification No. 815-Derivatives and Hedging, (iii) any one-time cash costs associated with breakage in respect of Hedge Agreements, (iv) commissions, discounts, yield, make whole premium and other fees and charges (including any interest expense) incurred in connection with any permitted receivables financing, (v) any “additional interest” owing pursuant to a registration rights agreement with respect to any securities, (vi) any payments with respect to make-whole premiums or other breakage costs of any Indebtedness, including any Indebtedness issued in connection with the Transactions, (vii) penalties and interest relating to taxes, (viii) accretion or accrual of discounted liabilities not constituting Indebtedness, (ix) interest expense attributable to a direct or indirect Parent Entity resulting from push-down accounting, (x) any expense resulting from the discounting of Indebtedness in connection with the application of recapitalization or purchase accounting, (xi) any interest expense attributable to the exercise of appraisal rights and the settlement of any claims or actions (whether actual, contingent or potential) with respect thereto and with respect to any acquisition or Investment permitted hereunder, all as calculated on a consolidated basis in accordance with GAAP and (xii) annual agency fees paid to any trustees, administrative agents, collateral trustees, and collateral agents with respect to any secured or unsecured loans, debt facilities, debentures, bonds, commercial paper facilities or other forms of Indebtedness (including any security or intercreditor arrangements related thereto). For the avoidance of doubt, interest expense shall be determined after giving effect to any net payments made or received by the Borrower and the Restricted Subsidiaries in respect of Hedge Agreements relating to interest rate protection.

“**Consolidated Net Debt**” means, as of any date of determination, (a) Consolidated Total Debt minus (b) the aggregate amount of cash and Cash Equivalents of the Borrower and the Restricted Subsidiaries as of such date that is not Restricted in an amount not to exceed \$25,000,000.

“**Consolidated Net Income**” means, with respect to any Person for any period, the consolidated net income (or loss) of such Person and its Restricted Subsidiaries, determined in accordance with GAAP and before any reduction in respect of preferred stock dividends, *provided* that:

(1) Net Income (but not loss) of any Person that is not a Restricted Subsidiary or that is accounted for by the equity method of accounting shall be included only to the extent of the amount of dividends or distributions paid in cash to the referent Person or a Restricted Subsidiary thereof,

(2) except to the extent of the amount of dividends or distributions paid to Restricted Subsidiaries which are Guarantors, the Net Income of any Restricted Subsidiary which is not a Guarantor shall be excluded to the extent that the declaration or payment of dividends or similar distributions by that Restricted Subsidiary of that Net Income is not at the date of determination permitted without any prior governmental approval (that has not been obtained) or, directly or indirectly, by operation of the terms of its charter or any agreement, instrument, judgment, decree, order, statute, rule or governmental regulation applicable to that Restricted Subsidiary or its stockholders,

(3) unrealized losses and gains under derivative instruments included in the determination of Consolidated Net Income, including, without limitation those resulting from the application of FASB ASC Topic No. 815, Derivatives and Hedging, shall be excluded,

(4) the cumulative effect of a change in accounting principles shall be excluded,

(5) any income (loss) from the extinguishment, conversion, modification or cancellation of Indebtedness, Swap Obligations or other derivative instruments (including deferred financing costs written off, premiums paid or other expenses incurred) shall be excluded,

(6) any unrealized or realized gain or loss resulting in such period from currency translation increases or decreases or transaction gains or losses and any other realized or unrealized foreign exchange gains or losses relating to the translation of assets and liabilities denominated in foreign currencies shall be excluded;

(7) (i) any impairment charge, write-off or write-down, including impairment charges, write-offs or write-downs related to intangible assets, long-lived assets, goodwill, investments in debt or equity securities (including any losses with respect to the foregoing in bankruptcy, insolvency or similar proceedings) and investments recorded using the equity method or as a result of a change in law or regulation and the amortization of intangibles arising pursuant to GAAP and (ii) gains, losses or charges arising from Accounting Standards Codification Topic 820—Fair Value Measurements and Disclosures shall be excluded, and

(8) any extraordinary, non-recurring, unusual or infrequent items shall be excluded (other than any gains or losses from dispositions of property or assets in the ordinary course of business (it being acknowledged and agreed that sales of Vessels permitted under Section 7.05 of this Agreement are in the ordinary course of business)).

In addition, notwithstanding the preceding, (a) there shall be excluded from Consolidated Net Income any nonrecurring charges relating to any premium or penalty paid, write off of deferred finance costs or original issue discount or other charges in connection with redeeming or otherwise retiring any Indebtedness prior to its stated maturity and (b) to the extent not already excluded (or included, as applicable) in the Consolidated Net Income of such Person and its Restricted Subsidiaries, notwithstanding anything to the contrary in the foregoing, Consolidated Net Income shall be increased by the amount of: (i) any expenses, charges or losses that are reimbursed by indemnification or other reimbursement provisions in connection with any investment or any sale, conveyance, transfer or other disposition of assets permitted hereunder, or, so long as the Borrower has made a determination that there exists reasonable evidence that such amount will in fact be reimbursed within 365 days of the date of such evidence (including that such counterparty has not denied reimbursement or indemnification) (net of any amount so added back in a prior period to the extent not so reimbursed within the applicable 365-day period) and (ii) to the extent covered by insurance (including business interruption insurance) and actually reimbursed, or, so long as the Borrower has made a determination that there exists reasonable evidence that such amount will in fact be reimbursed by the insurer (including that the insurer has not denied reimbursement of such amounts) and only to the extent that such amount is in fact reimbursed within 365 days of the date of such evidence (net of any amount so added back in a prior period to the extent not so reimbursed within the applicable 365-day period), expenses, charges or losses with respect to liability or Casualty Events or business interruption.

“Consolidated Net Tangible Assets” means, with respect to any Person as of any date, the sum of the amounts that would appear on a consolidated balance sheet of such Person and its consolidated Restricted Subsidiaries as the total assets of such Person and its consolidated Restricted Subsidiaries, determined on a consolidated basis in accordance with GAAP and after deducting therefrom, (a) to the extent otherwise included, unamortized debt discount and expenses and other unamortized deferred charges, goodwill, patents, trademarks, service marks, trade names, copyrights, licenses, organization or development expenses, right of use assets and other intangible items and (b) the aggregate amount of liabilities of such Person and its Restricted Subsidiaries that may be properly classified as current liabilities (including tax accrued as estimated), determined on a consolidated basis in accordance with GAAP.

“Consolidated Secured Net Debt” means, as of any date of determination, (a) (i) Consolidated Total Debt outstanding under the Facilities, (ii) Consolidated Total Debt constituting secured Refinancing Indebtedness in respect of the foregoing that is outstanding at such time and (iii) any other Consolidated Total Debt outstanding at such time that is secured by a Lien on the Collateral, *minus* (b) the aggregate amount of cash and Cash Equivalents of the Borrower and the Restricted Subsidiaries as of such date that (i) is not Restricted and (ii) from and after the Initial Funding Date, is held in a bank account meeting the requirements of Section 6.11(c).

“Consolidated Total Debt” means, as of any date of determination, the aggregate outstanding principal amount of Indebtedness (other than Intercompany Indebtedness) of the Borrower and the Restricted Subsidiaries on such date, determined on a consolidated basis and as reflected on the face of a balance sheet prepared in accordance with GAAP (but excluding the effects of the application of purchase accounting in connection with the Transactions, any acquisition or any other Investment permitted hereunder), consisting of Indebtedness for borrowed money, unreimbursed obligations in respect of drawn letters of credit (to the extent not cash collateralized), and obligations in respect of Capitalized Leases and purchase money obligations and debt obligations evidenced by promissory notes or debentures; *provided*, that Consolidated Total Debt will not include Indebtedness in respect of (a) any Qualified Securitization Financing, (b) any letter of credit, except to the extent of unreimbursed obligations in respect of drawn letters of credit (*provided*, that any unreimbursed amount under commercial letters of credit will not be counted as Consolidated Total Debt until three Business Days after such amount is drawn (it being understood that any borrowing, whether automatic or otherwise, to fund such reimbursement will be counted)), (c) obligations under Hedge Agreements, (d) customary purchase money obligations incurred in the ordinary course, trade payable and earn outs and similar obligations except to the extent owing and not paid, (e) Indebtedness to the extent it has been cash collateralized, and (f) any lease obligations other than in respect of Capitalized Leases.

“Contingent Obligations” means, with respect to any Person, any obligation of such Person guaranteeing in any manner, whether directly or indirectly, any Non-Financing Lease Obligation, dividend or other obligation that does not constitute Indebtedness (**“primary obligations”**) of any other Person (the **“primary obligor”**), including any obligation of such Person, whether or not contingent:

(1) to purchase any such primary obligation or any property constituting direct or indirect security therefor;

(2) to advance or supply funds:

(a) for the purchase or payment of any such primary obligation; or

(b) to maintain the working capital or equity capital of the primary obligor or otherwise to maintain the net worth or solvency of the primary obligor; or

(3) to purchase property, securities or services primarily for the purpose of assuring the owner of any such primary obligation of the ability of the primary obligor to make payment of such primary obligation against loss in respect thereof.

“Control” and **“Controlled”** have the meaning specified in the definition of **“Affiliate.”**

“Control Agreement” means (a) with respect to accounts governed by U.S. law, an agreement, in form and substance satisfactory to the Administrative Agent and the Collateral Agent, which provides for the Collateral Agent to have with respect to accounts governed by U.S. law, **“control”** (as defined in Section 9-104 of the Uniform Commercial Code of the State of New York or Section 8-106 of the Uniform Commercial Code of the State of New York, as applicable) of Deposit Accounts or Securities Accounts, as applicable and (b) with respect to accounts governed by the law of any other jurisdiction, a customary **“control agreement”** for such jurisdiction in form and substance satisfactory to the Administrative Agent and the Collateral Agent (it being agreed and understood that no Loan Document requires a **“control agreement”** of the type described in this clause (b)).

“Controlled Investment Affiliate(s)” means, as to any Person, any other Person, which directly or indirectly is in control of, is controlled by, or is under common control with such Person and is organized by such Person (or any Person controlling such Person) primarily for making direct or indirect equity or debt investments in the Borrower, its Subsidiaries any Parent Entity and/or other companies.

“Conversion Settlement” has the meaning specified in the definition of **“Permitted Payment.”**

“**Conversion/Continuation Notice**” means a written notice of (a) a conversion of Loans from one Type to another or (b) a continuation of SOFR Rate Loans, pursuant to Article II, which shall be substantially in the form of Exhibit A-3.

“**Corresponding Tenor**” with respect to any Available Tenor means, as applicable, either a tenor (including overnight) or an interest payment period having approximately the same length (disregarding Business Day adjustment) as such Available Tenor.

“**Covered Entity**” means any of the following:

- (a) a “covered entity” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 252.82(b);
- (b) a “covered bank” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 47.3(b); or
- (c) a “covered FSI” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 382.2(b).

“**Covered Party**” has the meaning specified in Section 11.26.

“**Daily Simple SOFR**” means, for any day, SOFR, with the conventions for this rate (which will include a lookback) being established by the Administrative Agent in accordance with the conventions for this rate selected or recommended by the Relevant Governmental Body for determining “Daily Simple SOFR” for syndicated business loans; *provided* that, if the Administrative Agent decides that any such convention is not administratively feasible for the Administrative Agent, then the Administrative Agent may establish another convention in its reasonable discretion.

“**Debt Representative**” means, with respect to any series of Indebtedness secured by a Lien permitted under Section 7.01(a), (i), (j), (ll) or (mm), Permitted Pari Passu Secured Refinancing Debt or Permitted Junior Secured Refinancing Debt, the trustee, administrative agent, collateral trustee, collateral agent, security agent or similar agent under the indenture or agreement pursuant to which such Indebtedness is issued, incurred or otherwise obtained, as the case may be, and each of their successors in such capacities.

“**Debtor Relief Laws**” means the U.S. Bankruptcy Code and all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization, or similar debtor relief Laws of the United States or other Applicable Jurisdictions from time to time in effect and affecting the rights of creditors generally.

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

“**Default Rate**” means an interest rate equal to (a) the Base Rate *plus* (b) the Applicable Rate applicable to Base Rate Loans that are Revolving Loans *plus* (c) 2.00% *per annum*; *provided* that with respect to the outstanding principal amount of any Loan not paid when due, the Default Rate shall be an interest rate equal to the interest rate (including any Applicable Rate) otherwise applicable to such Loan (giving effect to Section 2.05(c)) *plus* 2.00% *per annum*, in each case, to the fullest extent permitted by applicable Laws.

“Default Rights” has the meaning assigned to that term in, and shall be interpreted in accordance with, 12 C.F.R. §§ 252.81, 47.2 or 382.1, as applicable.

“Defaulting Lender” means, subject to Section 2.20(b), any Lender that,

(a) has failed to (i) fund all or any portion of its Loans, including participations in respect of Letters of Credit within two Business Days of the date such Loans were required to be funded hereunder unless such Lender notifies the Administrative Agent and the Borrower in writing that such failure is the result of such Lender’s determination that one or more conditions precedent to funding (which conditions precedent, together with the applicable default, if any, shall be specifically identified in such writing) has not been satisfied, or (ii) pay to the Administrative Agent, the Issuing Banks or any other Lender any other amount required to be paid by it hereunder (including in respect of its participation in Letters of Credit) within two Business Days of the date when due, (b) has notified the Borrower, the Administrative Agent or the Issuing Banks in writing that it does not intend to comply with its funding obligations hereunder, or has made a public statement to that effect (unless such writing or public statement relates to such Lender’s obligation to fund a Loan hereunder and states that such position is based on such Lender’s determination that a condition precedent to funding (which condition precedent, together with the applicable default, if any, shall be specifically identified in such writing or public statement) cannot be satisfied),

(b) has failed, within three Business Days after written request by the Administrative Agent or the Borrower, to confirm in writing to the Administrative Agent and such Borrower that it will comply with its prospective funding obligations hereunder (*provided* that such Lender shall cease to be a Defaulting Lender pursuant to this clause (b) upon receipt of such written confirmation by the Administrative Agent and such Borrower), or

(c) the Administrative Agent has received notification that such Lender is, or has a direct or indirect parent company that is, (i) insolvent, or is generally unable to pay its debts as they become due, or admits in writing its inability to pay its debts as they become due, or makes a general assignment for the benefit of its creditors, (ii) other than via an Undisclosed Administration, the subject of a bankruptcy, insolvency, reorganization, liquidation or similar proceeding, or a receiver, trustee, conservator, intervenor or sequestrator, administrator, assignee for the benefit of creditors or similar Person charged with reorganization or liquidation of its business or assets, including the Federal Deposit Insurance Corporation or any other Federal or state, provincial or territorial regulatory authority acting in such a capacity or the like has been appointed for such Lender or its direct or indirect parent company, or such Lender or its direct or indirect parent company has taken any action in furtherance of or indicating its consent to or acquiescence in any such proceeding or appointment or (iii) become the subject of a Bail-In Action; *provided* that a Lender shall not be a Defaulting Lender solely by virtue of the ownership or acquisition of any Equity Interest in that Lender or any direct or indirect parent company thereof by a Governmental Authority so long as such ownership interest does not result in or provide such Lender with immunity from the jurisdiction of courts within the United States or from the enforcement of judgments or writs of attachment on its assets or permit such Lender (or such Governmental Authority or instrumentality) to reject, repudiate, disavow or disaffirm any contracts or agreements made with such Lender.

Any determination by the Administrative Agent that a Lender is a Defaulting Lender under clauses (a) through (c) above shall be conclusive absent manifest error, and such Lender shall be deemed to be a Defaulting Lender (subject to Section 2.20) upon delivery of written notice of such determination to the Borrower, the Issuing Banks and each Lender.

“Deliverable Obligation” means each obligation of the Loan Parties that would constitute a “Deliverable Obligation” under a market standard credit default swap transaction documented under the ISDA CDS Definitions and specifying any of the Loan Parties as a Reference Entity. Each capitalized term used but not defined in the preceding sentence has the meaning specified in the ISDA CDS Definitions.

“Deposit Account” has the meaning specified in the Uniform Commercial Code.

“Derivative Instrument” means, with respect to a Person, any contract or instrument to which such Person is a party (whether or not requiring further performance by such Person), the value and/or cash flows of which (or any portion thereof) are based on the value and/or performance of the Loans and/or any Deliverable Obligations or “Obligations” (as defined in the ISDA CDS Definitions) with respect to the Loan Parties; *provided* that a “Derivative Instrument” will not include any contract or instrument that is entered into pursuant to bona fide market-making activities.

“Designated Non-Cash Consideration” means the Fair Market Value of any non-cash consideration received by the Borrower or a Restricted Subsidiary in connection with a Disposition pursuant to Section 7.05 that is designated as Designated Non-Cash Consideration pursuant to a certificate of a Responsible Officer, setting forth in reasonable detail the basis of such valuation (which (i) certificate shall conclusively establish such value absent manifest error and (ii) amount will be reduced by the Fair Market Value of the portion of the non-cash consideration converted to cash following the consummation of the applicable Disposition).

“Disinterested Director” means, with respect to any Affiliate Transaction, a member of the Board of Directors having no material direct or indirect financial interest in or with respect to such Affiliate Transaction. A member of the Board of Directors shall be deemed not to have such a financial interest by reason of such member’s holding Equity Interests of the Borrower or any Parent Entity or any options, warrants or other rights in respect of such Equity Interests.

“Disposition” or “Dispose” means:

(a) the sale, conveyance, transfer or other disposition, whether in a single transaction or a series of related transactions, of property or assets (including by way of a Sale Leaseback Transaction) of the Borrower or any of its Restricted Subsidiaries (in each case other than Equity Interests of the Borrower); or

(b) the issuance or sale of Equity Interests of any Restricted Subsidiary (other than preferred stock or Disqualified Equity Interests of Restricted Subsidiaries issued in compliance with Section 7.03 or directors’ qualifying shares and shares issued to foreign nationals as required under applicable law), whether in a single transaction or a series of related transactions;

in each case, other than:

(1) a disposition by the Borrower or a Restricted Subsidiary to the Borrower or a Restricted Subsidiary, including pursuant to any Intercompany License Agreement;

(2) a disposition of cash, Cash Equivalents or Investment Grade Securities, including any marketable securities portfolio owned by the Borrower and its Subsidiaries on the Closing Date;

(3) a disposition of inventory, goods or other assets (including Settlement Assets) in the ordinary course of business or consistent with past practice or held for sale or no longer used in the ordinary course of business, including any disposition of disposed, abandoned or discontinued operations;

(4) a disposition of obsolete, worn-out, uneconomic, damaged, non-core or surplus property, equipment or other assets or property, equipment or other assets that are no longer economically practical or commercially desirable to maintain or used or useful in the business of the Borrower and its Restricted Subsidiaries whether now or hereafter owned or leased or acquired in connection with an acquisition or used or useful in the conduct of the business of the Borrower and its Restricted Subsidiaries (including by ceasing to enforce, allowing the lapse, abandonment or invalidation of or discontinuing the use or maintenance of or putting into the public domain any intellectual property that is, in the reasonable judgment of the Borrower or the Restricted Subsidiaries, no longer used or useful, or economically practicable to maintain, or in respect of which the Borrower or any Restricted Subsidiary determines its reasonable judgment that such action or inaction is desirable);

(5) transactions governed by and permitted under Section 7.04 or a transaction that constitutes a Change of Control;

(6) an issuance of Equity Interests by a Restricted Subsidiary to the Borrower or to another Restricted Subsidiary or as part of or pursuant to an equity incentive or compensation plan approved by the Board of Directors of the Borrower;

(7) any dispositions of Equity Interests, properties or assets in a single transaction or series of related transactions with a Fair Market Value (as determined in good faith by the Borrower) of less than the greater of \$25.0 million and 3.0% of the Borrower's Consolidated Net Tangible Assets determined as of the end of the Borrower's most recently completed fiscal quarter for which internal financial statements are available;

(8) any Restricted Payment that is permitted to be made, and is made, under Section 7.06 or Section 7.09 and the making of any Permitted Payment, Permitted Investment or asset sales;

(9) dispositions in connection with Permitted Liens, Permitted Intercompany Activities and related transactions;

(10) dispositions of receivables in connection with the compromise, settlement or collection thereof in the ordinary course of business or consistent with past practice or in bankruptcy or similar proceedings and exclusive of factoring or similar arrangements;

(11) conveyances, sales, transfers, licenses, sublicenses, cross-licenses or other dispositions of intellectual property, software or other general intangibles and licenses, sublicenses, cross-licenses, leases or subleases of other property, in each case, in the ordinary course of business or consistent with past practice or pursuant to a research or development agreement in which the counterparty to such agreement receives a license in the intellectual property or software that result from such agreement;

(12) the lease, assignment, license, sublease or sublicense of any real or personal property in the ordinary course of business or consistent with industry practice;

(13) foreclosure, condemnation, expropriation, forced disposition or any similar action with respect to any property or other assets or the granting of Liens not prohibited by this Agreement;

(14) the sale, discount or other disposition (with or without recourse, and on customary or commercially reasonable terms and for credit management purposes) of inventory, accounts receivable or notes receivable in the ordinary course of business or consistent with past practice, or the conversion or exchange of accounts receivable for notes receivable;

(15) any issuance or sale of Equity Interests in, or Indebtedness or other securities of, an Unrestricted Subsidiary or any other disposition of Equity Interests, Indebtedness or other securities of an Unrestricted Subsidiary;

(16) any disposition of Equity Interests of a Restricted Subsidiary pursuant to an agreement or other obligation with or to a Person (other than the Borrower or a Restricted Subsidiary) from whom such Restricted Subsidiary was acquired, or from whom such Restricted Subsidiary acquired its business and assets (having been newly formed in connection with such acquisition), made as part of such acquisition and in each case comprising all or a portion of the consideration in respect of such sale or acquisition;

(17) (i) dispositions of property to the extent that such property is exchanged for credit against the purchase price of similar replacement property that is promptly purchased, (ii) dispositions of property to the extent that the proceeds of such disposition are promptly applied to the purchase price of such replacement property (which replacement property is actually promptly purchased) and (iii) to the extent allowable under Section 1031 of the Code or comparable law or regulation, any exchange of like property (excluding any boot thereon) for use in a Similar Business;

(18) any disposition of Securitization Assets or Receivables Assets, or participations therein, in connection with any Qualified Securitization Financing or Receivables Facility, or the disposition of an account receivable in connection with the collection or compromise thereof in the ordinary course of business or consistent with past practice;

(19) any financing transaction with respect to property constructed, acquired, leased, renewed, relocated, expanded, replaced, repaired, maintained, upgraded or improved (including any reconstruction, refurbishment, renovation and/or development of real property) by the Borrower or any Restricted Subsidiary after the Closing Date, including Sale Leaseback Transactions and asset securitizations, not prohibited by this Agreement;

(20) sales, transfers or other dispositions of Investments in joint ventures or similar entities to the extent required by, or made pursuant to customary buy/sell arrangements between, the parties set forth in joint venture arrangements and similar binding arrangements;

(21) any surrender or waiver of contractual rights or the settlement, release, surrender or waiver of contractual, tort, litigation or other claims of any kind;

(22) the unwinding of any Cash Management Obligations or Hedge Agreements;

(23) transfers of property or assets subject to Casualty Events upon receipt of the net proceeds of such Casualty Event;

(24) any disposition to a Captive Insurance Subsidiary;

(25) the disposition of any assets (including Equity Interests) (i) acquired in a transaction after the Closing Date, which assets are not useful in the core or principal business of the Borrower and its Restricted Subsidiaries, or (ii) made in connection with the approval of any applicable antitrust authority or otherwise necessary or advisable in the reasonable determination of the Borrower to consummate any acquisition;

(26) any charter or lease of any equipment or other properties or assets entered into in the ordinary course of business and with respect to which the Borrower or any of its Restricted Subsidiaries is the lessor or Person granting the charter, except any such charter or lease that provides for the acquisition of such properties or assets by the lessee during or at the end of the term thereof for an amount that is less than the Fair Market Value thereof at the time the right to acquire such properties or assets occurs;

(27) any sale, lease, conveyance or other disposition of any property or assets other than the Collateral; and

(28) any disposition of non-revenue producing assets to a Person who is providing services related to such assets, the provision of which have been or are to be outsourced by the Borrower or any Restricted Subsidiary to such Person.

In the event that a transaction (or any portion thereof) meets the criteria of a permitted Disposition and would also be a Permitted Investment or an Investment permitted under Section 7.06 the Borrower, in its sole discretion, will be entitled to divide and classify such transaction (or a portion thereof) as a Disposition and/or one or more of the types of Permitted Investments or Investments permitted under Section 7.06. For the avoidance of doubt, the entry into a Hedge Agreement (including any call, capped call or warrant transaction) any settlement, unwind or termination thereof shall not constitute a Disposition.

“Disqualified Equity Interest” means, with respect to any Person, any Equity Interests of such Person which by its terms (or by the terms of any security into which it is convertible or for which it is exchangeable) or upon the happening of any event:

(1) matures or is mandatorily redeemable for cash or in exchange for Indebtedness pursuant to a sinking fund obligation or otherwise; or

(2) is or may become (in accordance with its terms) upon the occurrence of certain events or otherwise redeemable or repurchasable for cash or in exchange for Indebtedness at the option of the holder of the Equity Interests in whole or in part,

in each case on or prior to the earlier of (a) the Latest Maturity Date of the Loans or (b) the date on which there are no Loans or Obligations outstanding; provided, however, that (i) only the portion of Equity Interests which so matures or is mandatorily redeemable, is so convertible or exchangeable or is so redeemable at the option of the holder thereof prior to such date will be deemed to be Disqualified Equity Interests and (ii) any Equity Interests that would constitute Disqualified Equity Interests solely because the holders thereof have the right to require the Borrower to repurchase such Equity Interests upon the occurrence of a change of control or asset sale (howsoever defined or referred to) shall not constitute Disqualified Equity Interests if any such redemption or repurchase obligation is subject to compliance by the relevant Person with Section 7.06; provided, however, that if such Equity Interests are issued to any future, current or former employee, director, officer, manager, contractor, consultant or advisor (or their respective Controlled Investment Affiliates or Immediate Family Members) (excluding the Permitted Holders (but not excluding any future, current or former employee, director, officer, manager, contractor, consultant or advisor) or Immediate Family Members), of the Borrower, any of its Subsidiaries, any Parent Entity or any other entity in which the Borrower or a Restricted Subsidiary has an Investment and is designated in good faith as an “affiliate” by the Board of Directors (or the compensation committee thereof) or any other plan for the benefit of current, former or future employees (or their respective Controlled Investment Affiliates or Immediate Family Members) of the Borrower or its Subsidiaries or by any such plan to such employees (or their respective Controlled Investment Affiliates or Immediate Family Members), such Equity Interests shall not constitute Disqualified Equity Interests solely because it may be required to be repurchased by the Borrower or its Subsidiaries in order to satisfy applicable statutory or regulatory obligations.

“Disqualified Lender” means,

(a) the competitors of the Borrower and their Subsidiaries identified in writing by or on behalf of the Borrower (i) to the Administrative Agent on or prior to the ~~Closing~~First Amendment Effective Date and (ii) to the Administrative Agent from time to time on or after the ~~Closing~~First Amendment Effective Date subject to the Administrative Agent’s consent (such consent not to be unreasonably withheld, conditioned or delayed);

(b) (i) any Persons that are engaged as principals primarily in private equity, mezzanine financing or venture capital and (ii) those particular banks, financial institutions, other institutional lenders and other Persons, in the case of each of clauses (i) and (ii), to the extent identified in writing by or on behalf of the Borrower to the Administrative Agent on or prior to the ~~Closing~~First Amendment Effective Date or after the ~~Closing~~First Amendment Effective Date subject to the Administrative Agent’s consent (such consent not to be unreasonably withheld, conditioned or delayed);

(c) any Affiliate of the Persons described in the preceding clauses (a) or (b) (in each case, other than any Affiliates that are banks, financial institutions, *bona fide* debt funds or investment vehicles that are engaged in making, purchasing, holding or otherwise investing in commercial loans, bonds and similar extensions of credit in the ordinary course (except to the extent separately identified under clause (a) or (b) above)), in each case, that are either reasonably identifiable as such on the basis of their name or are identified as such in writing by or on behalf of the Borrower (i) to the Administrative Agent on or prior to the ~~Closing~~First Amendment Effective Date, or (ii) to the Administrative Agent from time to time on or after the ~~Closing~~First Amendment Effective Date; and

(d) at any time, or with respect to any action (or proposed action) in connection with which, a Net Short Representation is required to be made (or deemed made) hereunder, any Lender (or prospective Lender) that has breached its Net Short Representation at such time or in connection with such action (or proposed action).

Notwithstanding the foregoing, any Persons identified as Disqualified Lenders on or after the ~~Closing~~First Amendment Effective Date shall be added to the list of Disqualified Lenders, and such designation as a Disqualified Lender will take effect, three (3) Business Days after such designation or identification is made in writing and received by the Administrative Agent; *provided*, that to the extent any transfer is made in anticipation of such designation or otherwise in bad faith by any Lender or Participant during such three (3) Business Day period, such transaction shall be subject to the applicable provisions of Section 11.29(a) (and the Borrower shall be entitled to seek specific performance in any applicable court of law or equity to enforce this sentence). The Administrative Agent shall make the list of Disqualified Lenders available to any Lender, Participant or prospective Lender or Participant upon request by such Lender, Participant or prospective Lender or Participant; *provided* that such Lender, Participant or prospective Lender or Participant shall only make such request, to the extent and only to the extent, necessary to determine whether a proposed assignment, participation or disclosure of Information is permitted.

“**Division**” has the meaning specified in Section 1.02(d).

“**DNB**” has the meaning specified in the introductory paragraph to this Agreement.

“**Dollar**”, “**\$**” and “**USD**” mean lawful money of the United States.

“**Dollar Amount**” means, at any time:

(a) with respect to any Loan denominated in Dollars, the principal amount thereof then outstanding (or in which such participation is held);

(b) with respect to any Letter of Credit Obligation (or any risk participation therein), the amount thereof; and

(c) with respect to any other amount (i) if denominated in Dollars, the amount thereof and (ii) if denominated in any currency other than Dollars, the equivalent amount thereof in Dollars as determined by the Administrative Agent or the applicable Issuing Bank, as applicable, on the basis of the Exchange Rate (determined in respect of the most recent relevant date of determination) for the purchase of Dollars with such currency.

“**Domestic Subsidiary**” means any Subsidiary that is organized under the Laws of the United States, any state thereof or the District of Columbia.

“**EEA Financial Institution**” means (a) any credit institution or investment firm established in any EEA Member Country which is subject to the supervision of an EEA Resolution Authority, (b) any entity established in an EEA Member Country which is a parent of an institution described in clause (a) of this definition, or (c) any financial institution established in an EEA Member Country which is a subsidiary of an institution described in clauses (a) or (b) of this definition and is subject to consolidated supervision with its parent.

“**EEA Member Country**” means any of the member states of the European Union, Iceland, Liechtenstein and Norway.

“**EEA Resolution Authority**” means any public administrative authority or any person entrusted with public administrative authority of any EEA Member Country (including any delegee) having responsibility for the resolution of any EEA Financial Institution.

“**Eligible Assignee**” means any Person that meets the requirements to be an assignee under Section 11.07(b)(v); *provided* that the following Persons shall not be Eligible Assignees: (a) any Defaulting Lender, and (b) any Disqualified Lender (other than a Net Short Lender); *provided* that, to the extent persons become Disqualified Lenders after the Closing Date in accordance with clauses (a) or (c) in the definition thereof, the inclusion of such persons as Disqualified Lenders shall not retroactively apply to prior assignments or participations made in compliance with applicable assignment or participation provisions.

“**EMU**” means the Economic and Monetary Union as contemplated in the EU Treaty.

“**EMU Legislation**” means the legislative measures of the EMU for the introduction of, changeover to, or operation of the Euro in one or more member states.

“**Environmental Claim**” means any and all administrative, regulatory or judicial actions, suits, demands, demand letters, claims, liens, notices of noncompliance or violation, or proceedings with respect to any Environmental Liability or pursuant to Environmental Law, including those (a) by any Governmental Authority for enforcement, cleanup, removal, response, remedial or other actions or damages pursuant to any Environmental Law and (b) by any Person seeking damages, contribution, indemnification, cost recovery, compensation or injunctive relief pursuant to any Environmental Law.

“**Environmental Laws**” means any Laws relating to the protection of the environment or, to the extent relating to exposure to Hazardous Materials, human health.

“**Environmental Liability**” means any liability, contingent or otherwise (including any liability for damages, costs of environmental remediation, fines, penalties or indemnities, including but not limited to those assumed by contract, written agreement, or other consensual written agreement) of any Loan Party or any of its Subsidiaries directly resulting from or based upon (a) violation of any Environmental Law, (b) the generation, use, handling, transportation, storage, treatment or disposal of any Hazardous Materials, (c) exposure of any Person to any Hazardous Materials, or (d) the release or threatened release of any Hazardous Materials into the environment.

“**Environmental Permit**” means any permit, approval, identification number, license or other authorization required under or issued pursuant to any Environmental Law.

“**Equal Priority Intercreditor Agreement**” means a “*pari passu*” intercreditor agreement substantially in the form attached hereto as Exhibit K-3 (as the same may be modified in a manner satisfactory to the Administrative Agent, the Collateral Agent, the Required Lenders and the Borrower), or, if requested by the providers of Indebtedness permitted hereunder to be *Pari Passu Lien Debt*, another *pari passu* intercreditor arrangement reasonably satisfactory to the Administrative Agent, the Collateral Agent, the Required Lenders and the Borrower, in each case as amended, restated, amended and restated, modified or supplemented from time to time in accordance with the terms hereof and thereof. Upon the request of the Borrower, the Administrative Agent and the Collateral Agent will execute and deliver an Equal Priority Intercreditor Agreement (or a joinder or supplement to an existing Equal Priority Intercreditor Agreement) with one or more Debt Representatives for *Pari Passu Lien Debt* permitted hereunder; *provided* that the Borrower shall not make such request unless such Indebtedness and related Liens are permitted by (including with respect to priority) the Loan Documents.

“**Equity Interests**” of any Person means any and all shares of, rights to purchase or acquire, warrants (including, for the avoidance of doubt, the Jones Act Warrants), options or depositary receipts for, or other equivalents of, or partnership or other interests in (however designated), equity of such Person, including any Preferred Stock, but excluding any debt securities convertible into, or exchangeable for, such equity.

“**Equity Offering**” means (x) a sale of Equity Interests (other than through the issuance of Disqualified Equity Interests) other than (a) offerings registered on Form S-8 (or any successor form) under the Securities Act or any similar offering in other jurisdictions or other securities of the Borrower or any Parent Entity and (b) issuances of Equity Interests to any Subsidiary of the Borrower or (y) a cash equity contribution to the Borrower.

“**ERISA**” means the Employee Retirement Income Security Act of 1974, as amended from time to time, and the rules and regulations promulgated thereunder.

“**ERISA Affiliate**” means any trade or business (whether or not incorporated) that together with any Loan Party is treated as a single employer within the meaning of Section 414 of the Code or Section 4001 of ERISA. For the avoidance of doubt, when any provision of this Agreement relates to a past event or period of time, the term “ERISA Affiliate” includes any Person who was, as to the time of such past event or period of time, an ERISA Affiliate within the meaning of the preceding sentence.

“**ERISA Event**” means (a) a Reportable Event with respect to a Pension Plan; (b) a withdrawal by any Loan Party or any of their respective ERISA Affiliates from a Pension Plan subject to Section 4063 of ERISA during a plan year in which it was a substantial employer (as defined in Section 4001(a)(2) of ERISA) or a cessation of operations that is treated as a termination under Section 4062(e) of ERISA; (c) a complete or partial withdrawal by any Loan Party or any of their respective ERISA Affiliates from a Multiemployer Plan, written notification of any Loan Party or any of their respective ERISA Affiliates concerning the imposition of Withdrawal Liability on it or written notification that a Multiemployer Plan is insolvent within the meaning of Title IV of ERISA or in endangered or critical status within the meaning of Section 432 of the Code or Section 305 of ERISA; (d) the filing under Section 4041(c) of ERISA of a notice of intent to terminate a Pension Plan, the treatment of a Pension Plan or Multiemployer Plan amendment as a termination under Sections 4041 or 4041A of ERISA, the commencement of proceedings by the PBGC to terminate a Pension Plan or Multiemployer Plan, or the written notification from the PBGC or a plan administrator relating to an intention to terminate or to appoint a trustee to administer any Pension Plan or Multiemployer Plan under Section 4042 of ERISA; (e) the imposition of any liability under Title IV of ERISA, other than for the payment of plan contributions or PBGC premiums due but not delinquent under Section 4007 of ERISA, upon any Loan Party; (f) the failure to satisfy the minimum funding standards (within the meaning of Section 412 of the Code or Section 302 of ERISA) with respect to any Pension Plan; (g) the application for a minimum funding waiver under Section 412 of the Code or Section 302(c) of ERISA with respect to a Pension Plan; (h) the failure by any Loan Party or any of their respective ERISA Affiliates to make any required contribution to any Pension Plan or any Multiemployer Plan; (i) the imposition of a lien on the assets of a Loan Party under Section 430(k) of the Code or Section 303(k) of ERISA with respect to any Pension Plan; or (j) a determination that any Pension Plan is in “at risk” status (within the meaning of Section 430(i) of the Code or Section 303(i) of ERISA).

“**Erroneous Payment**” has the meaning specified in Section 10.17(a).

“**Erroneous Payment Deficiency Assignment**” has the meaning specified in Section 10.17(d).

“**Erroneous Payment Impacted Class**” has the meaning specified in Section 10.17(d).

“**Erroneous Payment Return Deficiency**” has the meaning specified in Section 10.17(d).

“**Erroneous Payment Subrogation Rights**” has the meaning specified in Section 10.17(d).

“**EU Bail-In Legislation Schedule**” means the EU Bail-In Legislation Schedule published by the Loan Market Association (or any successor person), as in effect from time to time.

“**EU Treaty**” means the Treaty on European Union.

“**Euro**” and “**€**” mean the single currency of the Participating Member States introduced in accordance with the provisions of Article 109(i)4 of the EU Treaty.

“**Eurocurrency Liabilities**” has the meaning specified in Section 3.04(e).

“**Event of Default**” has the meaning specified in Section 9.01.

“**Exchange Act**” means the Securities Exchange Act of 1934, as amended, and the rules and regulations of the SEC promulgated thereunder, as amended.

“**Exchange Rate**” means, on any date with respect to any currency, the rate at which such currency may be exchanged into any other currency, as set forth at approximately 11:00 a.m., London time, on such date on the applicable Bloomberg page for such currency. In the event that such rate does not appear on any Bloomberg page, the Exchange Rate shall be determined by reference to such other publicly available service for displaying the exchange rates as may be selected by the Administrative Agent, or, in the event no such service is selected, such Exchange Rate shall instead be the arithmetic average of the spot rates of exchange of the Administrative Agent in the market where its foreign currency exchange operations in respect of such currency are then being conducted, at or about 10:00 a.m., local time, on such date for the purchase of the relevant currency for delivery two Business Days later; *provided* that, if at the time of any such determination, for any reason no such spot rate is being quoted, the Administrative Agent, after consultation with the Borrower, may use any reasonable method that it deems appropriate to determine such rate, and such determination shall be presumed correct absent manifest error.

“**Excluded Account**” means each of the following Deposit Accounts and Securities Accounts of the Borrower or a Guarantor (and all cash, Cash Equivalents and other securities or investments credited thereto or deposited therein): (a) Deposit Accounts and Securities Accounts exclusively used for withholding, payroll, payroll Taxes, workers compensation and employee benefits, or withholding, sales, use, value added or similar taxes, (b) Deposit Accounts and Securities Accounts held in trust for a third party; *provided*, that such accounts consist solely of funds set aside for such purpose, (c) escrow accounts that have an overnight balance of which in the aggregate, together with the overnight balance of all such other escrow accounts excluded pursuant to this clause (c), do not exceed \$5,000,000, (d) each Deposit Account holding the cash constituting cash collateral in respect of letters of credit permitted to be issued pursuant to this Agreement or Section 7.03 and other cash collateral permitted under Section 7.01(k)(i), (iii) or (iv), Section 7.01(ii) or Section 7.01(mm), (e) any zero balance accounts so long as the relevant Borrower or Guarantor shall ACH or wire transfer no less frequently than daily to a Blocked Account all amounts on deposit in each such zero balance account, (f) any bank account opened in, or under the laws of, a jurisdiction outside of the United States, (g) those Deposit Accounts and Securities Accounts that have an overnight balance of which in the aggregate, together with the overnight balance of all such other Deposit Accounts, Securities Accounts and Commodity Accounts excluded pursuant to this clause (g) and clause (i) that do not exceed \$5,000,000, (h) any Deposit Accounts and Securities Accounts holding exclusively Subsidized Indebtedness Specified Cash and (i) other Deposit Accounts and Securities Accounts, provided that the aggregate balance in such accounts excluded pursuant to this clause (i) and clause (g) at the end of any Business Day shall not exceed \$5.0 million in the aggregate.

“**Excluded Asset**” means:

(a) any asset (including, to the extent applicable, any equipment or inventory owned by the Borrower or a Guarantor that is subject to a Permitted Lien pursuant to Section 7.01(n)), lease, license, franchise, charter, authorization, contract or agreement to which the Borrower or a Guarantor is a party, together with any rights or interest thereunder, in each case, if and to the extent security interests therein (A) are prohibited by or in violation of any applicable law, (B) require any governmental consent that has not been obtained or consent of a third party (that is not the Borrower or a Restricted Subsidiary) that has not been obtained pursuant to any contract or agreement binding on such asset at the time of its acquisition and not entered into in contemplation of such acquisition, (C) in the case of any lease, license, franchise, charter, authorization, contract or agreement, are prohibited by or in violation of a term, provision or condition of any such lease, license, franchise, charter, authorization, contract or agreement to which the Borrower or a Guarantor is a party or create a right of termination in favor of any other party thereto (other than the Borrower or a Restricted Subsidiary), except, in the case of each of the foregoing clauses (A), (B), and (C), to the extent that such prohibition or restriction would be rendered ineffective under the Uniform Commercial Code or other applicable law or principle of equity or (D) in the case of any property subject to a lien securing permitted purchase money indebtedness, capitalized lease obligation indebtedness, government or quasi-government provided, supported, guaranteed or subsidized Indebtedness or similar arrangement, but only to the extent that a grant of a security interest therein to secure the Loans would violate or invalidate such purchase money, capital lease, government or quasi-government provided, supported, guaranteed or subsidized Indebtedness or similar arrangement (including as a result of any requirement to obtain the consent, approval, license or authorization of any third party unless such consent has been obtained (and it being understood and agreed that neither the Borrower nor any Guarantor shall have any obligation to procure any such consent, approval, license or authorization)) or create a right of termination in favor of any other party thereto (other than the Borrower, a Guarantor or a Restricted Subsidiary) after giving effect to the applicable anti-assignment provisions of the Uniform Commercial Code; *provided, however*, that, notwithstanding the foregoing, the Collateral includes, at such time as the contractual or legal prohibition shall no longer be applicable, and, to the extent severable, any portion of such asset, lease, license, franchise, charter, authorization, contract or agreement not subject to the prohibitions specified in clauses (A), (B), (C), or (D) above (in each case, after giving effect to the applicable anti-assignment provisions of the Uniform Commercial Code or other applicable law);

(b) the Excluded Equity Interests and any assets of any Subsidiary that is not a Guarantor;

(c) Securitization Assets or Receivables Assets, or participations therein, in connection with any Qualified Securitization Financing or Receivables Facility;

(d) any “intent-to-use” trademark applications prior to the filing and acceptance of a “Statement of Use” pursuant to Section 1(d) of the Lanham Act or an “Amendment to Allege Use” pursuant to Section 1(c) of the Lanham Act with respect thereto, to the extent that, and solely during the period, if any, in which, the grant of a security interest therein would impair the validity or enforceability of any registration that issues from such intent-to-use application under applicable federal law (it being understood that, after such period, such intent-to-use application will automatically be included in the Collateral);

(e) (A) any leasehold interest (including any ground lease interest) in real property, including leasehold improvements, (B) any fee interest in owned real property, and (C) any fixtures affixed to any real property to the extent a security interest in such fixtures may not be perfected by the filing of a Uniform Commercial Code financing statement in the jurisdiction of organization of the applicable Borrower or Guarantor;

(f) any asset (other than Vessel Collateral) subject to any notice or consent of governmental authorities under the Federal Assignment of Claims Act or any similar or commensurate legislation under the Laws of the United States or a jurisdiction thereof;

(g) (A) as-extracted collateral, (B) timber to be cut, (C) farm products, (D) manufactured homes and (E) healthcare insurance receivables;

(h) any particular asset, if the pledge thereof or the security interest therein would result in material adverse Tax consequences to any Parent Entity, the Borrower or any Guarantor as reasonably determined by the Borrower in good faith in consultation with the Administrative Agent;

(i) any particular asset, if the pledge thereof or the security interest therein would result in material adverse Tax consequences to any Parent Entity, Borrower or any Guarantor as reasonably determined by the Borrower in good faith in consultation with the Administrative Agent;

(j) any specifically identified asset with respect to which the Administrative Agent has determined in its reasonable judgement (in consultation with the Borrower) that the costs of obtaining, perfecting or maintaining a security interest or pledge in such asset outweighs the benefit to be obtained on account thereof (including if such actions exceed the fair market value thereof, as determined by the Borrower in its reasonable judgement) or the practical benefit to the Lenders afforded thereby;

(k) letter-of-credit rights, except to the extent constituting a supporting obligation for other Collateral as to which perfection of the security interest in such other Collateral is accomplished by the filing of UCC-1 financing statements;

(l) commercial tort claims (i) existing as of the date hereof and (ii) arising after the Closing Date where, in the case of this clause (ii), the amount of the damages reasonably expected to be realized by the applicable Borrower or Guarantor (as determined by the Borrower in good faith) is not in excess of an amount equal to the greater of (a) \$40.0 million and (b) an amount equal to 5.0% of the Borrower's Consolidated Net Tangible Assets determined as of the end of the Borrower's most recently completed fiscal quarter for which internal financial statements are available;

(m) motor vehicles, aircraft, recreational vessels and other assets (other than Vessels (other than recreational vessels)) subject to certificates of title or ownership (including aircraft, airframes, aircraft engines or helicopters, or any equipment or other assets constituting a part thereof and rolling stock) in each case, to the extent a security interest therein cannot be perfected by the filing of a UCC-1 financing statement in the jurisdiction of organization (or other location of the Borrower or Guarantor under Section 9-307 of the Uniform Commercial Code) of the applicable Borrower or Guarantor;

(n) any Excluded Accounts;

(o) any Excluded Vessels;

(p) any foreign assets and assets located in or governed by any non-U.S. jurisdiction or agreement (other than stock certificates otherwise required to be pledged and other than Vessels flagged under an Approved Flag Jurisdiction if the Borrower has expressly elected to include such Vessel as Vessel Collateral) or credit support with respect to such foreign assets or any property or assets owned by a FSHCO, Foreign Subsidiary, Subsidiary of a FSHCO or Foreign Subsidiary, or an Unrestricted Subsidiary;

(q) any asset (other than any Vessel Collateral) subject to any notice, consent or other action of or in respect of governmental authorities under the Federal Assignment of Claims Act or any similar or commensurate legislation under the Laws of the United States or a jurisdiction thereof;

(r) any assets acquired pursuant to an acquisition, merger, consolidation or other Investments after the Closing Date permitted hereunder that are financed by or constitute collateral in respect of Acquired Indebtedness permitted hereunder or that are prohibited from having a Lien granted thereon by any enforceable contract or other agreement (in each case, binding on the assets at the time of such consummation and not created or entered into in contemplation thereof), solely to the extent and for so long as such contract or other agreement (or a permitted refinancing or replacement thereof) finances, is secured by or prohibits such security interest;

provided, that the Borrower, in its sole discretion may (upon written notice to the Collateral Agent) cause any assets (including Vessels) that otherwise qualify as Excluded Assets under any of the clauses above to become Collateral and thereafter such assets shall not constitute “Excluded Assets” (or, if applicable, Excluded Vessels) until such time as the Lien in such assets is released in accordance with the terms of this Agreement, the applicable Collateral Document or the applicable Intercreditor Agreement, as applicable; *provided, further*, that the Excluded Assets referred to above shall not include any proceeds or receivables of any such Excluded Asset (except to the extent such proceeds or receivables constitute Excluded Assets). For the avoidance of doubt, the foregoing is subject to the Permitted Reflagging Transactions.

“**Excluded Equity Interests**” has the meaning specified in the Collateral Agreement.

“**Excluded Foreign Flag Vessel**” means any Vessel that is registered under the laws and flag of an Approved Flag Jurisdiction other than the United States of America or is a U.S. Non-Jones Act Vessel (a) as of the Closing Date, (b) if acquired by the Borrower or a Restricted Subsidiary after the Closing Date from a Person other than the Borrower or a Restricted Subsidiary, as of the date of such acquisition or (c) as of any date after the Closing Date if (i) on a pro forma basis, following the reflagging of such Vessel, the Collateral Coverage Ratio shall not be less than 1.50:1.00 and the RCF Collateral Coverage Ratio shall not be less than 3.00:1.00, (ii) a reflagging of Vessel Collateral is, in the good faith judgment of the Borrower, necessary or desirable in order to pursue customer opportunities in non-U.S. jurisdictions, and (iii) any of the following is true with respect to the Vessel to be reflagged:

(A) such Vessel is a Mid-Spec Vessel or a Low-Spec Vessel; or

(B) such Vessel is registered under the laws and flag of an Approved Flag Jurisdiction other than the United States of America; or

(C) such Vessel is registered under the laws and flag of the United States of America but is not a Jones Act Vessel (a “**U.S. Non-Jones Act Vessel**”); or

(D) prior to its reflagging such Vessel is a (i) Jones Act Vessel and (ii) is a High-Spec Vessel or Ultra High-Spec Vessel and after giving effect to its re-flagging, no more than seven (7) vessels that were (i) Jones Act Vessels and (ii) High-Spec Vessels or Ultra High-Spec Vessels owned by the Borrower or a Restricted Subsidiary as of the Closing Date have become Excluded Foreign Flag Vessels or U.S. Non-Jones Act Vessels; *provided*, that, of such seven (7) Vessels, no more than three (3) such Vessels so re-flagged or converted into U.S. Non-Jones Act Vessels may be Ultra High-Spec Vessels; *provided further* that no more than one (1) of such Vessels may be the HOS Centerline or the HOS Strongline; or

(E) after giving effect to such re-flagging, in respect of any Jones Act Vessels that are Vessel Collateral that are acquired by the Borrower or a Restricted Subsidiary after the Closing Date, no more than (x) thirty percent (30%) of such Vessel Collateral which are High-Spec Vessels (the “**After-Acquired High Specification Vessels**”) would have become Excluded Foreign Flag Vessels or U.S. Non-Jones Act Vessels and (y) ten percent (10%) of the After-Acquired High Specification Vessels which are Ultra High-Spec Vessels would have become Excluded Foreign Flag Vessels or U.S. Non-Jones Act Vessels; *provided, however*, if there is available capacity under clause (D) above in respect of Vessels owned as of the Closing Date, the Borrower may elect in its sole discretion to consummate a re-flagging described under this clause (E) using available capacity under clause (D) above (and such election shall reduce the corresponding availability under clause (D)).

“**Excluded Subsidiary**” means:

(a) any Restricted Subsidiary that is not a wholly-owned Restricted Subsidiary of the Borrower or a Guarantor,

(b) any (i) FSHCO, (ii) Foreign Subsidiary or (iii) any Restricted Subsidiary of any FSHCO or Foreign Subsidiary,

(c) any Restricted Subsidiary that is prohibited or restricted by applicable Law from providing a Guaranty or by a binding contractual obligation existing on the Closing Date or at the time of the acquisition of such Restricted Subsidiary (and not incurred in contemplation of the Closing Date or such acquisition) from providing a Guaranty (*provided* that such contractual obligation is not entered into by the Borrower or its Restricted Subsidiaries principally for the purpose of qualifying as an “Excluded Subsidiary” under this definition) or if such Guaranty would require governmental (including regulatory) or third party (other than the Borrower or a Restricted Subsidiary) consent, approval, license or authorization, unless such consent, approval, license or authorization has been obtained,

(d) any special purpose securitization vehicle (or similar entity), including any Securitization Subsidiary created pursuant to a transaction permitted under this Agreement,

(e) any Restricted Subsidiary that is a not-for-profit organization,

(f) any Captive Insurance Subsidiary,

(g) any other Restricted Subsidiary with respect to which, as reasonably determined by the Borrower in good faith and in consultation with the Administrative Agent, the cost or other consequences (including any material adverse tax consequences) of providing the Guaranty shall be excessive in view of the benefits to be obtained by the Lenders therefrom,

(h) any other Restricted Subsidiary to the extent the provision of a guarantee by such Restricted Subsidiary would result in material adverse Tax consequences to any Parent Entity (to the extent such material adverse Tax consequences are related to its ownership of the Equity Interests in the Borrower and its subsidiaries), the Borrower or any of their subsidiaries as reasonably determined by the Borrower in good faith and in consultation with the Administrative Agent;

(i) any Unrestricted Subsidiary; and

(j) any Immaterial Subsidiary;

provided that the Borrower, in its sole discretion (or in the case of any Foreign Subsidiary, in consultation with the Administrative Agent), may cause any Restricted Subsidiary that qualifies as an Excluded Subsidiary under clauses (a) through (j) above to become a Guarantor in accordance with the definition thereof (subject to completion of any requested “know your customer” and similar requirements of the Administrative Agent and the Lenders) and thereafter such Restricted Subsidiary shall not constitute an “Excluded Subsidiary” (unless and until the Borrower elects, in its sole discretion, to designate such Persons as an Excluded Subsidiary).

“**Excluded Swap Obligation**” means, with respect to any Guarantor, any Swap Obligation if, and to the extent that, all or a portion of the Guaranty of such Guarantor of, or the grant by such Guarantor of a security interest to secure, such Swap Obligation (or any Guaranty thereof) is or becomes illegal under the Commodity Exchange Act or any rule, regulation or order of the Commodity Futures Trading Commission (or the application or official interpretation of any thereof) by virtue of such Guarantor’s failure for any reason to constitute an “eligible contract participant” as defined in the Commodity Exchange Act (determined after giving effect to any keepwell, support or other agreement for the benefit of such Guarantor and any and all guarantees of such Guarantor’s Swap Obligations by other Loan Parties) at the time the Guaranty of such Guarantor, or a grant by such Guarantor of a security interest, becomes effective with respect to such Swap Obligation. If a Swap Obligation arises under a master agreement governing more than one swap, such exclusion shall apply only to the portion of such Swap Obligation that is attributable to swaps for which such Guaranty or security interest is or becomes excluded in accordance with the first sentence of this definition.

“**Excluded Taxes**” means any of the following Taxes imposed on or with respect to a Recipient or required to be withheld or deducted from a payment to a Recipient, (i) Taxes imposed on or measured by income (however denominated), branch profits, franchise or similar Taxes, in each case, that are (A) imposed by the jurisdiction (or political subdivision thereof) under the laws of which it is organized or in which its principal office is located or, in the case of any Lender, in which its applicable Lending Office is located, or (B) Other Connection Taxes, (ii) any Tax that is (or would be) required to be withheld with respect to amounts payable hereunder in respect of an Eligible Assignee (pursuant to an assignment under Section 11.07) on the date it becomes an assignee to the extent such Tax is in excess of the Tax that would have been applicable had such assigning Lender not assigned its interest arising under any Loan Document (unless such assignment is at the express written request of the Borrower), (iii) withholding Taxes imposed on amounts payable to or for the account of a Recipient with respect to an applicable interest in a Loan or Commitment pursuant to a Law in effect on the date on which (A) such Lender, Agent or Issuing Bank acquires such interest in the Loan or Commitment (other than pursuant to an assignment request by the Borrower under Section 3.07) or (B) such Lender changes its Lending Office (other than at the written request of the Borrower to change such Lending Office), except in each case to the extent that pursuant to this Section 3.01, amounts with respect to such Taxes were payable to such Recipient’s assignor immediately before such Recipient became a party hereto, or to such Lender immediately before it changed its Lending Office, (iv) any Taxes imposed as a result of the failure of any Recipient to comply with the provisions of Sections 3.01(b) (in the case of any Foreign Lender, as defined below), 3.01(c), 3.01(d) or 3.01(e) (in the case of any U.S. Lender, as defined below), and (v) any Taxes imposed under FATCA.

“**Excluded Vessel**” means any Vessel owned from time to time by the Borrower or any Guarantor (i) that is an Excluded Foreign Flag Vessel, (ii) that is under construction and has not been delivered to the Borrower or a Guarantor, (iii) that is a Low-Spec Vessel or (iv) that is an Excluded Asset, other than any such Vessel that the Borrower has elected to cause to become Collateral.

“**Existing Junior Lien Intercreditor Agreement**” means that certain Intercreditor Agreement, dated as of September 4, 2020, among the administrative agent and collateral agent under the Second Lien Credit Agreement (the “**Second Lien Agent**”), the Administrative Agent, the Collateral Agent, the Loan Parties and each “Additional Representative” party thereto (and as defined therein), which together with all amendments, supplements and joinders thereto is attached hereto as Exhibit K-1, as supplemented by that certain First Lien Joinder Agreement, dated as of the date hereof, by and between the Second Lien Agent, the Administrative Agent, the Collateral Agent and the Loan Parties party thereto.

“**Existing Letter of Credit**” means any letter of credit previously issued that (a) will remain outstanding on and after the Closing Date and (b) is listed on Schedule 1.01(a).

“**Extended Commitments**” means the Commitments held by an Extending Lender.

“**Extended Loans**” means the Revolving Loans made pursuant to Extended Commitments.

“**Extending Lender**” means each Lender accepting an Extension Offer.

“**Extension**” has the meaning specified in Section 2.18(a).

“**Extension Amendment**” has the meaning specified in Section 2.18(b).

“**Extension Offer**” has the meaning specified in Section 2.18(a).

“**Facility**” means the Commitments, Revolving Loans, any Extension Commitments and Extended Loans or any Refinancing Loans, as the context may require.

“**Fair Market Value**” may be conclusively established by means of a certificate from a Responsible Officer or resolutions of the Board of Directors setting out such fair market value as determined by such Responsible Officer or such Board of Directors in good faith.

“**FATCA**” means Sections 1471 through 1474 of the Code, as of the date of this Agreement (or any amended or successor version to the extent such version is substantively comparable and not materially more onerous to comply with), any current or future regulations or official interpretations thereof, any agreements entered into pursuant to Section 1471(b)(1) of the Code and any fiscal or regulatory legislation, rules or practices adopted pursuant to any intergovernmental agreement, treaty or convention among Governmental Authorities implementing the foregoing.

“**Federal Funds Rate**” means, for any day, the rate calculated by the Federal Reserve Bank of New York based on such day’s federal funds transactions by depository institutions (as determined in such manner as the Federal Reserve Bank of New York shall set forth on its public website from time to time) and published on the next succeeding Business Day by the Federal Reserve Bank of New York as the federal funds effective rate; provided, that if the Federal Funds Rate for any day is less than 0.00%, the Federal Funds Rate for such day will be deemed to be 0.00%.

“**Fee Letter**” means the Fee Letter, dated as of August 13, 2024, by and among the Borrower, the Administrative Agent and the Lenders, as amended, restated, amended and restated, supplemented or otherwise modified from time to time in accordance with the terms thereof.

“**Financial Covenant**” means the covenants set forth in Article VIII.

“**Financial Covenant Blocking Event**” has the meaning assigned to such term in Section 9.01(b)(ii).

“**Financial Statements**” means the audited consolidated balance sheets of the Borrower as of December 31, 2023, the related consolidated statements of operations, changes in stockholders’ equity and cash flows for the Borrower for the fiscal year then ended.

“**First Amendment Collateral Agreement**” means that certain amended and restated first lien guaranty and collateral agreement dated as of the First Amendment Effective Date, made by the Borrower and the Loan Parties from time to time party thereto, in favor of Wilmington Trust, National Association, as Collateral Trustee under the First Amendment Collateral Trust Agreement, as the same may be amended, restated, amended and restated, supplemented or otherwise modified from time to time.

“**First Amendment Collateral Trust Agreement**” means that certain collateral trust agreement dated as of the First Amendment Effective Date, made by and among the Borrower, the Guarantors from time to time party thereto, the Administrative Agent, Stonebriar Commercial Finance LLC, as administrative agent under the Second Lien Term Loan Credit Agreement (as defined therein), and Wilmington Trust, National Association, as Collateral Trustee, as the same may be amended, restated, amended and restated, supplemented or otherwise modified from time to time.

“**First Amendment Effective Date**” means December 27, 2024.

“**First Amendment Junior Lien Intercreditor Agreement**” means that certain junior lien intercreditor agreement dated as of the First Amendment Effective Date, made by and among the Borrower, the Guarantors from time to time party thereto, the Administrative Agent, Stonebriar Commercial Finance LLC, as administrative agent under the Second Lien Term Loan Credit Agreement (as defined therein), Wilmington Trust, National Association, as Collateral Trustee under the First Amendment Collateral Trust Agreement, and each of the other parties named therein, as the same may be amended, restated, amended and restated, supplemented or otherwise modified from time to time.

“**First Amendment A&R Vessel Mortgages**” means each amended and restated first preferred mortgage or amended and restated first preferred fleet mortgage, dated as of the First Amendment Effective Date, made by and between each Collateral Vessel Owner and Wilmington Trust, National Association, as Collateral Trustee, as the same may be amended, restated, amended and restated, supplemented or otherwise modified from time to time.

“**First Lien Debt**” means Indebtedness that is secured by a Lien on the Collateral on a pari passu basis with the Liens securing the Obligations and is subject to an Equal Priority Intercreditor Agreement and, if requested by the Borrower, the Collateral Trust Agreement.

“**Fixed Charge Coverage Ratio**” means, with respect to any Person on any determination date, the ratio of Consolidated Adjusted EBITDA of such Person for the most recent four consecutive fiscal quarters ending immediately prior to such determination date (the “**reference period**”) for which consolidated financial statements are available (which may, at the Borrower’s election, be internal consolidated financial statements) to the Fixed Charges of such Person for the reference period. In the event that the Borrower or any Restricted Subsidiary incurs, assumes, guarantees, redeems, defeases, retires or extinguishes any Indebtedness (other than Indebtedness incurred under any revolving credit facility unless such Indebtedness has been permanently repaid and has not been replaced), has caused any Reserved Indebtedness Amount to be deemed to be incurred during such period or issues or redeems Disqualified Equity Interests or Preferred Stock subsequent to the commencement of the reference period but prior to or simultaneously with the event for which the calculation of the Fixed Charge Coverage Ratio is made (the “**Fixed Charge Coverage Ratio Calculation Date**”), then the Fixed Charge Coverage Ratio shall be calculated giving pro forma effect to such incurrence, deemed incurrence, assumption, guarantee, redemption, defeasance, retirement or extinguishment of Indebtedness, or such issuance or redemption of Disqualified Equity Interests or Preferred Stock, as if the same had occurred at the beginning of the applicable four-quarter period.

Notwithstanding anything to the contrary herein, in the event an item of Indebtedness (or any portion thereof) is incurred or issued, any Lien is incurred or other transaction is undertaken in reliance on any ratio based exceptions, thresholds and baskets, such ratio(s) shall be calculated with respect to such incurrence, issuance or other transaction without giving effect to amounts being utilized under any other exceptions, thresholds or baskets (other than ratio based baskets) on the same date. Each item of Indebtedness that is incurred or issued, each Lien incurred and each other transaction undertaken will be deemed to have been incurred, issued or taken first, to the extent available, pursuant to the relevant ratio-based test.

For purposes of this definition, whenever pro forma effect is to be given to a transaction, the pro forma calculations shall be made in good faith by a responsible financial or chief accounting officer of the Borrower (and may include, for the avoidance of doubt, cost savings, operating expenses reductions and synergies resulting from such transactions which is being given pro forma effect) and will include any QSC Adjustment. If any Indebtedness bears a floating rate of interest and is being given pro forma effect, the interest on such Indebtedness shall be calculated as if the rate in effect on the Fixed Charge Coverage Ratio Calculation Date had been the applicable rate for the entire reference period (taking into account any Swap Obligations applicable to such Indebtedness). Interest on a Capitalized Lease Obligation shall be deemed to accrue at an interest rate reasonably determined by a responsible financial or accounting officer of the Borrower to be the rate of interest implicit in such Capitalized Lease Obligation in accordance with GAAP. For purposes of making the computation referred to above, interest on any Indebtedness under a revolving credit facility computed with a pro forma basis shall be computed based upon the average daily balance of such Indebtedness during the reference period except as set forth in the first paragraph of this definition. Interest on Indebtedness that may optionally be determined at an interest rate based upon a factor of a prime or similar rate, a eurocurrency interbank offered rate, or other rate, shall be determined to have been based upon the rate actually chosen, or if none, then based upon such optional rate chosen as the Borrower may designate.

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

- (1) Consolidated Interest Expense of such Person for such period;

(2) all cash dividends or other distributions paid (excluding items eliminated in consolidation) on any series of Preferred Stock of any Restricted Subsidiary of such Person during such period;

(3) all cash dividends or other distributions paid (excluding items eliminated in consolidation) on any series of Disqualified Equity Interests of such Person during such period; and

(4) all scheduled amortization payments in respect of Indebtedness for borrowed money during such period.

“Foreign Corporate Subsidiary” means a Foreign Subsidiary that is treated as a corporation for U.S. federal income tax purposes.

“Foreign Lender” has the meaning specified in Section 3.01(b).

“Foreign Pension Plan” means any plan, fund (including any superannuation fund) or other similar program established or maintained outside the United States by any Loan Party or any one or more of its Subsidiaries primarily for the benefit of its or their employees residing outside the United States, which plan, fund or other similar program provides, or results in, defined benefit retirement income, other than any such plan that is sponsored, maintained or administered by a Governmental Authority, and which plan is not subject to United States Law.

“Foreign Plan Event” means:

(1) the accrued benefit obligations of a Foreign Pension Plan (based on those assumptions used to fund that Foreign Pension Plan or, if that Foreign Pension Plan is unfunded, based on those assumptions used for financial accounting statement purposes or, if accrued benefit obligations are not calculated for financial accounting purposes, based on such reasonable assumptions as may be approved by the relevant entity’s independent auditors for these purposes) materially exceeding the assets of such Foreign Pension Plan and such event would reasonably be expected to result in a Material Adverse Effect; or

(2) the occurrence of an event with respect to the funding or maintenance of a Foreign Pension Plan that could reasonably be expected to result in a Material Adverse Effect.

“Foreign Subsidiary” means any direct or indirect Subsidiary of the Borrower that is not a Domestic Subsidiary.

“FRB” means the Board of Governors of the Federal Reserve System of the United States.

“Fronting Exposure” means, at any time there is a Defaulting Lender, with respect to the Issuing Banks, such Defaulting Lender’s Pro Rata Share of the outstanding Letters of Credit Obligations other than such Obligations as to which such Defaulting Lender’s participation obligation has been reallocated to other Lenders or Cash Collateralized in accordance with the terms hereof.

“**FSHCO**” means any direct or indirect Subsidiary that substantially all of the assets of which consist of Equity Interests and/or Indebtedness of one or more direct or indirect Foreign Corporate Subsidiaries.

“**Fund**” means any Person (other than a natural person) that is engaged in making, purchasing, holding or otherwise investing in commercial loans and similar extensions of credit in the ordinary course.

“**GAAP**” means generally accepted accounting principles in the United States, as in effect from time to time; *provided, however*, that if the Borrower notifies the Administrative Agent that the Borrower requests an amendment to any provision of a Loan Document to eliminate the effect of any change occurring after the Closing Date in GAAP or in the application thereof (including through the adoption of IFRS) (any such change, an “**Accounting Change**”) on the operation of such provision (or if the Administrative Agent notifies the Borrower that the Required Lenders request an amendment to any provision hereof for such purpose), regardless of whether any such notice is given before or after such change in GAAP or in the application thereof (including through the adoption of IFRS), then such provision shall be interpreted on the basis of GAAP as in effect and applied immediately before such change shall have become effective until such notice shall have been withdrawn or such provision amended in accordance herewith.

“**Governmental Authority**” means the government of the United States or any other nation, or of any political subdivision thereof, whether state, provincial, territorial or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government (including any supra-national bodies such as the European Union or the European Central Bank).

“**Grant Event**” means the occurrence of any of the following:

- (a) the formation or acquisition by a Loan Party of a new wholly-owned Subsidiary (other than an Excluded Subsidiary);
- (b) the designation in accordance with Section 6.13 of a wholly-owned Subsidiary (other than an Excluded Subsidiary) of any Loan Party as a Restricted Subsidiary;
- (c) any Person becoming a wholly-owned Subsidiary (other than an Excluded Subsidiary); or
- (d) any wholly-owned Restricted Subsidiary of a Loan Party ceasing to be an Excluded Subsidiary.

“**Granting Lender**” has the meaning specified in Section 11.07(g).

“**Guarantee**” means, any obligation, contingent or otherwise, of any Person directly or indirectly guaranteeing any Indebtedness of any other Person, including any such obligation, direct or indirect, contingent or otherwise, of such Person:

(a) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness of such other Person (whether arising by virtue of partnership arrangements, or by agreements to keep-well, to purchase assets, goods, securities or services, to take-or-pay or to maintain financial statement conditions or otherwise); or

(b) entered into primarily for purposes of assuring in any other manner the obligee of such Indebtedness of the payment thereof or to protect such obligee against loss in respect thereof (in whole or in part); *provided, however*, that the term “Guarantee” will not include (x) endorsements for collection or deposit in the ordinary course of business or consistent with past practice and, (y) standard contractual indemnities or product warranties provided in the ordinary course of business, or (z) pledges or grants of liens in any assets of a Person as long as the obligations benefiting from such pledge or lien are otherwise non-recourse (or foreign law equivalent) to such Person and *provided, further*, that the amount of any Guarantee shall be deemed to be the lower of (i) an amount equal to the stated or determinable amount of the primary obligation in respect of which such Guarantee is made and (ii) the maximum amount for which such guaranteeing Person may be liable pursuant to the terms of the instrument embodying such Guarantee or, if such Guarantee is not an unconditional guarantee of the entire amount of the primary obligation and such maximum amount is not stated or determinable, the amount of such guaranteeing Person’s maximum reasonably anticipated liability in respect thereof as determined by such Person in good faith. The term “Guarantee” used as a verb has a corresponding meaning.

“**Guarantors**” means each Restricted Subsidiary that executed a counterpart to the Guaranty (or a joinder thereto) on the Closing Date or thereafter pursuant to Section 6.11, in each case, other than any Excluded Subsidiaries; *provided, however*, that a Guarantor shall not be released from its Guaranty by virtue of becoming an Excluded Subsidiary under clause (i) of the definition of Excluded Subsidiary if (x) the transaction which caused the Restricted Subsidiary to cease to be a wholly-owned Subsidiary of the Borrower or a Guarantor was done in contemplation of the release and (y) the Equity Interests in such Restricted Subsidiary that are not held by a Borrower or Guarantor are owned by an Affiliate thereof.

“**Guaranty**” means (a) the guaranty made by the Guarantors from time to time party thereto in favor of the Administrative Agent on behalf of the Secured Parties pursuant to the Collateral Agreement and (b) each other guaranty and guaranty supplement delivered pursuant to Section 6.11.

“**Guaranty Release Event**” has the meaning specified in Section 10.11(a)(iv).

“**Hazardous Materials**” means any hazardous or toxic chemicals, materials, substances or waste which is listed, classified or regulated by any Governmental Authority as “hazardous substances,” “hazardous wastes,” “hazardous materials,” “extremely hazardous wastes,” “restricted hazardous wastes,” “toxic substances,” “toxic wastes,” “contaminants” or “pollutants,” or words of similar import, under any Environmental Law, due to their deleterious or dangerous properties or characteristics, including petroleum or petroleum products (including gasoline, crude oil or any fraction thereof), asbestos or asbestos-containing materials, polychlorinated biphenyls, radon gas and urea formaldehyde.

“**Hedge Agreement**” means any agreement with respect to (a) any and all rate swap transactions, basis swaps, credit derivative transactions, forward rate transactions, commodity swaps, commodity options, forward commodity contracts, equity or equity index swaps or options, any call or capped call option warrant or substantively equivalent derivative transactions, bond or bond price or bond index swaps or options or forward bond or forward bond price or forward bond index transactions, interest rate options, forward foreign exchange transactions, cap transactions, floor transactions, collar transactions, currency swap transactions, cross-currency rate swap transactions, currency options, spot contracts, or any other similar transactions or any combination of any of the foregoing (including any options to enter into any of the foregoing), whether or not any such transaction is governed by or subject to any master agreement, and (b) any and all transactions of any kind, and the related confirmations, which are subject to the terms and conditions of, or governed by, any form of master agreement published by the International Swaps and Derivatives Association, Inc., any International Foreign Exchange Master Agreement, or any other master agreement, including any such obligations or liabilities under any such master agreement.

“**Hedge Bank**” means any Person that is an Agent, a Lender, a Lead Arranger or an Affiliate of any of the foregoing on the Closing Date (with respect to any Secured Hedge Agreement entered into on or prior to the Closing Date) or at the time it enters into a Secured Hedge Agreement, in its capacity as a party thereto, whether or not such Person subsequently ceases to be an Agent, a Lender, a Lead Arranger or an Affiliate of any of the foregoing; *provided*, at the time of entering into a Secured Hedge Agreement, no Hedge Bank shall be a Defaulting Lender.

“**High Specification**” or “**High-Spec**” means, when referring to a Vessel, a Vessel with cargo-carrying capacity of between 3,500 and 5,000 DWT (i.e., primarily 265 to 280 class OSV notations), and dynamic-positioning systems with a DP-2 classification or higher. For the avoidance of doubt, any MPSV is a High-Spec Vessel (other than MPSVs which are Ultra High-Spec Vessels).

“**Holding Company**” means any Person so long as such Person directly or indirectly holds 100% of the total voting power of the Voting Stock of the Borrower, and at the time such Person acquired such voting power, no Person and no group (within the meaning of Section 13(d)(3) or Section 14(d)(2) of the Exchange Act, or any successor provision), including any such group acting for the purpose of acquiring, holding or disposing of securities (within the meaning of Rule 13d-5(b)(1) under the Exchange Act) (other than any Permitted Holder), shall have beneficial ownership (within the meaning of Rule 13d-3 under the Exchange Act, or any successor provision), directly or indirectly, of more than 50% of the total voting power of the Voting Stock of such Person.

“**Identified Transaction**” has the meaning specified in [Section 10.11](#).

“**IFRS**” means International Financial Reporting Standards and applicable accounting requirements set by the International Accounting Standards Board or any successor thereto (or the Financial Accounting Standards Board, the Accounting Principles Board of the American Institute of Certified Public Accountants, or any successor to either such board, or the SEC, as the case may be), as in effect from time to time.

“**Immaterial Subsidiary**” means, at any date of determination, each Restricted Subsidiary of the Borrower that (i) has not guaranteed any other Indebtedness of the Borrower and (ii) has Total Assets and revenues, in each case, of less than 3.5% of Total Assets and revenues and, together with all other Immaterial Subsidiaries, has Total Assets and revenues of less than 3.5% of Total Assets and revenues, in each case, measured (1) at the end of the most recent fiscal period for which consolidated financial statements are available (which may, at the Borrower’s election, be internal consolidated financial statements) on a pro forma basis giving effect to any acquisitions or dispositions of assets, Vessels, companies, division or lines of business since such balance sheet date or the start of such four quarter period, as applicable, and (2) as of the date of acquisition of any such Restricted Subsidiary.

“**Immediate Family Members**” means, with respect to any individual, such individual’s child, stepchild, grandchild or more remote descendant, parent, stepparent, grandparent, spouse, former spouse, qualified domestic partner, sibling, mother-in-law, father-in-law, son-in-law and daughter-in-law (including adoptive relationships, the estate of such individual and such other individuals above) and any trust, partnership or other bona fide estate-planning vehicle the only beneficiaries of which are any of the foregoing individuals or any private foundation or fund that is controlled by any of the foregoing individuals or any donor-advised fund of which any such individual is the donor.

“**Incremental Amendment**” has the meaning specified in [Section 2.16\(e\)](#).

“**Incremental Amount**” has the meaning specified in [Section 2.16\(c\)](#).

“**Incremental Equivalent Debt**” means Indebtedness; *provided* that at the time of incurrence thereof:

(a) the aggregate principal amount of all Incremental Equivalent Debt on any date such Indebtedness is incurred (or commitments with respect thereto are made) shall not, together with any Incremental Facilities then outstanding, exceed the Incremental Amount;

(b) any Incremental Equivalent Debt that is term Indebtedness shall not mature prior to the Latest Maturity Date of the Revolving Loans; *provided* that this [clause \(b\)](#) shall not apply to the incurrence of any such Indebtedness pursuant to the Inside Maturity Exception;

(c) except for Indebtedness incurred pursuant to the Inside Maturity Exception, any mandatory prepayments of any Incremental Equivalent Debt that is term Indebtedness:

(i) that is Pari Passu Lien Debt shall be made on a *pro rata* basis or less than *pro rata* basis with any corresponding mandatory prepayment of the Revolving Loans (but not on a greater than *pro rata* basis, except for (A) any repayment of such Incremental Equivalent Debt at maturity and (B) any greater than *pro rata* repayment of such Incremental Equivalent Debt with the proceeds of a Refinancing Indebtedness thereof); and

(ii) that comprises Junior Lien Debt or Indebtedness that is not secured by a Lien on all or any portion of the Collateral may not be made unless, to the extent required hereunder, such prepayments are first made or offered to the Loans on a *pro rata* basis;

(d) a Debt Representative acting on behalf of the holders of such Incremental Equivalent Debt has become party to, or is otherwise subject to the provisions of, (A) if such Incremental Equivalent Debt is Pari Passu Lien Debt, an Equal Priority Intercreditor Agreement or (B) if such Incremental Equivalent Debt is Junior Lien Debt, a Junior Lien Intercreditor Agreement and, if elected by the Borrower, the Collateral Trust Agreement;

(e) [reserved];

(f) if such Indebtedness is Pari Passu Lien Debt in respect of which a Loan Party is an obligor, (a) unless otherwise consented to by the Required Lenders, payments in respect of such Indebtedness are subject to the Priority Waterfall or another agreement with substantially equivalent provisions and (b) such Indebtedness shall be term Indebtedness;

(g) Incremental Equivalent Debt may be guaranteed solely by the Loan Parties (or Persons that become Loan Parties substantially concurrently with the incurrence of such Incremental Equivalent Debt); and

(h) the incurrence of Incremental Equivalent Debt shall have been consented to by all Lenders.

Incremental Equivalent Debt will be deemed to include any Registered Equivalent Notes issued in exchange therefor.

“**Incremental Facilities**” has the meaning specified in Section 2.16(a).

“**Incremental Facility Lender**” has the meaning specified in Section 2.16(i)(i).

“**Incremental Loans**” has the meaning specified in Section 2.16(a).

“**Indebtedness**” means, with respect to any Person, on any date of determination (without duplication):

- (1) the principal of indebtedness of such Person for borrowed money;
- (2) the principal of obligations of such Person evidenced by bonds, debentures, notes or other similar instruments;
- (3) all reimbursement obligations of such Person in respect of letters of credit, bankers’ acceptances or other similar instruments (the amount of such obligations being equal at any time to the aggregate then undrawn and unexpired amount of such letters of credit or other instruments plus the aggregate amount of drawings thereunder that have not been reimbursed) (except to the extent such reimbursement obligations relate to trade payables and such obligations are satisfied within thirty (30) days of incurrence);
- (4) the principal component of all obligations of such Person to pay the deferred and unpaid purchase price of property (except trade payables or similar obligations, including accrued expenses owed, to a trade creditor), which purchase price is due more than one year after the date of placing such property in service or taking final delivery and title thereto;
- (5) Capitalized Lease Obligations of such Person;
- (6) the principal component of all obligations, or liquidation preference, of such Person with respect to any Disqualified Equity Interests or, with respect to any Restricted Subsidiary, any preferred stock (but excluding, in each case, any accrued dividends);
- (7) the principal component of all Indebtedness of other Persons secured by a Lien on any asset of such Person, whether or not such Indebtedness is assumed by such Person; *provided, however*, that the amount of such Indebtedness will be the lesser of (a) the Fair Market Value of such asset at such date of determination (as determined in good faith by the Borrower) and (b) the amount of such Indebtedness of such other Persons; *provided, further*, that this clause (7) shall not apply in respect of any Restricted Subsidiary that provides Collateral for the First Lien Debt (including the Obligations) and Junior Lien Debt (if any) that is not a guarantor of any First Lien Debt or Junior Lien Debt;
- (8) Guarantees by such Person of the principal component of Indebtedness of the type referred to in clauses (1), (2), (3), (4), (5) and (9) of other Persons to the extent Guaranteed by such Person; and
- (9) to the extent not otherwise included in this definition, net obligations of such Person under Hedge Agreements (the amount of any such obligations to be equal at any time to the net payments under such agreement or arrangement giving rise to such obligation that would be payable by such Person at the termination of such agreement or arrangement);

with respect to clauses (1), (2), (3), (4), (5) and (9), above, if and to the extent that any of the foregoing Indebtedness (other than letters of credit and obligations in respect of Hedge Agreements) would appear as a liability upon a balance sheet (excluding the footnotes thereto) of such Person prepared in accordance with GAAP.

The amount of Indebtedness of any Person at any time in the case of a revolving credit or similar facility shall be the total amount of funds borrowed and then outstanding. The amount of any Indebtedness outstanding as of any date shall be (a) the accreted value thereof in the case of any Indebtedness issued with original issue discount and (b) the principal amount of Indebtedness, or liquidation preference thereof, in the case of any other Indebtedness. Indebtedness shall be calculated without giving effect to the effects of Accounting Standards Codification Topic 815—Derivatives and Hedging and related pronouncements to the extent such effects would otherwise increase or decrease an amount of Indebtedness for any purpose under this Agreement as a result of accounting for any embedded derivatives created by the terms of such Indebtedness.

Notwithstanding the above provisions, in no event shall the following constitute Indebtedness:

(a) Contingent Obligations incurred in the ordinary course of business or consistent with past practice, other than guarantees or other assumptions of Indebtedness;

(b) Cash Management Obligations;

(c) any lease, concession or license of property (or Guarantee thereof) which would be considered an operating lease under GAAP as in effect on the Closing Date, Non-Financing Lease Obligations, Sale Leaseback Transactions or any prepayments of deposits received from clients or customers in the ordinary course of business or consistent with past practice;

(d) obligations under any license, permit or other approval (or guarantees given in respect of such obligations) incurred prior to the Closing Date or in the ordinary course of business or consistent with past practice;

(e) in connection with the purchase by the Borrower or any Restricted Subsidiary of any business, any deferred or prepaid revenue, post-closing payment adjustments to which the seller may become entitled to the extent such payment is determined by a final closing balance sheet or such payment depends on the performance of such business after the closing; *provided, however*, that, at the time of closing, the amount of any such payment is not determinable and, to the extent such payment thereafter becomes fixed and determined, the amount is paid in a timely manner;

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

(g) obligations under or in respect of Qualified Securitization Financings or Receivables Facilities;

(h) Indebtedness of any Parent Entity appearing on the balance sheet of the Borrower solely by reason of push down accounting under GAAP;

(i) Equity Interests (other than in the case of clause (6) above, Disqualified Equity Interests);

(j) lease obligations other than obligations in respect of Capitalized Leases; and

(k) amounts owed to dissenting stockholders (including in connection with, or as a result of, exercise of dissenters' or appraisal rights and the settlement of any claims or action (whether actual, contingent or potential)), pursuant to or in connection with a consolidation, amalgamation, merger or transfer of assets that complies with Section 7.04.

"Indebtedness for Borrowed Money" means, with respect to a Person, Indebtedness of such Person under clauses (1), (2), (3) or (8) (to the extent relating to the foregoing clauses) of the definition of "Indebtedness", and shall include any exchange of existing Indebtedness that results in another class of Indebtedness for borrowed money.

"Indemnified Liabilities" has the meaning specified in Section 11.05(e).

"Indemnified Taxes" means (a) Taxes, other than Excluded Taxes, imposed on or with respect to any payment made by or on account of any obligation of any Loan Party under any Loan Document and (b) to the extent not otherwise described in (a), Other Taxes.

"Indemnitees" has the meaning specified in Section 11.05.

"Independent Financial Advisor" means an accounting, appraisal, investment banking firm or consultant of nationally recognized standing that is, in the good faith judgment of the Borrower, qualified to perform the task for which it has been engaged and that is independent of the Borrower and their Affiliates.

"Information" has the meaning specified in Section 11.08.

"Initial Agreement" has the meaning specified in Section 7.08(c)(xvi).

"Initial Revolving Loans" means the revolving loans denominated in Dollars equal to such Lender's Commitment as of the Closing Date.

"Initial Funding Date" has the meaning set forth in Section 4.02.

“Inside Maturity Exception” means Indebtedness in an aggregate principal amount not to exceed \$25,000,000 and such additional amounts as agreed by the Administrative Agent with the consent of the Required Lenders, that constitutes bridge financings, escrow or other similar arrangements, the terms of which provide for automatic and irrevocable extension of the maturity date thereof, subject to customary conditions, to a date that is not earlier than the latest maturity date of the Initial Revolving Loans, in each case, that is designated by the Borrower as being incurred pursuant to this provision, together with any Refinancing Indebtedness in respect of the foregoing.

“Intercompany Indebtedness” means Indebtedness by and among the Borrower or any Restricted Subsidiary, on the one hand, and the Borrower or any Restricted Subsidiary, on the other hand.

“Intercompany License Agreement” means any cost sharing agreement, commission or royalty agreement, license or sublicense agreement, distribution agreement, services agreement, intellectual property rights transfer agreement, any related agreements or similar agreements, in each case where all parties to such agreement are one or more of the Borrower or a Restricted Subsidiary.

“Intercreditor Agreements” means any Junior Lien Intercreditor Agreement, any Equal Priority Intercreditor Agreement, any Collateral Trust Agreement and any other intercreditor agreement governing lien priority with the approval of the Required Lenders, in each case that may be executed by the Administrative Agent and Collateral Agent from time to time.

“Interest Payment Date” means, (a) as to any SOFR Rate Loan, the last Business Day of each Interest Period applicable to such SOFR Rate Loan, as applicable, and the applicable Maturity Date; *provided* that if any Interest Period for a SOFR Rate Loan exceeds three months, the respective dates (which shall be a Business Day) that fall every three months after the beginning of such Interest Period shall also be Interest Payment Dates and (b) as to any Base Rate Loan, the last Business Day of each fiscal quarter and the applicable Maturity Date.

“Interest Period” means, as to each SOFR Rate Loan, the period commencing on the date such SOFR Rate Loan is disbursed or converted to or continued as a SOFR Rate Loan and ending on the date one, three or six months thereafter, or to the extent consented to by each applicable Lender, twelve months (or such period of less than one month as may be consented to by each applicable Lender), as selected by the Borrower in its Committed Loan Notice; *provided* that:

(a) any Interest Period that would otherwise end on a day that is not a Business Day shall be extended to the next succeeding Business Day unless such Business Day falls in another calendar month, in which case such Interest Period shall end on the immediately preceding Business Day;

(b) any Interest Period (other than an Interest Period having a duration of less than one month) that begins on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period) shall end on the last Business Day of the calendar month at the end of such Interest Period; and

(c) no Interest Period shall extend beyond the applicable Maturity Date.

“Investment” means, with respect to any Person, all investments by such Person in other Persons (including Affiliates) in the form of advances, loans or other extensions of credit (excluding (i) accounts receivable, trade credit, advances or extensions of credit to customers, suppliers, future, present or former employees, directors, officers, managers, contractors, consultants or advisors (or their respective Controlled Investment Affiliates or Immediate Family Members) of any Person in the ordinary course of business or consistent with past practice, (ii) any debt or extension of credit represented by a bank deposit other than a time deposit, (iii) intercompany advances arising from cash management, Tax and accounting operations and (iv) intercompany loans, advances or Indebtedness having a term not exceeding 364 days (inclusive of any roll-over or extensions of terms)) or capital contribution to (by means of any transfer of cash or other property to others or any payment for property or services for the account or use of others), or the incurrence of a guarantee of any obligation of, or any purchase or acquisition of Equity Interests, Indebtedness or other similar instruments issued by, such other Persons and all other items that are or would be classified as investments on a balance sheet prepared in accordance with GAAP; *provided, however*, that endorsements of negotiable instruments and documents in the ordinary course of business or consistent with past practice will not be deemed to be an Investment.

For purposes of Section 6.13 and Section 7.06:

(1) “Investment” will include the portion (proportionate to the Borrower’s equity interest in a Restricted Subsidiary to be designated as an Unrestricted Subsidiary) of the Fair Market Value of the net assets of such Restricted Subsidiary at the time that such Restricted Subsidiary is designated an Unrestricted Subsidiary; *provided, however*, that upon a redesignation of such Subsidiary as a Restricted Subsidiary, the Borrower will be deemed to continue to have a permanent “Investment” in an Unrestricted Subsidiary in an amount (if positive) equal to (a) the Borrower’s “Investment” in such Subsidiary at the time of such redesignation less (b) the portion (proportionate to the Borrower’s equity interest in such Subsidiary) of the Fair Market Value of the net assets (as determined by the Borrower) of such Subsidiary at the time that such Subsidiary is so re-designated a Restricted Subsidiary;

(2) any property transferred to or from an Unrestricted Subsidiary will be valued at its Fair Market Value at the time of such transfer, in each case as determined by the Borrower;

(3) if the Borrower or any Restricted Subsidiary issues, sells or otherwise disposes of Equity Interests in a Person that is a Restricted Subsidiary such that, after giving effect thereto, such Person is no longer a Restricted Subsidiary, any investment by the Borrower or any Restricted Subsidiary in such Person remaining after giving effect thereto shall not be deemed to be an Investment at such time.

The amount of any Investment outstanding at any time shall be the original cost of such Investment, reduced by any dividend, distribution, interest payment, return of capital, repayment or other amount received in cash and Cash Equivalents by the Borrower or a Restricted Subsidiary in respect of such Investment to the extent such amounts do not increase any other baskets under this Agreement.

“Investment Grade Securities” means:

- (1) securities issued or directly and fully Guaranteed or insured by the United States government or any agency or instrumentality thereof (other than Cash Equivalents);
- (2) securities issued or directly and fully guaranteed or insured by the Canadian, United Kingdom, Australian or Japanese governments, a member state of the European Union, or any agency or instrumentality thereof (other than Cash Equivalents);
- (3) debt securities or debt instruments with a rating of “BBB-” or higher from S&P or “Baa3” or higher by Moody’s or the equivalent of such rating by such rating organization or, if no rating of Moody’s or S&P then exists, the equivalent of such rating by any other Nationally Recognized Statistical Ratings Organization, but excluding any debt securities or instruments constituting loans or advances among the Borrower and its Subsidiaries;
- (4) investments in any fund that invests exclusively in investments of the type described in clauses (1), (2) and (3) above which fund may also hold cash and Cash Equivalents pending investment or distribution; and
- (5) corresponding instruments in countries other than the United States customarily utilized for high quality investments.

“IRS” means Internal Revenue Service of the United States.

“ISDA CDS Definitions” has the meaning specified in the definition of “Net Short Position.”

“ISDA Definitions” means the 2006 ISDA Definitions published by the International Swaps and Derivatives Association, Inc. or any successor thereto, as amended or supplemented from time to time, or any successor definitional booklet for interest rate derivatives published from time to time by the International Swaps and Derivatives Association, Inc. or such successor thereto.

“Issuance Notice” means an Issuance Notice in respect of letters of credit substantially in the form of Exhibit A-2.

“Issuing Bank” means DNB and JPMorgan Chase Bank, N.A. as Issuing Banks hereunder, together with their permitted successors and assigns in such capacity, and any other Revolving Lender that becomes an Issuing Bank in accordance with Section 2.04(k) or (m). Any Issuing Bank may cause Letters of Credit to be issued by an Affiliate of such Issuing Bank or by another financial institution designated by such Issuing Bank, and all Letters of Credit issued by any such Affiliate or any such designated financial institution shall be treated as being issued by such Issuing Bank for all purposes under the Loan Documents.

“**Jones Act Notes**” has the meaning specified in [Section 7.03\(g\)](#).

“**Jones Act Vessel**” means, when referring to a vessel, a United States-flagged vessel documented with the United States Coast Guard with a coastwise endorsement and qualified to engage in domestic coastwise trade under the U.S. citizenship and cabotage laws principally contained in 46 U.S.C. § 50501(a), (b) and (d) and 46 U.S.C. Chapters 121 and 551, as amended or modified from time to time, and any successor statutes thereto.

“**Jones Act Warrants**” means those certain warrants issued to certain non-U.S. citizens in settlement of certain liabilities in respect of the Chapter 11 cases in the United States Bankruptcy Court for the Southern District of Texas, Houston Division, consummated September 4, 2020 and in connection with subsequent private offerings of the Borrower’s Equity Interests.

“**Judgment Currency**” has the meaning specified in [Section 2.21\(b\)](#).

“**Junior Debt Repayment**” has the meaning specified in [Section 7.09\(a\)](#).

“**Junior Financing**” means any Material Indebtedness (with [clause \(d\)](#) of the proviso in the definition thereof being deemed to be limited to Intercompany Indebtedness) that is (a) contractually subordinated in right of payment to the Obligations expressly by its terms, (b) Junior Lien Debt or (c) unsecured and constitutes Ratio Debt or is incurred in reliance on [Section 7.03\(a\)\(ii\)](#).

“**Junior Financing Documentation**” means any documentation governing any Junior Financing.

“**Junior Lien Debt**” means Indebtedness incurred in accordance with this Agreement that is secured by Liens on the Collateral (including any Vessel Collateral) having Junior Lien Priority, *provided* that prior to the issuance of any such Indebtedness, the applicable Debt Representative shall enter into a Junior Lien Intercreditor Agreement with the Collateral Agent and the Administrative Agent, among others (if applicable) and, if elected by the Borrower, the Collateral Trust Agreement; *provided, further*, for the avoidance of doubt, that Junior Lien Debt shall not include any unsecured Indebtedness.

“**Junior Lien Intercreditor Agreement**” means [\(a\)](#) the Existing Junior Lien Intercreditor Agreement and, after termination of the Existing Junior Lien Intercreditor Agreement in connection with the Second Lien Credit Agreement Refinancing or otherwise, [\(b\) the First Amendment Junior Lien Intercreditor Agreement](#), [\(c\)](#) a junior lien intercreditor agreement in the form attached hereto as [Exhibit K-2](#) (as the same may be modified in a manner reasonably satisfactory to the Administrative Agent, the Collateral Agent (at the direction of the Administrative Agent), the Required Lenders and the Borrower), or, [\(d\)](#) if requested by the providers of Indebtedness permitted hereunder to be Junior Lien Debt, another lien subordination arrangement reasonably satisfactory to the Administrative Agent, the Collateral Agent (at the direction of the Administrative Agent), the Required Lenders and the Borrower, in each case as amended, restated, amended and restated, modified or supplemented from time to time in accordance with the terms hereof and thereof. Upon the request of the Borrower, the Administrative Agent and the Collateral Agent will execute and deliver a Junior Lien Intercreditor Agreement with one or more Debt Representatives for secured Indebtedness that is permitted to be incurred hereunder as Junior Lien Debt; *provided* that the Borrower shall not make such request unless such Indebtedness and related Liens are permitted by (including with respect to priority) the Loan Documents.

“**Junior Lien Priority**” means, with respect to a Lien on the Collateral, a Lien on such Collateral that is junior in priority to the Liens on the Collateral securing the Obligations pursuant to a Junior Lien Intercreditor Agreement.

“**L/C Fee**” has the meaning specified in Section 2.11(b)(ii).

“**Latest Maturity Date**” means, at any date of determination, the latest maturity or expiration date applicable to any Loan or Commitment hereunder at such time, including the latest maturity or expiration date of any Incremental Loan, any Refinancing Loan or any Extended Loan, in each case as extended in accordance with this Agreement from time to time.

“**Laws**” means, collectively, all international, foreign, federal, state, provincial, territorial and local statutes, treaties, rules, guidelines, regulations, ordinances, codes and administrative or judicial precedents or authorities and executive orders, including the interpretation or administration thereof by any Governmental Authority charged with the enforcement, interpretation or administration thereof.

“**LCT Election**” has the meaning specified in Section 1.08(f).

“**LCT Test Date**” has the meaning specified in Section 1.08(f).

“**Lead Arranger**” has the meaning specified in the introductory paragraph to this Agreement.

“**Lender**” has the meaning specified in the introductory paragraph to this Agreement (and, for the avoidance of doubt, includes each Revolving Lender), and their respective successors and assigns as permitted hereunder, each of which is referred to herein as a “Lender.” Each Additional Lender shall be a Lender to the extent any such Person has executed and delivered a Refinancing Amendment or an Incremental Amendment, as the case may be, and to the extent such Refinancing Amendment or Incremental Amendment shall have become effective in accordance with the terms hereof and thereof, and each Extending Lender shall continue to be a Lender. As of the Closing Date, Schedule 2.01 sets forth the name of each Lender. Unless the context otherwise requires, the term “Lenders” includes the Issuing Banks.

“**Lending Office**” means, as to any Lender, the office or offices of such Lender described as such in such Lender’s Administrative Questionnaire, or such other office or offices as a Lender may from time to time notify the Borrower and the Administrative Agent.

“**Letter of Credit**” means a letter of credit issued or to be issued (or, in the case of an Existing Letter of Credit, deemed to be issued) by any Issuing Bank pursuant to this Agreement, which letter of credit shall be (a) a standby letter of credit or (b) solely to the extent agreed by the applicable Issuing Bank in its sole discretion, commercial or “trade” letter of credit.

“**Letter of Credit Advance**” means, as to any Revolving Lender, such Lender’s funding of its participation in any Letter of Credit Borrowing in accordance with its Pro Rata Share.

“**Letter of Credit Application**” means an application and agreement for the issuance or amendment of a Letter of Credit in the form from time to time in use by the applicable Issuing Bank, together with an Issuance Notice.

“**Letter of Credit Borrowing**” means an extension of credit resulting from a drawing under any Letter of Credit that has not been reimbursed by the Borrower on the date when made or refinanced as a Revolving Loan Borrowing.

“**Letter of Credit Documents**” means, as to any Letter of Credit, each Letter of Credit Application and any other document, agreement and instrument entered into by the applicable Issuing Bank and the Borrower or in favor of such Issuing Bank and relating to such Letter of Credit.

“**Letter of Credit Expiration Date**” means the day that is five Business Days prior to the Commitment Maturity Date (or, if such day is not a Business Day, the immediately preceding Business Day).

“**Letter of Credit Extension**” means, with respect to any Letter of Credit, the issuance thereof or the extension of the expiry date thereof, or the renewal or increase of the amount thereof.

“**Letter of Credit Obligations**” means, at any time, the aggregate of all liabilities at such time of any Loan Party to each Issuing Bank with respect to Letters of Credit, whether or not any such liability is contingent, including, without duplication, the sum of (a) the Reimbursement Obligations at such time and (b) the maximum aggregate amount which is, or at any time thereafter may become, available for drawing under all Letters of Credit then outstanding.

“**Letter of Credit Percentage**” means, (a) initially with respect to DNB, 100.00% (as may be reduced to reflect any percentage allocated to another Issuing Bank pursuant to the immediately succeeding clause (b)) and (b) from time to time after the Closing Date with respect to any other Issuing Bank, a percentage to be agreed between the Borrower and such Issuing Bank.

“**Letter of Credit Sublimit**” means the greater of (a) \$25,000,000 and (b) such higher amount as the Borrower, the Revolving Lenders and the applicable Issuing Bank(s) may from time to time agree.

“**Letter of Credit Usage**” means, as of any date of determination, the sum of (a) the maximum aggregate amount which is, or at any time thereafter may become, available for drawing under all Letters of Credit then outstanding and (b) the aggregate amount of all Reimbursement Obligations outstanding at such time.

“**Lien**” means any mortgage, pledge, security interest, encumbrance, lien, hypothecation or charge of any kind (including any conditional sale or other title retention agreement or lease in the nature thereof); provided that in no event shall Non-Financing Lease Obligations be deemed to constitute a Lien.

“**Lien Release Event**” has the meaning specified in Section 10.11(a)(i).

“**Limited Condition Transaction**” means (1) any Investment or acquisition (whether by merger, amalgamation, consolidation or other business combination or the acquisition of Equity Interests or otherwise and which may include, for the avoidance of doubt, a transaction that may constitute a Change of Control), (2) any redemption, repurchase, defeasance, satisfaction and discharge or repayment of Indebtedness, Disqualified Equity Interests or Preferred Stock requiring irrevocable notice in advance of such redemption, repurchase, defeasance, satisfaction and discharge or repayment, (3) any Restricted Payment requiring irrevocable notice in advance thereof, (4) any asset sale or a disposition excluded from the definition of “Disposition,” and (5) any combination of any of the foregoing.

“**Liquidity**” means, as of any date of determination, the aggregate amount of cash and Cash Equivalents that is not Restricted, in each case, of the Loan Parties and their Restricted Subsidiaries, together with unused and undrawn Commitments under this Agreement that are available to be drawn at such time.

“**Loan**” means a Revolving Loan made by a Lender to the Borrower under Article II (including Section 2.16).

“**Loan Documents**” means, collectively, (a) this Agreement, (b) the Revolving Loan Notes, if any, (c) any Refinancing Amendment, Incremental Amendment or Extension Amendment, (d) the Guaranty, (e) the Collateral Documents, (f) any Intercreditor Agreements required to be entered into pursuant to the terms of this Agreement, (g) the Collateral Agent Fee Letter, (h) the Agency Fee Letter and (i) any other document or agreement designated as such by the Borrower and the Administrative Agent.

“**Loan Parties**” means, collectively, the Borrower and the Guarantors.

“**Low-Spec Vessel**” means, when referring to a Vessel, a Vessel with cargo-carrying capacity of less than 2,500 DWT (i.e., primarily 200 class OSV notations), and/or dynamic-positioning systems with a DP-1 classification or lower.

“**Management Advances**” means loans or advances made to, or Guarantees with respect to loans or advances made to, future, present or former employees, directors, officers, managers, contractors, consultants or advisors (or their respective Controlled Investment Affiliates or Immediate Family Members) of any Parent Entity, the Borrower or any Restricted Subsidiary:

(1) (a) in respect of travel, entertainment, relocation or moving related expenses, payroll advances and other analogous or similar expenses or payroll expenses, in each case incurred in the ordinary course of business or consistent with past practice or (b) for purposes of funding any such person’s purchase of Equity Interests (or similar obligations) of the Borrower, its Subsidiaries or any Parent Entity with (in the case of this clause (1)(b)) the approval of the Board of Directors of the Borrower;

(2) in respect of relocation or moving related expenses, payroll advances and other analogous or similar expenses or payroll expenses, in each case incurred in connection with any closing or consolidation of any facility or office; or

(3) not exceeding \$2.0 million.

“**Management Stockholders**” means the members of management of the Borrower (or any Parent Entity) or its Subsidiaries who are holders of Equity Interests of the Borrower or of any Parent Entity.

“**Margin Stock**” has the meaning set forth in Regulation U.

“**Material Adverse Effect**” means any event, circumstance or condition that has had a materially adverse effect on (a) the business, operations, assets, liabilities (actual or contingent) or financial condition of the Borrower and the Restricted Subsidiaries, taken as a whole, (b) the ability of the Loan Parties (taken as a whole) to perform their respective payment obligations under any Loan Document to which any of the Loan Parties is a party or (c) the rights and remedies of the Collateral Agent or the Administrative Agent under any Loan Document.

“**Material Indebtedness**” means, as of any date, Indebtedness for Borrowed Money on such date of any Loan Party in an aggregate principal amount exceeding the Threshold Amount; *provided* that in no event shall any of the following be Material Indebtedness (a) Indebtedness under a Loan Document, (b) obligations in respect of a Qualified Securitization Financing, (c) Capitalized Lease Obligations, (d) Indebtedness held by a Loan Party or any Indebtedness held by an Affiliate of a Loan Party and (e) Indebtedness under Hedge Agreements.

“**Maturity Date**” means, (a) with respect to any Revolving Loans, the earlier of (i) the date that is five years after the Closing Date and (ii) the date such Revolving Loans are terminated and declared due and payable pursuant to Section 9.02, (b) with respect to any tranche of Extended Commitments, the earlier of (i) the final maturity date as specified in the applicable Extension Amendment and (ii) the date such tranche of Extended Commitments are terminated and declared due and payable pursuant to Section 9.02, and (c) with respect to any Refinancing Loans, the earlier of (i) the final maturity date as specified in the applicable Refinancing Amendment and (ii) the date such Refinancing Loans are terminated and declared due and payable pursuant to Section 9.02; *provided* that if such day is not a Business Day, the applicable Maturity Date shall be the Business Day immediately preceding such day.

“**Maximum Rate**” has the meaning specified in [Section 11.10](#).

“**Measurement Date**” has the meaning assigned to such term in [Section 8.01\(a\)](#).

“**Mid Specification**” or “**Mid-Spec**” means, when referring to OSVs, vessels with cargo carrying capacity of between 2,500 and 3,500 DWT (i.e., primarily 240 class OSV notations), and dynamic positioning systems with a DP-2 classification or lower.

“**Minimum L/C Collateral Amount**” means, at any time, (a) with respect to Cash Collateral consisting of cash or deposit account balances, an amount equal to 105% of the Fronting Exposure of the Issuing Banks with respect to Letters of Credit issued and outstanding at such time, and (b) otherwise, an amount determined by the Administrative Agent and the Issuing Banks in their sole discretion.

“**Moody’s**” means Moody’s Investors Service, Inc. and any successor thereto.

“**Mortgage**” has the meaning specified in [Section 6.19\(e\)](#).

“**MPSV**” means a multi-purpose support vessel.

“**Multiemployer Plan**” means any multiemployer plan as defined in Section 4001(a)(3) of ERISA and subject to Title IV of ERISA, to which any Loan Party or any of their respective ERISA Affiliates makes or is obligated to make contributions, or during the preceding five plan years, has made or been obligated to make contributions if liability to a Loan Party remains.

“**Net Income**” means, with respect to any Person, the net income (loss) of such Person, determined in accordance with GAAP (determined, for the avoidance of doubt, on a consolidated basis) and before any reduction in respect of preferred stock dividends.

“**Net Short Lender**” means, at any date of determination, each Lender (other than any Unrestricted Lender) that has a Net Short Position as of such date.

“**Net Short Position**” means, with respect to a Lender (other than an Unrestricted Lender), as of a date of determination, the net positive position, if any, held by such Lender that is remaining after deducting any long position that the Lender holds (i.e., a position (whether as an investor, lender or holder of Loans, debt obligations and/or Derivative Instruments) where the Lender is exposed to the credit risk of Deliverable Obligations of the Loan Parties) from any short positions (i.e., a position as described above, but where the Lender is instead protected from the credit risk described above).

For purposes of determining whether a Lender (other than an Unrestricted Lender) has a Net Short Position on any date of determination:

(i) Derivative Instruments shall be counted at the notional amount (in Dollars) of such Derivative Instrument; *provided* that, subject to clause (v) below, the notional amount of Derivative Instruments referencing an index that includes any of the Loan Parties or any bond or loan obligation issued or guaranteed by any Loan Party shall be determined in proportionate amount and by reference to the percentage weighting of the component which references any Loan Party or any bond or loan obligation issued or guaranteed by any Loan Party that would be a “Deliverable Obligation” or an “Obligation” (as defined in the ISDA CDS Definitions) of the Loan Parties;

(ii) notional amounts of Derivative Instruments in other currencies shall be converted to the Dollar equivalent thereof by such Lender in accordance with the terms of such Derivative Instruments, as applicable; *provided* that if not otherwise provided in such Derivative Instrument, such conversion shall be made in a commercially reasonable manner consistent with generally accepted financial practices and based on the prevailing conversion rate determined (on a mid-market basis) by such Lender, acting in a commercially reasonable manner, on the date of determination;

(iii) Derivative Instruments that are documented using either the 2014 ISDA Credit Derivatives Definitions or the 2003 ISDA Credit Derivatives Definitions (or any successor definitions thereof, collectively, the “**ISDA CDS Definitions**”) shall be deemed to create a short position with respect to the Loans if such Lender is a protection buyer or the equivalent thereof for such Derivative Instrument and (A) the Loans are a “Reference Obligation” under the terms of such derivative transaction (whether specified by name in the related documentation, included as a “Standard Reference Obligation” on the most recent list published by Markit, if “Standard Reference Obligation” is specified as applicable in the relevant documentation or in any other manner) or (B) the Loans would be a “Deliverable Obligation” or an “Obligation” (as defined in the ISDA CDS Definitions) of the Loan Parties under the terms of such derivative transaction;

(iv) credit derivative transactions or other Derivative Instruments not documented using the ISDA CDS Definitions shall be counted for purposes of the Net Short Position determination if, with respect to the Loans, such transactions are functionally equivalent to a transaction that offers such Lender protection in respect of the Loans; and

(v) Derivative Instruments in respect of an index that includes any of the Loan Parties or any instrument issued or guaranteed by any of the Loan Parties shall not be deemed to create a short position, so long as (A) such index is not created, designed, administered or requested by such Lender and (B) the Loan Parties, and any Deliverable Obligation of the Loan Parties, collectively, shall represent less than 5.0% of the components of such index.

“**Net Short Representation**” means, with respect to any Lender (other than an Unrestricted Lender) at any time, a representation and warranty (including any deemed representation and warranty, as the case may be) from such Lender to the Borrower that it is not (x) a Net Short Lender at such time or (y) knowingly and intentionally acting in concert with any of its Affiliates for the express purpose of creating (and in fact creating) the same economic effect with respect to the Loan Parties as though such Lender were a Net Short Lender at such time.

“**Non-Consenting Lender**” has the meaning specified in the penultimate paragraph of Section 3.07.

“**Non-Defaulting Lender**” means, at any time, each Lender that is not a Defaulting Lender at such time.

“**Non-Financing Lease Obligation**” means a lease obligation that is not required to be accounted for as a financing or capital lease in accordance with GAAP. For the avoidance of doubt, a straight-line or operating lease shall be considered a Non-Financing Lease Obligation.

“**Nonrenewal Notice Date**” has the meaning specified in Section 2.04(b)(iii).

“**NYFRB**” means the Federal Reserve Bank of New York.

“**Obligations**” means all (a) advances to, and debts, liabilities, obligations, covenants and duties of, any Loan Party arising under any Loan Document or otherwise with respect to any Loan or Letter of Credit, whether direct or indirect (including those acquired by assumption), absolute or contingent, due or to become due, now existing or hereafter arising and including interest, fees and expenses that accrue after the commencement by or against any Loan Party of any proceeding under any Debtor Relief Laws naming such Person as the debtor in such proceeding, regardless of whether such interest, fees and expenses are allowed claims in such proceeding, (b) obligations of any Loan Party arising under any Secured Hedge Agreement, (c) Cash Management Obligations and (d) Erroneous Payment Subrogation Rights; *provided* that “Obligations” shall exclude any Excluded Swap Obligations. Without limiting the generality of the foregoing, the Obligations of the Loan Parties under the Loan Documents (and any of their Subsidiaries to the extent they have obligations under the Loan Documents) include the obligation (including guarantee obligations) to pay principal, interest, reimbursement obligations, charges, expenses, fees, Attorney Costs, indemnities and other amounts payable by any Loan Party and to provide Cash Collateral under any Loan Document.

“**Organization Documents**” means,

(a) with respect to any corporation, the certificate or articles of incorporation and the bylaws (or equivalent or comparable constitutive documents with respect to any non-U.S. jurisdiction);

(b) with respect to any limited liability company, the certificate or articles of formation or organization and operating agreement; and

(c) with respect to any partnership, joint venture, trust or other form of business entity, the partnership, joint venture or other applicable agreement of formation or organization and any agreement, instrument, filing or notice with respect thereto filed in connection with its formation or organization with the applicable Governmental Authority in the jurisdiction of its formation or organization and, if applicable, any certificate or articles of formation or organization of such entity.

“**Other Connection Taxes**” means, with respect to any Recipient, Taxes imposed as a result of a present or former connection between such Recipient and the jurisdiction imposing such Tax (other than connections arising solely from such Recipient having executed, delivered, become a party to, performed its obligations under, received payments under, received or perfected a security interest under, engaged in any other transaction pursuant to or enforced by any Loan Document).

“**Other Taxes**” has the meaning specified in Section 3.01(f).

“**Overnight Rate**” means, for any day, the greater of (i) the Federal Funds Rate and (ii) an overnight rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation.

“**Parent Entity**” has the meaning specified in Section 6.01.

“**Pari Passu Lien Debt**” means any Indebtedness that is secured by Liens on the Vessel Collateral that are *pari passu* in priority with the Liens on the Collateral (including any Vessel Collateral) that secure the Obligations. For the avoidance of doubt, “Pari Passu Lien Debt” includes the Revolving Loans (if any) and the Commitments as of the Closing Date.

“**Participant**” has the meaning specified in Section 11.07(d).

“**Participant Register**” has the meaning specified in Section 11.07(e).

“**Participating Member State**” means each state as described in any EMU Legislation.

“**Payment Recipient**” has the meaning specified in Section 10.17(a).

“**PBGC**” means the Pension Benefit Guaranty Corporation or any successor thereto.

“**Pension Plan**” means any “employee pension benefit plan” (as such term is defined in Section 3(2) of ERISA), other than a Multiemployer Plan, that is subject to Title IV of ERISA or Section 302 of ERISA or Section 412 of the Code and is sponsored or maintained by any Loan Party or any of their respective ERISA Affiliates or to which any Loan Party or any of their respective ERISA Affiliates contributes or has an obligation to contribute, or in the case of a multiple employer or other plan described in Section 4064(a) of ERISA, has made, or has had an obligation to make, contributions at any time in the preceding five plan years if liability to a Loan Party remains.

“**Permitted Asset Swap**” means the concurrent purchase and sale or exchange of assets used or useful in a Similar Business or a combination of such assets and cash, Cash Equivalents between the Borrower or any of the Restricted Subsidiaries and another Person.

“**Permitted Consent Event**” has the meaning specified in Section 10.11.

“**Permitted Debt**” has the meaning specified in Section 7.03.

“**Permitted Holders**” means:

(a) the Sponsors;

(b) the Management Stockholders (including any Management Stockholders holding Equity Interests through an equityholding vehicle);

(c) any Person who is acting solely as an underwriter in connection with a public or private offering of Equity Interests of any Parent Entity or the Borrower, acting in such capacity;

(d) any group (within the meaning of Section 13(d)(3) or Section 14(d)(2) of the Exchange Act or any successor provision) of which any of the foregoing, any Holding Company, Permitted Plan or any Person or group that becomes a Permitted Holder specified in the last sentence of this definition are members and any member of such group; *provided* that, in the case of such group and without giving effect to the existence of such group or any other group, Persons referred to in subclauses (i) through (iii), collectively, have beneficial ownership of more than 50% of the total voting power of the Voting Stock of the Borrower or any Parent Entity held by such group;

(e) any Holding Company in connection with and immediately following a Qualifying IPO or, prior to a Qualifying IPO, to the extent such Holding Company itself (or any of its Parent Entities) is listed on any United States national securities exchange; and

(f) any Permitted Plan.

Any Person or group whose acquisition of beneficial ownership constitutes a Change of Control in respect of which the Required Lenders have provided a consent in accordance with this Agreement will thereafter, together with its Affiliates, constitute an additional Permitted Holder.

“**Permitted Intercompany Activities**” means any transactions (A) between or among the Borrower and its Restricted Subsidiaries that are entered into in the ordinary course of business or consistent with past practice of the Borrower and its Restricted Subsidiaries and, in the reasonable determination of the Borrower are necessary or advisable in connection with the ownership or operation of the business of the Borrower and its Restricted Subsidiaries, including (i) payroll, cash management, purchasing, insurance and hedging arrangements; (ii) management, technology and licensing arrangements; (iii) customary loyalty and rewards programs and (iv) Vessel reflagging arrangements (to the extent the reflagging is otherwise permitted hereunder); and (B) between or among the Borrower, its Restricted Subsidiaries and any Captive Insurance Subsidiary.

“**Permitted Investment**” means (in each case, by the Borrower or any of the Restricted Subsidiaries):

(1) Investments in (a) a Restricted Subsidiary (including the Equity Interests of, or guarantees of obligations of, a Restricted Subsidiary) or the Borrower or (b) a Person (including the Equity Interests of any such Person) that will, upon the making of such Investment, become a Restricted Subsidiary of the Borrower;

(2) Investments in another Person and as a result of such Investment such other Person, in one transaction or a series of transactions, is merged, amalgamated, consolidated or otherwise combined with or into, or transfers or conveys all or substantially all its assets (or such division, business unit, product line or business) to, or is liquidated into, the Borrower or a Restricted Subsidiary, and any Investment held by such Person; *provided* that such Investment was not acquired by such Person in contemplation of such acquisition, merger, amalgamation, consolidation, combination, transfer or conveyance;

(3) Investments in cash, Cash Equivalents or Investment Grade Securities;

(4) Investments in receivables owing to the Borrower or any Restricted Subsidiary created or acquired in the ordinary course of business or consistent with past practice;

(5) Investments in payroll, travel, entertainment, relocation, moving related and similar advances that are made in the ordinary course of business or consistent with past practice;

(6) Management Advances;

(7) Investments (including debt obligations and Equity Interests) (a) received in settlement, compromise or resolution of debts created in the ordinary course of business or consistent with past practice, (b) in exchange for any other Investment or accounts receivable, endorsements for collection or deposit held by the Borrower or any such Restricted Subsidiary, (c) as a result of foreclosure, perfection or enforcement of any Lien, (d) in satisfaction of judgments or (e) pursuant to any plan of reorganization or similar arrangement including upon the bankruptcy or insolvency of a debtor or litigation, arbitration or other disputes or otherwise with respect to any secured Investment or other transfer of title with respect to any secured Investment in default;

(8) Investments made as a result of the receipt of promissory notes or other non-cash consideration (including earn-outs) from a sale or other disposition of property or assets that complies with or is permitted by Section 7.05;

(9) Investments existing or pursuant to binding commitments, agreements or arrangements in effect on the Closing Date and any modification, replacement, renewal, reinvestment or extension thereof; *provided* that the amount of any such Investment may not be increased except (i) as required by the terms of such Investment or binding commitment as in existence on the Closing Date (including in respect of any unused commitment), plus any accrued but unpaid interest (including any accretion of interest, original issue discount or the issuance of pay-in-kind securities) and premium payable by the terms of such Indebtedness thereon and fees and expenses associated therewith as of the Closing Date or (ii) as otherwise permitted under this Agreement;

(10) Obligations in respect of Hedge Agreements, which transactions or obligations not prohibited by Section 7.03;

(11) pledges or deposits with respect to leases or utilities provided to third parties in the ordinary course of business or Liens otherwise made in connection with Liens permitted under Section 7.01;

(12) any Investment to the extent made using Equity Interests of the Borrower (other than Disqualified Equity Interests) or Equity Interests of any Parent Entity or any Unrestricted Subsidiary as consideration;

(13) Investments consisting of (i) purchases or other acquisitions of inventory, supplies, materials, equipment and similar assets or (ii) licenses, sublicenses, cross-licenses, leases, subleases, assignments, contributions or other Investments of intellectual property or other intangibles or services in the ordinary course of business pursuant to any joint development, joint venture or marketing arrangements with other Persons or any Intercompany License Agreement and any other Investments made in connection therewith;

(14) (i) Guarantees of Indebtedness not prohibited by Section 7.03 and (other than with respect to Indebtedness) guarantees, keepwells and similar arrangements in the ordinary course of business or consistent with past practice, and (ii) performance guarantees and Contingent Obligations with respect to obligations that are not prohibited by this Agreement;

(15) Investments consisting of earnest money deposits required in connection with a purchase agreement, or letter of intent, or other acquisitions to the extent not otherwise prohibited by this Agreement;

(16) Investments of a Restricted Subsidiary acquired after the Closing Date or of an entity merged or amalgamated into or consolidated with the Borrower or merged or amalgamated into or consolidated with a Restricted Subsidiary after the Closing Date to the extent that such Investments were not made in contemplation of or in connection with such acquisition, merger, amalgamation or consolidation and were in existence on the date of such acquisition, merger, amalgamation or consolidation;

(17) contributions to a “rabbi” trust for the benefit of any employee, director, officer, manager, contractor, consultant, advisor or other service providers or other grantor trust subject to claims of creditors in the case of a bankruptcy of the Borrower, and Investments relating to non-qualified deferred payment plans in the ordinary course of business or consistent with past practice;

(18) provided no Default or Event of Default has occurred and is continuing, Investments in joint ventures and similar entities and Unrestricted Subsidiaries having an aggregate Fair Market Value, when taken together with all other Investments made pursuant to this clause that are at the time outstanding, not to exceed the greater of (i) \$25.0 million and (ii) an amount equal to 3.0% of the Borrower’s Consolidated Net Tangible Assets determined as of the end of the Borrower’s most recently completed fiscal quarter for which internal financial statements are available in the aggregate outstanding at the time of such Investment (with the Fair Market Value of each Investment being measured at the time made and without giving effect to subsequent changes in value), plus the amount of any returns (including dividends, payments, interest, distributions, returns of principal, profits on sale, repayments, income and similar amounts) in respect of such Investments (without duplication of any amounts applied pursuant to Section 7.06(d)(iv)) with the Fair Market Value of each Investment being measured at the time made and without giving effect to subsequent changes in value; *provided, however*, that if any Investment pursuant to this clause is made in any Person that is not the Borrower or a Restricted Subsidiary at the date of the making of such Investment (A) and such person becomes the Borrower or a Restricted Subsidiary after such date, such Investment shall thereafter be deemed to have been made pursuant to clause (1) or (2) above and shall cease to have been made pursuant to this clause and (B) the Borrower shall be in pro forma compliance with the Financial Covenants upon giving effect to such Investment;

(19) provided no Default or Event of Default has occurred and is continuing, additional Investments having an aggregate Fair Market Value, taken together with all other Investments made pursuant to this clause that are at that time outstanding, not to exceed the greater of (i) \$75.0 million and (ii) an amount equal to 10.0% of the Borrower’s Consolidated Net Tangible Assets determined as of the end of the Borrower’s most recently completed fiscal quarter for which internal financial statements are available in the aggregate outstanding at the time of such Investment (with the Fair Market Value of each Investment being measured at the time made and without giving effect to subsequent changes in value), plus the amount of any returns (including dividends, payments, interest, distributions, returns of principal, profits on sale, repayments, income and similar amounts) in respect of such Investments (without duplication of any amounts applied pursuant to Section 7.06(d)(iv)) with the Fair Market Value of each Investment being measured at the time made and without giving effect to subsequent changes in value; *provided, however*, that if any Investment pursuant to this clause is made in any Person that is not the Borrower or a Restricted Subsidiary at the date of the making of such Investment (A) and such Person becomes the Borrower or a Restricted Subsidiary after such date, such Investment shall thereafter be deemed to have been made pursuant to clause (1) or (2) above and shall cease to have been made pursuant to this clause and (B) the Borrower shall be in pro forma compliance with the Financial Covenants upon giving effect to such Investment;

(20) [reserved];

(21) (i) Investments arising or made in connection with a Qualified Securitization Financing or Receivables Facility and (ii) distributions or payments of Securitization Fees and purchases of Securitization Assets or Receivables Assets in connection with a Qualified Securitization Financing or Receivables Facility;

(22) Investments made from casualty insurance proceeds in connection with the replacement, substitution, restoration or repair of assets on account of a Casualty Event;

(23) guaranty and indemnification obligations arising in connection with surety bonds issued in the ordinary course of business or consistent with past practice;

(24) Investments (a) consisting of purchases and acquisitions of assets or services in the ordinary course of business or consistent with past practice, (b) made in the ordinary course of business or consistent with past practice in connection with obtaining, maintaining or renewing client, franchisee and customer contacts and loans or (c) advances, loans, extensions of credit (including the creation of receivables) or prepayments made to, and guarantees with respect to obligations of, franchisees, distributors, suppliers, lessors, licensors and licensees in the ordinary course of business or consistent with past practice;

(25) Investments in prepaid expenses, negotiable instruments held for collection and lease, utility and workers compensation, performance and similar deposits entered into as a result of the operations of the business in the ordinary course of business or consistent with past practice;

(26) Investments consisting of UCC Article 3 endorsements for collection or deposit and Article 4 trade arrangements with customers (or any comparable or similar provisions in other applicable jurisdictions) in the ordinary course of business or consistent with past practices;

(27) any Investment by any Captive Insurance Subsidiary in connection with the provision of insurance to the Borrower or any Subsidiaries, which Investment is made in the ordinary course of business or consistent with past practice of such Captive Insurance Subsidiary, or by reason of applicable law, rule, regulation or order, or that is required or approved by any regulatory authority having jurisdiction over such Captive Insurance Subsidiary or its business, as applicable;

(28) non-cash Investments in connection with Tax planning and reorganization activities, and Investments in connection with a Permitted Intercompany Activities and related transactions;

(29) [reserved]; and

(30) any other Investment so long as no Default or Event of Default has occurred and is continuing and immediately after giving pro forma effect to the Investment and the incurrence of any Indebtedness the net proceeds of which are used to make such Investment, the Total Net Leverage Ratio shall be no greater than 2.00 to 1.00 and the Borrower shall be in pro forma compliance with the Financial Covenants upon giving effect to such Investment.

“**Permitted Junior Debt Repayment**” has the meaning specified in Section 7.09(a).

“**Permitted Junior Secured Refinancing Debt**” means any Second Lien Credit Agreement Refinancing Indebtedness that is Junior Lien Debt.

“**Permitted Lien**” means any Lien permitted under Section 7.01.

“**Permitted Maritime Lien**” means, at any time with respect to any Vessel Collateral:

(1) Liens for crews’ wages (including the wages of the master of any Vessel) that are incurred in the ordinary course of business and have accrued for not more than forty-five (45) days unless any such Lien is being contested in good faith and by appropriate proceedings or other acts by the relevant Loan Party and the relevant Loan Party shall have set aside on its books adequate reserves with respect to such Lien;

(2) Liens for salvage (including contract salvage) or general average, and Liens for wages of stevedores employed by the owner of any Vessel, the master of such Vessel or a charterer or lessee of such Vessel, which in each case have accrued for not more than forty-five (45) days unless any such Lien is being contested in good faith and by appropriate proceedings or other acts by the relevant Loan Party and such Loan Party shall have set aside on its books adequate reserves with respect to such Lien;

(3) shipyard Liens and other Liens arising by operation of law arising in the ordinary course of business in operating, maintaining, repairing, modifying, refurbishing, or rebuilding any Vessel (other than those referred to in (1) and (2) above), including maritime Liens for necessities, which in each case have accrued for not more than forty-five (45) days unless any such Lien is being contested in good faith and by appropriate proceedings or other acts by the relevant Loan Party, and such Loan Party shall have set aside on its books adequate reserves with respect to such Lien;

(4) Liens for damages arising from maritime torts which are unclaimed, or are covered by insurance and any deductible applicable thereto, or in respect of which a bond or other security has been posted on behalf of the relevant Loan Party with the appropriate court or other tribunal to prevent the arrest or secure the release of any Vessel from arrest, unless any such Lien is being contested in good faith and by appropriate proceedings or other acts by the relevant Loan Party, and such Loan Party shall have set aside on its books adequate reserves with respect to such Lien;

(5) Liens that, as indicated by the written admission of liability therefor by an insurance company, are covered by insurance (subject to reasonable deductibles); and

(6) Liens for charters or subcharters or leases or subleases, including any charter, subcharter, lease or sublease permitted under this Agreement.

“Permitted Pari Passu Secured Refinancing Debt” means any Second Lien Credit Agreement Refinancing Indebtedness that is Pari Passu Lien Debt.

“Permitted Payment” means:

(1) the payment of any dividend or distribution within sixty (60) days after the date of declaration thereof, if at the date of declaration such payment would have complied with the provisions of this Agreement or the redemption, repurchase or retirement of Indebtedness if, at the date of any redemption notice, such payment would have complied with the provisions of this Agreement as if it were and is deemed at such time to be a Restricted Payment at the time of such notice;

(2) (a) any prepayment, purchase, repurchase, redemption, defeasance, discharge, retirement or other acquisition of Equity Interests, including any accrued and unpaid dividends thereon (**“Treasury Equity Interests”**) made by exchange (including any such exchange pursuant to the exercise of a conversion right or privilege in connection with which cash is paid in lieu of the issuance of fractional shares) for, or out of the proceeds of the substantially concurrent sale of, Equity Interests of the Borrower or any Parent Entity to the extent contributed to the Borrower (in each case, other than Disqualified Equity Interests) (**“Refunding Equity Interests”**) and (b) the declaration and payment of dividends on Treasury Equity Interests out of the proceeds of the substantially concurrent sale or issuance (other than to a Subsidiary of the Borrower or to an employee stock ownership plan or any trust established by a Parent Entity, the Borrower or any of its Subsidiaries) of Refunding Equity Interests;

(3) any prepayment, purchase, repurchase, exchange, redemption, defeasance, discharge, retirement or other acquisition of Junior Financing made by exchange for, or out of the proceeds of the substantially concurrent sale of, any Refinancing Indebtedness or Second Lien Credit Agreement Refinancing Indebtedness permitted to be incurred pursuant to Section 7.03;

(4) any prepayment, purchase, repurchase, exchange, redemption, defeasance, discharge, retirement or other acquisition of preferred stock of the Borrower or a Restricted Subsidiary made by exchange for, or out of the proceeds of the substantially concurrent sale of, preferred stock of the Borrower or a Restricted Subsidiary, as the case may be, that, in each case, is permitted to be incurred pursuant to Section 7.03;

(5) any prepayment, purchase, repurchase, redemption, defeasance, discharge, retirement or other acquisition of Subordinated Indebtedness of the Issuer or a Restricted Subsidiary to the extent required by the agreement governing such Subordinated Indebtedness, following the occurrence of (i) a Change of Control (or other similar event described therein as a “change of control”) or (ii) an asset disposition (or other similar event described therein as an “asset disposition” or “asset sale”), but only if the Borrower shall have first complied with the terms described under “—Change of Control” or “—Limitation on Sales of Assets and Subsidiary Stock,” as applicable, and purchased all notes tendered pursuant to the offer to repurchase all the notes required thereby, prior to purchasing, repurchasing, redeeming, defeasing or otherwise acquiring or retiring such Subordinated Indebtedness;

(6) a Restricted Payment to pay for the prepayment, purchase, repurchase, redemption, defeasance, discharge, retirement or other acquisition of Equity Interests of the Borrower or any Parent Entity held by any future, present or former employee, director, officer, manager, contractor, consultant or advisor (or their respective Controlled Investment Affiliates or Immediate Family Members) of the Borrower, any of its Subsidiaries or any Parent Entity pursuant to any management equity plan, stock option plan, phantom equity plan or any other management, employee benefit or other compensatory plan or agreement (and any successor plans or arrangements thereto), employment, termination or severance agreement, or any stock subscription or equityholder agreement (including, for the avoidance of doubt, any principal and interest payable on any Indebtedness issued by the Borrower or any Parent Entity in connection with such prepayment, purchase, repurchase, redemption, defeasance, discharge, retirement or other acquisition), including any Equity Interests rolled over, accelerated or paid out by or to any employee, director, officer, manager, contractor, consultant or advisor (or their respective Controlled Investment Affiliates or Immediate Family Members) of the Borrower, any of its Subsidiaries or any Parent Entity in connection with any transaction; *provided, however*, that the aggregate Restricted Payments made under this clause do not exceed (x) the greater of (i) \$15.0 million and (ii) an amount equal to 1.5% of the Borrower's Consolidated Net Tangible Assets determined as of the end of the Borrower's most recently completed fiscal quarter for which internal financial statements are available in any fiscal year (with unused amounts in any fiscal year being carried over to succeeding fiscal years) or (y) subsequent to the consummation of a Qualifying IPO of the Borrower or any Parent Entity, the greater of (i) \$25.0 million and (ii) an amount equal to 3.0% of the Borrower's Consolidated Net Tangible Assets determined as of the end of the Borrower's most recently completed fiscal quarter for which internal financial statements are available in any fiscal year (with unused amounts in any fiscal year being carried over to succeeding fiscal years); *provided, further*, that such amount in any fiscal year may be increased by an amount not to exceed:

- (a) the cash proceeds from the sale of Equity Interests (other than Disqualified Equity Interests) of the Borrower and, to the extent contributed to the capital of the Borrower, the cash proceeds from the sale of Equity Interests of any Parent Entity, in each case, to any future, present or former employee, director, officer, manager, contractor, consultant or advisor (or their respective Controlled Investment Affiliates or Immediate Family Members) of the Borrower, any of its Subsidiaries or any Parent Entity that occurred after the Closing Date, to the extent the cash proceeds from the sale of such Equity Interests have not otherwise been applied to the payment of Restricted Payments by virtue of clause (c) of the preceding paragraph; plus

- (b) the cash proceeds of key man life insurance policies received by the Borrower or its Restricted Subsidiaries (or any Parent Entity to the extent contributed to the Borrower) after the Closing Date; less
- (c) the amount of any Restricted Payments made in previous calendar years pursuant to clauses (a) and (b) of this clause; *provided* that the Borrower may elect to apply all or any portion of the aggregate increase contemplated by subclauses (a) and (b) of this clause in any fiscal year; *provided, further*, that (i) cancellation of Indebtedness owing to the Borrower or any Restricted Subsidiary from any future, present or former employee, director, officer, manager, contractor, consultant or advisor (or their respective Controlled Investment Affiliates or Immediate Family Members) of the Borrower or Restricted Subsidiaries or any Parent Entity in connection with a repurchase of Equity Interests of the Borrower or any Parent Entity and (ii) the repurchase of Equity Interests deemed to occur upon the exercise of options, warrants or similar instruments if such Equity Interests represents all or a portion of the exercise price thereof and payments, in lieu of the issuance of fractional shares of such Equity Interests or withholding to pay other Taxes payable in connection therewith, in the case of each of clauses (i) and (ii), will not be deemed to constitute a Restricted Payment for purposes of this covenant or any other provision of this Agreement;

(7) the declaration and payment of dividends on Disqualified Equity Interests of the Borrower or any of its Restricted Subsidiaries or preferred stock of a Restricted Subsidiary, issued in accordance with the covenant described under Section 7.03;

(8) payments made or expected to be made by the Borrower or any Restricted Subsidiary in respect of withholding or similar Taxes payable in connection with the exercise or vesting of Equity Interests or any other equity award by any future, present or former employee, director, officer, manager, contractor, consultant or advisor (or their respective Controlled Investment Affiliates or Immediate Family Members) of the Borrower or any Restricted Subsidiary or any Parent Entity and purchases, repurchases, redemptions, defeasances or other acquisitions or retirements of Equity Interests deemed to occur upon the exercise, conversion or exchange of stock options, warrants, equity-based awards or other rights in respect thereof if such Equity Interests represents a portion of the exercise price thereof or payments in respect of withholding or similar Taxes payable upon exercise or vesting thereof;

(9) (a) the declaration and payment of dividends on the common stock, common equity interests or Jones Act Warrants (including, for the avoidance of doubt, in the form of notes, warrants or similar Indebtedness) of the Borrower or any Parent Entity (and any equivalent declaration and payment of a distribution of any security exchangeable for such common stock, common equity interests or Jones Act Warrants to the extent required by the terms of any such exchangeable securities and any Restricted Payment to any such Parent Entity to fund the payment by such Parent Entity of dividends on such entity's Equity Interests), following a public offering of such common stock, common equity interests or Jones Act Warrants (or such exchangeable securities, as applicable), in an amount in any fiscal year not to exceed 6% of the amount of net cash proceeds received by or contributed to the Borrower or any of its Restricted Subsidiaries from any such public offering; or (b) in lieu of all or a portion of the dividends permitted by clause (a), any prepayment, purchase, repurchase, redemption, defeasance, discharge, retirement or other acquisition of the Borrower's Equity Interests (and any equivalent declaration and payment of a distribution of any security exchangeable for such common stock, common equity interests or Jones Act Warrants to the extent required by the terms of any such exchangeable securities and any Restricted Payment to any such Parent Entity to fund the payment by such Parent Entity of dividends on such entity's Equity Interests) for aggregate consideration that, when taken together with dividends permitted by clause (a), does not exceed the amount contemplated by clause (a);

(10) payments by the Borrower, or loans, advances, dividends or distributions to any Parent Entity to make payments, to holders of Equity Interests of the Borrower or any Parent Entity in lieu of the issuance of fractional shares of such Equity Interests, *provided, however*, that any such payment, loan, advance, dividend or distribution shall not be for the purpose of evading any limitation of this covenant or otherwise to facilitate any dividend or other return of capital to the holders of such Equity Interests (as determined in good faith by the Borrower);

(11) distributions, by dividend or otherwise, or other transfer or disposition of shares of Equity Interests of, or equity interests in, an Unrestricted Subsidiary (or a Restricted Subsidiary that owns one or more Unrestricted Subsidiaries and no other material assets), or Indebtedness owed to the Borrower or a Restricted Subsidiary by an Unrestricted Subsidiary (or a Restricted Subsidiary that owns one or more Unrestricted Subsidiaries and no other material assets), in each case, other than Unrestricted Subsidiaries, substantially all of the assets of which are cash and Cash Equivalents;

(12) distributions or payments of Securitization Fees, sales contributions and other transfers of Securitization Assets or Receivables Assets and purchases of Securitization Assets or Receivables Assets pursuant to a Securitization Repurchase Obligation, in each case in connection with a Qualified Securitization Financing or Receivables Facility;

(13) (i) so long as, immediately after giving pro forma effect to the payment of any such Restricted Payment and the incurrence of any Indebtedness the net proceeds of which are used to make such Restricted Payment, no Default or Event of Default has occurred and is continuing (or would result therefrom), Restricted Payments (including, for the avoidance of doubt, in the form of notes, warrants or similar Indebtedness and including loans or advances) in an aggregate amount outstanding at the time made not to exceed the greater of (x) \$50.0 million and (y) an amount equal to 6.0% of the Borrower's Consolidated Net Tangible Assets determined as of the end of the Borrower's most recently completed fiscal quarter for which internal financial statements are available, and (ii) any Restricted Payments, so long as, immediately after giving pro forma effect to the payment of any such Restricted Payment and the incurrence of any Indebtedness the net proceeds of which are used to make such Restricted Payment, (A) no Default or Event of Default has occurred and is continuing (or would result therefrom) and (B) the Total Net Leverage Ratio shall be no greater than 1.50 to 1.00; *provided, however*, in the case of this clause (13), the Borrower shall be in pro forma compliance with the Financial Covenants upon giving effect thereto;

(14) payments or distributions to dissenting stockholders pursuant to applicable law (including in connection with, or as a result of, exercise of dissenters' or appraisal rights and the settlement of any claims or action (whether actual, contingent or potential)), pursuant to or in connection with a merger, amalgamation, consolidation or transfer of assets that complies with Section 7.04;

(15) any Restricted Payment made in connection with a Permitted Intercompany Activity or related transactions; *provided* that Restricted Payments in connection with Permitted Intercompany Activities between the Borrower and Restricted Subsidiaries that are Loan Parties, on the one hand, and Restricted Subsidiaries that are not Loan Parties or any other Person, on the other hand, shall only be permitted so long as an Event of Default has not occurred and is continuing (other than, for the avoidance of doubt, Permitted Intercompany Activities in accordance with clause (A)(i) of the definition thereof); and

(16) the making of (i) cash payments made by the Borrower or any of its Restricted Subsidiaries in satisfaction of the conversion obligation upon conversion into the Borrower equity of convertible Indebtedness issued in a convertible notes offering (it being understood that the satisfaction of such conversion obligation in cash shall not increase the Available Amount) and (ii) any payments by the Borrower or any of its Restricted Subsidiaries pursuant to the initiation, exercise, settlement or termination of any Hedge Agreement (clauses (i) and (ii)), a **"Conversion Settlement"**).

"Permitted Plan" means any employee benefits plan of the Borrower or any of its Affiliates and any Person acting in its capacity as trustee, agent or other fiduciary or administrator of any such plan.

"Permitted Reflagging Transaction" means any transaction or action by a Loan Party resulting in (i) the Vessel Collateral being reflagged under the laws of another Approved Flag Jurisdiction so long as no less than five (5) Business Days prior written notice has been provided to the Administrative Agent (or such shorter period as the Administrative Agent shall agree in its discretion) and either (A) such Vessel would thereafter constitute an Excluded Foreign Flag Vessel or (B) the Required Lenders have provided their consent thereto (such consent not to be unreasonably withheld, conditioned or delayed) or (ii) any Excluded Vessel being reflagged (x) from a non-Approved Flag Jurisdiction to another non-Approved Flag Jurisdiction or to an Approved Flag Jurisdiction or (x) from an Approved Flag Jurisdiction to another Approved Flag Jurisdiction.

“Permitted Tax Amount” means for any taxable year (or portion thereof) in which Borrower is a member of a group filing a consolidated, combined group, affiliated, unitary or similar Tax return with any Parent Entity that is a parent of such group, any dividends or other distributions to fund any income taxes for which such Parent Entity is liable up to an amount not to exceed the amount of any such Taxes that the Borrower and its subsidiaries would have been required to pay on a separate company basis or on a consolidated basis calculated as if the Borrower and its subsidiaries had paid Tax on a consolidated, combined, group, affiliated, unitary or similar basis on behalf of a consolidated, combined affiliated, unitary or similar group consisting only of the Borrower and its subsidiaries with the Borrower treated as the parent corporation for U.S. federal income tax purposes, taking into account any net operating losses or other attributes of the Borrower and its subsidiaries, less any amounts paid directly by the Borrower and its subsidiaries with respect to such income taxes; provided that in the case of any such amounts attributable to any Taxes of any Unrestricted Subsidiaries, the Borrower shall use commercially reasonable efforts to cause such Unrestricted Subsidiary (or any other Unrestricted Subsidiary) to make cash distributions to such Borrower or its Restricted Subsidiaries in an aggregate amount that the Borrower determines in its reasonable discretion equals the Tax liability of the Unrestricted Subsidiary had such Unrestricted Subsidiary been required to pay Taxes on a separate company basis.

“Permitted Unsecured Refinancing Debt” means any Second Lien Credit Agreement Refinancing Indebtedness that is unsecured debt.

“Person” means any natural person, corporation, limited liability company, trust, joint venture, association, company, partnership, Governmental Authority or other entity.

“Plan” means any material “employee benefit plan” (as such term is defined in Section 3(3) of ERISA) established, sponsored, maintained or contributed to (or required to be contributed to) by any Loan Party or, with respect to any such plan that (i) is subject to Section 412 of the Code, Section 302 of ERISA or Title IV of ERISA or (ii) for which any Loan Party has liability under ERISA or the Code as a result of being in a “controlled group” with any of their respective ERISA Affiliates.

“Platform” has the meaning specified in Section 6.02.

“Pledged Collateral” has the meaning specified in the Collateral Agreement.

“Pledged Equity” has the meaning specified in the Collateral Agreement.

“Pre-Approved Lender” means each bank or financial institution set forth on a list agreed to between the Borrower and the Administrative Agent and distributed to the Lenders prior to the date of this Agreement.

“Preferred Stock” as applied to the Equity Interests of any Person, means Equity Interests of any class or classes (however designated) which is preferred as to the payment of dividends or as to the distribution of assets upon any voluntary or involuntary liquidation or dissolution of such Person, over shares of Equity Interests of any other class of such Person.

“**Prepayment Date**” has the meaning specified in Section 2.07(b)(iii).

“**Prepayment Notice**” means a written notice made pursuant to Section 2.07(a)(i), substantially in the form of Exhibit J.

“**Prime Rate**” means the rate of interest last quoted by The Wall Street Journal as the “Prime Rate” in the U.S. or, if The Wall Street Journal ceases to quote such rate, the highest *per annum* interest rate published by the Federal Reserve Board in Federal Reserve Statistical Release H.15 (519) (Selected Interest Rates) as the “bank prime loan” rate or, if such rate is no longer quoted therein, any similar rate quoted therein (as determined by the Administrative Agent) or any similar release by the Federal Reserve Board (as determined by the Administrative Agent).

“**Priority Waterfall**” means the provisions of Section 9.03.

“**Private-Side Information**” means any information with respect to the Borrower and its Subsidiaries that is not Public-Side Information.

“**Pro Forma Basis**” and “**Pro Forma Effect**” mean, with respect to compliance with any test or covenant or calculation hereunder, the determination or calculation of such test, covenant or ratio in accordance with the definition of “Consolidated Adjusted EBITDA”, the definition of “Fixed Charge Coverage Ratio” and Section 1.08.

“**Pro Rata Share**” means (a) with respect to all payments, computations and other matters relating to the Commitment of any Lender at any time a fraction (expressed as a percentage, carried out to the ninth decimal place), the numerator of which is the unused Commitment of that Lender and the denominator of which is the aggregate unused Commitments of all Lenders at such time and (b) with respect to all payments, computations and other matters relating to the Revolving Loans of any Lender and any Letters of Credit issued or participations purchased therein by any Lender (expressed as a percentage, carried out to the ninth decimal place), the numerator of which is the amount of the Revolving Exposure of that Lender and the denominator of which is the aggregate Revolving Exposure of all Lenders at such time.

“**PTE**” means a prohibited transaction class exemption issued by the U.S. Department of Labor, as any such exemption may be amended from time to time.

“**Public Company Costs**” means, as to any Person, costs associated with, or in anticipation of, or preparation for, compliance with the requirements of the Sarbanes-Oxley Act of 2002 and the rules and regulations promulgated in connection therewith and costs relating to compliance with the provisions of the Securities Act and the Exchange Act or any other comparable body of laws, rules or regulations, as companies with listed equity, directors’ compensation, fees and expense reimbursement, costs relating to enhanced accounting functions and investor relations, stockholder meetings and reports to stockholders, directors’ and officers’ insurance and other executive costs, legal and other professional fees, listing fees and other transaction costs, in each case to the extent arising solely by virtue of the listing of such Person’s equity securities on a national securities exchange or issuance of public debt securities.

“**Public Lenders**” means Lenders that do not wish to receive Private-Side Information.

“**Public-Side Information**” means (a) at any time prior to a Parent Entity or the Borrower or any of their respective Subsidiaries becoming the issuer of any Traded Securities, information that the Borrower determines (i) would be required by applicable Law to be publicly disclosed in connection with an issuance by such Parent Entity or the Borrower or any of their respective Subsidiaries of its debt or equity securities pursuant to a registered public offering made at such time or (ii) not material to make an investment decision with respect to securities of such Parent Entity or the Borrower or any of their respective Subsidiaries (for purposes of United States federal, state or other applicable securities laws), and (b) at any time on or after such Parent Entity or the Borrower or any of their respective Subsidiaries becoming the issuer of any Traded Securities, information that does not constitute material non-public information (within the meaning of United States federal, state or other applicable securities laws) with respect to such Parent Entity or the Borrower or any of their respective Subsidiaries or any of their respective securities.

“**Purchase Money Obligations**” means any Indebtedness incurred to finance or refinance the acquisition, leasing, expansion, construction, installation, replacement, repair or improvement of property (real or personal), equipment or assets (including Equity Interests), and whether acquired through the direct acquisition of such property or assets, or the acquisition of the Equity Interests of any Person owning such property or assets, or otherwise.

“**QFC**” has the meaning assigned to the term “qualified financial contract” in, and shall be interpreted in accordance with, 12 U.S.C. 5390(c)(8)(D).

“**QFC Credit Support**” has the meaning specified in Section 11.26(a).

“**QSC Adjustment**” has the meaning specified in the definition of “Consolidated Adjusted EBITDA”.

“**Qualified Equity Interests**” means any Equity Interests that are not Disqualified Equity Interests.

“**Qualified Securitization Financing**” means any Securitization Facility that meets the following conditions: (i) the Board of Directors shall have determined in good faith that such Securitization Facility (including financing terms, covenants, termination events and other provisions) is in the aggregate economically fair and reasonable to the Borrower and its Restricted Subsidiaries, (ii) all sales of Securitization Assets and related assets by the Borrower or any Restricted Subsidiary to the Securitization Subsidiary or any other Person are made for fair consideration (as determined in good faith by the Borrower) and (iii) the financing terms, covenants, termination events and other provisions thereof shall be fair and reasonable terms (as determined in good faith by the Borrower) and may include Standard Securitization Undertakings.

“**Qualified Services Contract**” means, with respect to any newly delivered, acquired or reactivated Specified Vessel (including, without limitation, offshore supply vessel, offshore service vessel, multi-purpose support vessels, service operation vessels, commissioning service operation vessels, other offshore wind-related vessels, construction support offshore vessels, flotels, other specialty vessels, other construction vessels, crewboats, fast supply vessels, anchor handling and towing supply vessels, tankers, tugs and tank barges) within 365 days of such vessel’s original delivery date, acquisition date or reactivation date, as applicable, a contract that the Board of Directors, acting in good faith, designates as a “Qualified Services Contract”, which contract: (a) provides for services to be performed by the Borrower or one of its Restricted Subsidiaries involving the use of such vessel or a charter (bareboat or otherwise) of such vessel by the Borrower or one of its Restricted Subsidiaries, in either case for a minimum period of at least 3 months; and (b) provides for a fixed or minimum dayrate or fixed or minimum volume or freight rates (including, if applicable, lay time and demurrage) for such vessel.

“**Qualifying IPO**” means (a) an underwritten public Equity Offering of the Borrower or any Parent Entity or (b) a transaction where the Equity Interests of the Borrower or any Parent Entity thereof is listed on any United States national securities exchange.

“**RCF Collateral Coverage Ratio**” means, as of any Measurement Date, the ratio of (a) Collateral Value Amount to (b) Consolidated Total Debt outstanding under the Facility (including for the avoidance of doubt, under any Incremental Facilities), net of unrestricted cash and Cash Equivalents of up to \$25 million, in each case, as of such date of determination.

“**RCF Collateral Release Ratio**” means the ratio of (i) the Vessel Collateral Value Amount (as determined, if the Borrower so elects, by the most recent appraisals required to be delivered under Section 6.02(b) or otherwise delivered hereunder) in respect of Vessels which are not Stacked Vessels, to (ii) the aggregate principal amount of Commitments under the Facility (including for the avoidance of doubt, under any Incremental Facilities).

“**Receivables Assets**” means (a) any accounts receivable (including, but not limited to, trade receivables from customers and non-trade receivables, such as tax receivables from government or quasi-government agencies) owed to the Borrower or a Restricted Subsidiary subject to a Receivables Facility and the proceeds thereof and (b) all collateral securing such accounts receivable, all contracts and contract rights, guarantees or other obligations in respect of such accounts receivable, all records with respect to such accounts receivable and any other assets customarily transferred together with accounts receivable in connection with a non-recourse accounts receivable factoring arrangement.

“**Receivables Facility**” means an arrangement between the Borrower or a Subsidiary and a commercial bank, an asset based lender or other financial institution or an Affiliate thereof pursuant to which (a) the Borrower or such Subsidiary, as applicable, sells (directly or indirectly) to such commercial bank, asset based lender or other financial institution (or such Affiliate) Receivables Assets and (b) the obligations of the Borrower or such Restricted Subsidiary, as applicable, thereunder are non-recourse (except for Securitization Repurchase Obligations) to the Borrower and such Subsidiary and (c) the financing terms, covenants, termination events and other provisions thereof shall be on market terms (as determined in good faith by the Borrower) and may include Standard Securitization Undertakings, and shall include any guaranty in respect of such arrangements.

“**Recipient**” means (a) any Agent, (b) any Lender and (c) any Issuing Bank, as applicable.

“**Reference Time**” with respect to any setting of the then-current Benchmark means the time determined by the Administrative Agent in its reasonable discretion.

“**Refinance**” means, in respect of any Indebtedness, to refinance, extend, renew, defease, amend, increase, modify, supplement, restructure, refund, replace or repay, or to issue other indebtedness or enter into alternative financing arrangements, in exchange or replacement for such indebtedness, including by adding or replacing lenders, creditors, agents, borrowers and/or guarantors, and including in each case, but not limited to, after the original instrument giving rise to such indebtedness has been terminated. “**Refinanced**” and “**Refinancing**” have correlative meanings.

“**Refinanced Debt**” has the meaning assigned to such term in the definition of “Second Lien Credit Agreement Refinancing Indebtedness.”

“**Refinancing Amendment**” means an amendment to this Agreement executed by each of (a) the Borrower, (b) the Administrative Agent and (c) each Additional Lender and Lender that agrees to provide any portion of the Refinancing Indebtedness being incurred pursuant thereto, in accordance with Section 2.17.

“**Refinancing Commitments**” means one or more Classes of Revolving Loan commitments hereunder that result from a Refinancing Amendment.

“**Refinancing Indebtedness**” means Indebtedness that is incurred to refund, refinance, replace, exchange, renew, repay or extend (including pursuant to any defeasance or discharge mechanism) any Indebtedness (or unutilized commitment in respect of Indebtedness) existing on the Closing Date or incurred (or established) in compliance with this Agreement (including Indebtedness of the Borrower that refinances Indebtedness of any Restricted Subsidiary and Indebtedness of any Restricted Subsidiary that refinances Indebtedness of the Borrower or another Restricted Subsidiary) including Indebtedness that refinances Refinancing Indebtedness, and Indebtedness incurred pursuant to a commitment that refinances any Indebtedness or unutilized commitment; *provided, however*, that

(i) (a) such Refinancing Indebtedness has a Weighted Average Life to Maturity at the time such Refinancing Indebtedness is incurred that is not less than the remaining Weighted Average Life to Maturity of the Indebtedness being refunded, refinanced, replaced, exchanged, renewed, repaid or extended (or requires no or nominal payments in cash (other than interest payments) prior to the date that is ninety-one (91) days after the Maturity Date); and (b) to the extent such Refinancing Indebtedness refinances Subordinated Indebtedness, such Refinancing Indebtedness is Subordinated Indebtedness, respectively, and, in the case of Subordinated Indebtedness, is subordinated to the Obligations on terms at least as favorable to the Lenders as those contained in the documentation governing the Indebtedness being refinanced,

(ii) Refinancing Indebtedness shall not include Indebtedness of a Subsidiary of the Borrower that is not a Guarantor that refinances Indebtedness of the Borrower or a Guarantor (unless such Subsidiary was an obligor in respect of the Indebtedness so refinanced) or (b) Indebtedness of the Borrower or a Restricted Subsidiary that refinances Indebtedness of an Unrestricted Subsidiary; and

(iii) such Refinancing Indebtedness is incurred in an aggregate principal amount (or if issued with original issue discount, an aggregate issue price) that is equal to or less than the sum of (x) the aggregate principal amount (or if issued with original issue discount, the aggregate accreted value) then outstanding of the Indebtedness being Refinanced, *plus* (y) an amount equal to any unutilized commitment relating to the Indebtedness being refinanced or otherwise then outstanding under a financing arrangement being refinanced to the extent the unutilized commitment being refinanced could be drawn in compliance with Section 7.03 immediately prior to such refinancing, *plus* (z) accrued and unpaid interest, dividends, premiums (including tender premiums), defeasance costs, underwriting discounts, fees, costs and expenses (including original issue discount, upfront fees or similar fees) in connection with such refinancing. Refinancing Indebtedness in respect of any Indebtedness may be incurred from time to time after the termination, discharge or repayment of any such Indebtedness.

Refinancing Indebtedness will be deemed to include any Registered Equivalent Notes issued in exchange therefor.

“Refinancing Loans” means one or more Classes of Revolving Loans that result from a Refinancing Amendment.

“Refunding Equity Interests” has the meaning specified in the definition of “Permitted Payments.”

“Register” has the meaning specified in Section 11.07(c).

“Registered Equivalent Notes” means, with respect to any notes originally issued in a Rule 144A or other private placement transaction under the Securities Act, substantially identical notes (having the same Guarantees) issued in a dollar-for-dollar exchange therefor pursuant to an exchange offer registered with the SEC.

“Regulated Entity” means (a) any swap dealer registered with the U.S. Commodity Futures Trading Commission or security-based swap dealer registered with the U.S. Securities and Exchange Commission, as applicable; or (b) any commercial bank with a consolidated combined capital and surplus of at least \$5,000,000,000 that is (i) a U.S. depository institution the deposits of which are insured by the Federal Deposit Insurance Corporation; (ii) a corporation organized under Section 25A of the U.S. Federal Reserve Act of 1913; (iii) a branch, agency or commercial lending company of a foreign bank operating pursuant to approval by and under the supervision of the Board under 12 C.F.R. part 211; (iv) a non-U.S. branch of a foreign bank managed and controlled by a U.S. branch referred to in clause (iii); or (v) any other U.S. or non-U.S. depository institution or any branch, agency or similar office thereof supervised by a bank regulatory authority in any jurisdiction.

“**Regulation U**” means Regulation U of the FRB as from time to time in effect and all official rulings and interpretations thereunder or thereof, or any successor thereto.

“**Reimbursement Obligations**” has the meaning specified in Section 2.04(c)(i).

“**Related Indemnified Person**” of an Indemnatee means (a) any controlling person or controlled affiliate of such Indemnatee, (b) the respective directors, partners, officers, or employees of such Indemnatee or any of its controlling persons or controlled affiliates and (c) the respective agents of such Indemnatee or any of its controlling persons or controlled affiliates, in the case of this clause (c), acting at the instructions of such Indemnatee, controlling person or such controlled affiliate; *provided* that each reference to a controlled affiliate or controlling person in this definition shall pertain to a controlled affiliate or controlling person involved in the negotiation or syndication of the Facility.

“**Related Taxes**” means (i) any franchise and excise taxes, and other fees and expenses, required to maintain a Parent Entity’s corporate existence and good standing under applicable law (including any such Taxes, fees and expenses (such as any corporate operating and overhead expenses) attributable to the ownership or operation of the Borrower and its Subsidiaries); and (ii) any Permitted Tax Amount.

“**Release Actions**” has the meaning specified in Section 10.11.

“**Release Certificate**” has the meaning specified in Section 10.11.

~~“**Release/Subordination Event**” has the meaning specified in Section 10.11.~~

“**Relevant Governmental Body**” means the Federal Reserve Board and/or the NYFRB, or a committee officially endorsed or convened by the Federal Reserve Board and/or the NYFRB or, in each case, any successor thereto.

“**Relevant Person**” means:

(a) the Borrower and each of its Subsidiaries; and

(b) each of their directors, officers and employees.

“**Reorganization Transactions**” any reorganizations and other activities in connection with or related to a Qualifying IPO of the Borrower or any Parent Entity (including, for the avoidance of doubt, any transfer (including by contribution, merger or otherwise) of interests in the Borrower to a wholly owned domestic subsidiary of a Parent Entity).

“**Reportable Event**” means, with respect to any Pension Plan, any of the events set forth in Section 4043(c) of ERISA or the regulations issued thereunder, other than events for which the 30 day notice period has been waived by applicable regulation.

“**Required Lenders**” means, as of any date of determination, Lenders having or holding more than 50.1% of the sum of the aggregate Revolving Exposure of all Lenders; *provided* that the aggregate Revolving Exposure of or held by any Defaulting Lender shall be excluded for purposes of making a determination of Required Lenders; *provided, further*, that, at any time there are three or more Lenders (who are not Affiliates of one another), “Required Lenders” must include at least two Lenders (who are not Affiliates of one another). The Commitment and Loans of any Defaulting Lender shall be disregarded in determining Required Lenders at any time.

“**Resolution Authority**” means an EEA Resolution Authority or, with respect to any UK Financial Institution, a UK Resolution Authority.

“**Responsible Officer**” means the executive chairman, chief executive officer, president, executive vice president, senior vice president (finance), vice president (finance), chief financial officer, chief accounting officer, treasurer or assistant treasurer or other similar officer or Person performing similar functions of a Loan Party and, as to any document delivered on the Closing Date, any secretary or assistant secretary of a Loan Party. Any document delivered hereunder that is signed by a Responsible Officer of a Loan Party shall be conclusively presumed to have been authorized by all necessary corporate, partnership and/or other action on the part of such Loan Party and such Responsible Officer shall be conclusively presumed to have acted on behalf of such Loan Party. Unless otherwise specified, all references herein to a “Responsible Officer” shall refer to a Responsible Officer of the Borrower.

“**Restricted**” means, when referring to cash or Cash Equivalents of the Borrower or any of the Restricted Subsidiaries, that such cash or Cash Equivalents appear (or would be required by GAAP to appear) as “restricted” on a consolidated balance sheet of such Borrower or such Restricted Subsidiary (unless such appearance is related to a restriction in favor of the Administrative Agent).

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

“**Restricted Party**” means a Person that is (a) listed on any Sanctions List or targeted by Sanctions (whether designated by name or by reason of being included in a class of person), (b) located in or incorporated under the laws of any country or territory that is the target of comprehensive, country- or territory-wide Sanctions (at the time of this Agreement, the so - called Donetsk People’s Republic, the so- called Luhansk People’s Republic, the Crimea Region of Ukraine, Cuba, Iran, North Korea and Syria), or (c) directly or indirectly owned or controlled (as such terms are defined in applicable Sanctions) by, or acting on behalf, at the direction, or for the benefit, of a person referred to in (a) and/or (to the extent relevant under Sanctions) (b) above.

“**Restricted Payment**” has the meaning specified in [Section 7.06](#).

“**Restricted Subsidiary**” means any Subsidiary of the Borrower other than an Unrestricted Subsidiary.

“**Revolving Credit Facility Net Leverage Ratio**” means, with respect to any Test Period, the ratio of (a) (i) the principal amount of the Loans outstanding under this Agreement as of the last day of such Test Period *minus* (ii) the aggregate amount of cash and Cash Equivalents of the Borrower and the Restricted Subsidiaries as of such date that is not Restricted in an amount not to exceed \$25,000,000 to (b) Consolidated Adjusted EBITDA of the Borrower for such Test Period.

“**Revolving Exposure**” means, with respect to any Lender as of any date of determination, (a) prior to the termination of the Commitments, that Lender’s Commitment; and (b) after the termination of the Commitments, the sum of (i) the aggregate outstanding principal amount of the Revolving Loans of that Lender, (ii) in the case of each Issuing Bank, the aggregate Letter of Credit Usage in respect of all Letters of Credit issued by that Lender (net of any participations by Lenders in such Letters of Credit) and (iii) the aggregate amount of all participations by that Lender in any outstanding Letters of Credit or any unreimbursed drawing under any Letter of Credit.

“**Revolving Lender**” means a Lender having a Commitment or other Revolving Exposure.

“**Revolving Loan Note**” means a promissory note in the form of [Exhibit B](#), as it may be amended, restated, amended and restated, supplemented or otherwise modified from time to time.

“**Revolving Loans**” has the meaning specified in [Section 2.02\(a\)](#).

“**S&P**” means S&P Global Ratings, and any successor thereto.

“**Sale Leaseback Transaction**” means a sale leaseback transaction with respect to all or any portion of any real property owned by a Loan Party or other property customarily included in such transactions.

“**Same Day Funds**” means disbursements and payments in immediately available funds.

“**Sanctions**” means any applicable (to any Relevant Person and/or Loan Party as the context provides) laws, regulations or orders concerning any trade, economic or financial sanctions or embargoes imposed, administered or enforced from time to time by a Sanctions Authority.

“**Sanctions Authority**” means the Norwegian State, the United Nations, the European Union, the United Kingdom, the United States of America (including the Office of Foreign Assets Control of the U.S. Department of the Treasury or the U.S. Department of State), and any of their respective legislative, executive, enforcement and/or regulatory authorities or bodies acting in connection with Sanctions.

“**Sanctions List**” means: (a) the lists of Sanctions designations and/or targets maintained by any Sanctions Authority and/or (b) any other Sanctions designation or target listed and/or adopted by a Sanctions Authority, in each case, as amended, supplemented or replaced from time to time.

“**SEC**” means the Securities and Exchange Commission, or any Governmental Authority succeeding to any of its principal functions.

“**Second Lien Agent**” has the meaning specified in the definition of “Existing Junior Lien Intercreditor Agreement.”

“**Second Lien Credit Agreement**” means that certain Second Lien Term Loan Credit Agreement, dated as of September 4, 2020, among the Borrower, as parent borrower, Hornbeck Offshore Services, LLC, as co-borrower, Wilmington Trust, National Association, as administrative agent and as collateral agent, and the lenders party thereto from time to time as amended, restated, supplemented or modified from time to time.

“**Second Lien Credit Agreement Refinancing Indebtedness**” means Indebtedness of a Borrower or any Restricted Subsidiary in the form of term loans, notes or revolving commitments; *provided that*:

- (a) such Indebtedness is incurred or otherwise obtained (including by means of the extension or renewal of existing Indebtedness) in exchange for, or to extend, renew, upsize, replace, or refinance, in whole or part, Indebtedness under the Second Lien Credit Agreement or constituting Second Lien Credit Agreement Refinancing Indebtedness (“**Refinanced Debt**”);
- (b) (i) the Weighted Average Life to Maturity of such Indebtedness is equal to or longer than the remaining Weighted Average Life to Maturity of the Refinanced Debt, and (ii) the final maturity date of such Second Lien Credit Agreement Refinancing Indebtedness may not be earlier than ninety-one (91) days after the latest Maturity Date then in effect; and
- (c) the Second Lien Credit Agreement Refinancing Indebtedness shall be either (i) secured by the Collateral on a first lien basis with the Obligations and subject to an Equal Priority Intercreditor Agreement or on a junior lien basis with the Collateral and subject to a Junior Lien Intercreditor Agreement; *provided, however*, in the event any assets securing such Second Lien Credit Agreement Refinancing Indebtedness do not constitute Collateral, the Borrower shall be required to offer the Collateral Agent such additional assets as Collateral and notify the Administrative Agent of such offer, and if the Administrative Agent so requests, take all such actions required to so provide such Collateral to the Collateral Agent for the benefit of the Secured Parties or (ii) unsecured.

“**Secured Hedge Agreement**” means any Hedge Agreement that is entered into by and between any Loan Party and any Hedge Bank and designated in writing by the Hedge Bank and the Borrower to the Administrative Agent as a “Secured Hedge Agreement.”

“**Secured Net Leverage Ratio**” means, with respect to any Test Period, the ratio of (a) Consolidated Secured Net Debt outstanding as of the last day of such Test Period to (b) Consolidated Adjusted EBITDA of the Borrower for such Test Period.

“**Secured Parties**” means, collectively, the Administrative Agent, the Collateral Agent, the Lenders, each Issuing Bank, each Hedge Bank, each Cash Management Bank, the Supplemental Administrative Agent and each co-agent or sub-agent appointed by the Administrative Agent from time to time pursuant to Section 10.05 and Section 10.12.

“**Securities Account**” has the meaning specified in the Uniform Commercial Code.

“**Securities Act**” means the U.S. Securities Act of 1933, as amended.

“**Securitization Assets**” means (a) any accounts receivable (whether trade or non-trade receivables), mortgage receivables, loan receivables, royalty, franchise fee, license fee, patent or other revenue streams and other rights to payment or related assets and the proceeds thereof and (b) all collateral securing such receivable or asset, all contracts and contract rights (including licenses and leases), guarantees or other obligations in respect of such receivable or asset, lockbox accounts and records with respect to such account or asset and any other assets customarily transferred (or in respect of which security interests are customarily granted) together with accounts or assets in connection with a securitization, factoring or receivable sale transaction.

“**Securitization Facility**” means any of one or more securitization, financing, factoring or sales transactions, as amended, supplemented, modified, extended, renewed, restated or refunded from time to time, pursuant to which the Borrower or any of the Restricted Subsidiaries sells, transfers, pledges or otherwise conveys any Securitization Assets (whether now existing or arising in the future) to a Securitization Subsidiary or any other Person.

“**Securitization Fees**” means distributions or payments made directly or by means of discounts with respect to any Securitization Asset or Receivables Asset or participation interest therein issued or sold in connection with, and other fees, expenses and charges (including commissions, yield, interest expense and fees and expenses of legal counsel) paid in connection with, any Qualified Securitization Financing or Receivables Facility.

“**Securitization Financing**” means any transaction or series of transactions that may be entered into by the Borrower or any of its Subsidiaries pursuant to which such Borrower or any of its Subsidiaries may sell, convey or otherwise transfer to (a) a Securitization Subsidiary (in the case of a transfer by the Borrower or any of its Subsidiaries) or (b) any other Person (in the case of a transfer by a Securitization Subsidiary), or may grant a security interest in, any Securitization Assets of such Borrower or any of its Subsidiaries, and any assets related thereto, including all collateral securing such Securitization Assets, all contracts and all guarantees or other obligations in respect of such Securitization Assets, proceeds of such Securitization Assets and other assets that are customarily transferred or in respect of which security interests are customarily granted in connection with asset securitization transactions involving Securitization Assets.

“**Securitization Repurchase Obligation**” means any obligation of a seller of Securitization Assets or Receivables Assets in a Qualified Securitization Financing or a Receivables Facility to repurchase or otherwise make payments with respect to Securitization Assets arising as a result of a breach of a representation, warranty or covenant or otherwise, including as a result of a receivable or portion thereof becoming subject to any asserted defense, dispute, offset or counterclaim of any kind as a result of any action taken by, any failure to take action by or any other event relating to the seller.

“**Securitization Subsidiary**” means any Subsidiary of the Borrower in each case formed for the purpose of and that solely engages in one or more Qualified Securitization Financings or Receivables Facilities and other activities reasonably related thereto or another Person formed for this purpose.

“**Senior Indebtedness**” has the meaning specified in Section 11.02(b)(viii).

“**Settlement**” means the transfer of cash or other property with respect to any credit or debit card charge, check or other instrument, electronic funds transfer, or other type of paper-based or electronic payment, transfer, or charge transaction for which a Person acts as a processor, remitter, funds recipient or funds transmitter in the ordinary course of its business.

“**Settlement Asset**” means any cash, receivable or other property, including a Settlement Receivable, due or conveyed to a Person in consideration for a Settlement made or arranged, or to be made or arranged, by such Person or an Affiliate of such Person.

“**Settlement Indebtedness**” means any payment or reimbursement obligation in respect of a Settlement Payment.

“**Settlement Lien**” means any Lien relating to any Settlement or Settlement Indebtedness (and may include, for the avoidance of doubt, the grant of a Lien in or other assignment of a Settlement Asset in consideration of a Settlement Payment, Liens securing intraday and overnight overdraft and automated clearing house exposure, and similar Liens).

“**Settlement Payment**” means the transfer, or contractual undertaking (including by automated clearing house transaction) to effect a transfer, of cash or other property to effect a Settlement.

“**Settlement Receivable**” means any general intangible, payment intangible, or instrument representing or reflecting an obligation to make payments to or for the benefit of a Person in consideration for a Settlement made or arranged, or to be made or arranged, by such Person.

“**Shipowner**” means each Loan Party that owns a Vessel that is Vessel Collateral.

“**Short Term Advances**” has the meaning specified in the definition of “Indebtedness.”

“**Similar Business**” means (a) any businesses, services or activities engaged in by the Borrower or any of its Subsidiaries or any Associates on the Closing Date, (b) any businesses, services and activities engaged in by the Borrower or any of its Subsidiaries or any Associates that are related, complementary, incidental, ancillary or similar to any of the foregoing or are extensions or developments of any thereof, and (c) a Person conducting a business, service or activity specified in clauses (a) and (b), and any Subsidiary thereof. For the avoidance of doubt, any Person that invests in or owns Equity Interests or Indebtedness of another Person that is engaged in a Similar Business shall be deemed to be engaged in a Similar Business.

“**SOFR**” means, with respect to any Business Day, a rate *per annum* equal to the secured overnight financing rate for such Business Day published by the SOFR Administrator on the SOFR Administrator’s Website at approximately 8:00 a.m. (New York City time) on the immediately succeeding Business Day.

“**SOFR Administrator**” means the NYFRB (or a successor administrator of the secured overnight financing rate).

“**SOFR Administrator’s Website**” means the NYFRB’s website, currently at <http://www.newyorkfed.org>, or any successor source for the secured overnight financing rate identified as such by the SOFR Administrator from time to time.

“**SOFR Rate Loan**” means a Loan, denominated in Dollars, that bears interest at the applicable Adjusted Term SOFR.

“**Solvent**” and “**Solvency**” mean, with respect to any Person on any date of determination, that on such date (a) the fair value of the assets of such Person, on a consolidated basis with its Subsidiaries, exceeds its debts and liabilities, subordinated, contingent or otherwise, on a consolidated basis, (b) the present fair saleable value of the property of such Person, on a consolidated basis with its Subsidiaries, is greater than the amount that will be required to pay the probable liability of its debts and other liabilities, subordinated, contingent or otherwise, on a consolidated basis, as such debts and other liabilities become absolute and matured, (c) such Person, on a consolidated basis with its Subsidiaries, is able to pay its debts and liabilities, subordinated, contingent or otherwise, on a consolidated basis, as such liabilities become absolute and matured and (d) such Person, on a consolidated basis with its Subsidiaries, is not engaged in, and is not about to engage in, business for which it has unreasonably small capital. The amount of any contingent liability at any time shall be computed as the amount that would reasonably be expected to become an actual and matured liability.

“**SPC**” has the meaning specified in Section 11.07(g).

“**Specified Event of Default**” means an Event of Default pursuant to Section 9.01(a) or an Event of Default pursuant to Section 9.01(f).

“**Specified Qualified Appraisers**” means DLS Marine Survey and Appraisal, Clarksons, Fearnleys, Pareto, Seabrokers Group, S&P Global, Arctic Offshore or Dufour Laskay & Strouse Inc (or any successor thereof) and other appraisers with the prior consent of the Administrative Agent (such consent not to be unreasonably withheld, conditioned or delayed).

“**Specified Vessel**” has the meaning specified in the definition of “Consolidated Adjusted EBITDA”.

“**Sponsors**” means, individually or collectively, any fund, partnership, co-investment vehicles and/or similar vehicles or accounts, in each case managed or advised by Ares Management Corp., Whitebox Advisors LLC or Highbridge Capital Management, LLC or any of their respective Affiliates, or any of their respective successors.

“**Stacked Vessel**” means a Vessel that has been temporarily or permanently removed from service in the exercise of the Borrower’s reasonable judgment consistent with reasonable business practices in light of the facts known at the time the decision was made (including, without limitation, operating costs and available marketing opportunities) or in the case of any after-acquired Vessel (whether by acquiring the Vessel or the entity that owns such Vessel) that was stacked at the time of its acquisition or thereafter.

“**Standard Securitization Undertakings**” means representations, warranties, covenants, guarantees and indemnities entered into by the Borrower or any Subsidiary of the Borrower which the Borrower has determined in good faith to be customary in a Securitization Facility or Receivables Facility, including those relating to the servicing of the assets of a Securitization Subsidiary, it being understood that any Securitization Repurchase Obligation shall be deemed to be a Standard Securitization Undertaking or, in the case of a Receivables Facility, a non-credit related recourse accounts receivable factoring arrangement.

“**Stated Amount**” means, with respect to any Letter of Credit at any time, the aggregate amount available to be drawn thereunder at such time (regardless of whether any conditions for drawing could then be met).

“**Subordinated Indebtedness**” means, with respect to any person, any Indebtedness (whether outstanding on the Closing Date or thereafter incurred) which is expressly subordinated in right of payment to the Loans pursuant to a written agreement (but excluding any First Lien Debt).

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

(1) any corporation, association, or other business entity (other than a partnership, joint venture, limited liability company or similar entity) of which more than 50% of the total voting power of shares of Equity Interests entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers or trustees thereof is at the time of determination owned or controlled, directly or indirectly, by such Person or one or more of the other Subsidiaries of that Person or a combination thereof;

(2) any partnership, joint venture, limited liability company or similar entity of which:

- (a) more than 50% of the capital accounts, distribution rights, total equity and voting interests or general or limited partnership interests, as applicable, are owned or controlled, directly or indirectly, by such Person or one or more of the other Subsidiaries of that Person or a combination thereof whether in the form of membership, general, special or limited partnership interests or otherwise; and
- (b) such Person or any Subsidiary of such Person is a controlling general partner or otherwise controls such entity; or

(3) at the election of the Borrower, any partnership, joint venture, limited liability company or similar entity of which such Person or any Subsidiary of such Person is a controlling general partner or otherwise controls such entity.

provided, that, notwithstanding the foregoing, “Subsidiary” shall not include Hornbeck Offshore Services de Mexico, S. de R.L. de C.V. or Hornbeck Offshore (Trinidad & Tobago), Ltd.

“**Subsidized Indebtedness Specified Cash**” has the meaning specified in Section 7.01.

“**Successor Person**” has the meaning specified in Section 7.04(b)(i).

“**Super-Priority Debt**” means First Lien Debt that has the same payment priority as the Obligations pursuant to Section 2.01 (or equivalent section) of the Equal Priority Intercreditor Agreement.

“**Supplemental Administrative Agent**” and “**Supplemental Administrative Agents**” have the meanings specified in Section 10.12(a).

“**Supported QFC**” has the meaning specified in Section 11.26(a).

“**Swap Obligations**” means, with respect to any Person, the obligations of such Person under any interest rate swap agreement, interest rate cap agreement, interest rate collar agreement, commodity swap agreement, commodity cap agreement, commodity collar agreement, foreign exchange contracts, currency swap agreement or similar agreement providing for the transfer or mitigation of interest rate, commodity price or currency risks either generally or under specific contingencies.

“**Taxes**” has the meaning specified in Section 3.01(a).

“**Term SOFR**” means, for the applicable Corresponding Tenor as of the applicable Reference Time, the forward-looking term rate based on SOFR that has been selected or recommended by the Relevant Governmental Body; *provided*, that “Term SOFR” with respect to any Revolving Loans shall in no event be less than 0.00% *per annum*.

“**Term SOFR Adjustment**” means a rate *per annum* equal to 0.10%.

“**Term SOFR Notice**” means a notification by the Administrative Agent to the Lenders and the Borrower of the occurrence of a Term SOFR Transition Event.

“**Term SOFR Transition Event**” means the determination by the Administrative Agent that (a) Term SOFR has been recommended for use by the Relevant Governmental Body, (b) the administration of Term SOFR is administratively feasible for the Administrative Agent and (c) a Benchmark Transition Event has previously occurred resulting in a Benchmark Replacement in accordance with this Section 3.09 that is not Adjusted Term SOFR.

“**Termination Conditions**” means, collectively, (a) the payment in full in cash of the Obligations (other than (i) contingent indemnification obligations as to which no claim has been asserted, (ii) Obligations under Secured Hedge Agreements as to which alternative arrangements acceptable to the Hedge Bank thereunder have been made and (iii) Cash Management Obligations) and (b) the termination of the Commitments and the termination or expiration of all Letters of Credit under this Agreement (unless backstopped or Cash Collateralized in an amount equal to 105% of the maximum drawable amount of any such Letter of Credit or otherwise in an amount and/or in a manner reasonably acceptable to the Issuing Banks).

“**Test Period**” in effect at any time means the most recent period of four consecutive fiscal quarters of the Borrower ended on or prior to such time (taken as one accounting period) in respect of which financial statements for each quarter or fiscal year in such period are available or, in the case of Article VIII, are required to be delivered pursuant to Section 6.01(a) or 6.01(b) (which may be internal financial statements except (i) to the extent this Agreement otherwise expressly states that the Test Period is specified in a Compliance Certificate, in which case such financial statements shall have been delivered pursuant to Section 6.01(a) or (b) for the Test Period set forth in such Compliance Certificate or (ii) for purposes of Article VIII). A Test Period may be designated by reference to the last day thereof (i.e., the “December 31st Test Period” of a particular year refers to the period of four consecutive fiscal quarters of the Borrower ended on December 31st of such year), and a Test Period shall be deemed to end on the last day thereof.

“**Testing Date**” has the meaning assigned to such term in Section 8.01.

“**Threshold Amount**” means \$25.0 million.

“**Total Assets**” means, as of any date, the total consolidated assets of the Borrower and its Restricted Subsidiaries on a consolidated basis, as shown on the most recent consolidated balance sheet of the Borrower and its Restricted Subsidiaries, determined in accordance with GAAP.

“**Total Net Leverage Ratio**” means, with respect to any Test Period, the ratio of (a) Consolidated Net Debt as of the last day of such Test Period to (b) Consolidated Adjusted EBITDA of the Borrower for such Test Period.

“**Total Utilization of Commitments**” means, as of any date of determination, the sum of (i) the aggregate principal amount of all outstanding Revolving Loans other than Revolving Loans made for the purpose of reimbursing the Issuing Banks for any amount drawn under any Letter of Credit, but not yet so applied, and (ii) the Letter of Credit Usage.

“**Traded Securities**” means any debt or equity securities issued pursuant to a public offering or Rule 144A offering.

“**Transaction Expenses**” means any fees or expenses incurred or paid by the Borrower or any of its Subsidiaries in connection with the Transactions, this Agreement and the other Loan Documents and the transactions contemplated hereby and thereby, including any amortization thereof in any period.

“**Transactions**” means, collectively, (a) the occurrence of the Closing Date under this Agreement and (b) the payment of the Transaction Expenses.

“**Treasury Equity Interests**” has the meaning specified in the definition of “Permitted Payment.”

“**TTM Consolidated Adjusted EBITDA**” means, as of any date of determination, the Consolidated Adjusted EBITDA of the Borrower and the Restricted Subsidiaries, determined on a Pro Forma Basis, for the four consecutive fiscal quarters most recently ended prior to such date for which financial statements are internally available.

“**Type**” means, with respect to a Loan, its character as a Base Rate Loan or a SOFR Rate Loan.

“**U.S. Government Securities Business Day**” means any day except for (a) a Saturday, (b) a Sunday or (c) a day on which the Securities Industry and Financial Markets Association recommends that the fixed income departments of its members be closed for the entire day for purposes of trading in U.S. government securities.

“**U.S. Lender**” has the meaning specified in Section 3.01(e).

“**U.S. Tax Compliance Certificate**” has the meaning specified in Section 3.01(b).

“**UK Financial Institution**” means any BRRD Undertaking (as such term is defined under the PRA Rulebook (as amended from time to time) promulgated by the United Kingdom Prudential Regulation Authority) or any person falling within IFPRU 11.6 of the FCA Handbook (as amended from time to time) promulgated by the United Kingdom Financial Conduct Authority, which includes certain credit institutions and investment firms, and certain Affiliates of such credit institutions or investment firms.

“**UK Resolution Authority**” means the Bank of England or any other public administrative authority having responsibility for the resolution of any UK Financial Institution.

“**Ultra High Specification**” or “**Ultra High-Spec**” means, when referring to Vessels, Vessels with cargo-carrying capacity of greater than 5,000 DWT (i.e., 300 class OSV notations or higher), and dynamic-positioning systems with a DP-2 classification or higher. For the avoidance of doubt, any MPSV of greater than 5,000 DWT is an Ultra High-Spec Vessel.

“**Unadjusted Benchmark Replacement**” means the applicable Benchmark Replacement excluding the related Benchmark Replacement Adjustment.

“**Undisclosed Administration**” means, in relation to a Lender or its direct or indirect parent entity, the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian, or other similar official by a supervisory authority or regulator under or based on the law in the country where such Lender or such parent entity is subject to home jurisdiction supervision, if applicable law requires that such appointment not be disclosed.

“**Unfunded Advances/Participations**” means (a) with respect to the Administrative Agent, the aggregate amount, if any (i) made available to the Borrower on the assumption that each Lender has made available to the Administrative Agent such Lender’s share of the applicable Borrowing available to the Administrative Agent as contemplated by Section 2.02(b)(ii) and (ii) with respect to which a corresponding amount shall not in fact have been returned to the Administrative Agent by such Borrower or made available to the Administrative Agent by any such Lender and (b) with respect to the Issuing Banks, the aggregate amount, if any, of amounts drawn under Letters of Credit in respect of which a Revolving Lender shall have failed to make amounts available to the applicable Issuing Banks pursuant to Section 2.04(c).

“**Uniform Commercial Code**” means the Uniform Commercial Code or any successor provision thereof as the same may from time to time be in effect in the State of New York or the Uniform Commercial Code or any successor provision thereof (or similar code or statute) of another jurisdiction, to the extent it may be required to apply to any item or items of Collateral.

“**United States**” and “**U.S.**” mean the United States of America.

“**Unrestricted Lender**” means any Regulated Entity, any Revolving Lender as of the Closing Date, any Lead Arranger or any of their respective Affiliates (other than, for the avoidance of doubt, any participants of any such Persons unless such participants constitute an Unrestricted Lender).

“**Unrestricted Subsidiary**” means (a) each Securitization Subsidiary and (b) any Subsidiary of the Borrower designated by the Board of Directors of the Borrower as an Unrestricted Subsidiary pursuant to Section 6.13 subsequent to the date hereof, in each case, until such Person ceases to be an Unrestricted Subsidiary of the Borrower in accordance with Section 6.13 or ceases to be a Subsidiary of the Borrower.

“**USA PATRIOT Act**” means The Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (Title III of Public Law No. 107-56 (signed into law October 26, 2001)), as amended or modified from time to time.

“**Vessel Collateral**” means, collectively, each of the Vessels set forth on Schedule 5.15, any Vessel subject to a Vessel Mortgage pursuant to Section 6.11(d), and any other Vessel over which a Loan Party has, by its sole election, granted a Vessel Mortgage, in each case, until such Vessel is released from Vessel Collateral in accordance with the terms hereof; *provided*, that, for the avoidance of doubt, the Borrower shall not be restricted in its ability, at its sole election, to designate any Vessel Collateral as Stacked Vessels following the Closing Date.

“**Vessel Collateral Value Amount**” means the fair market value of each Vessel constituting Collateral (calculated in the aggregate), as determined by (a) VesselsValueTM (or any successor thereof) or (b) at the Borrower’s sole election, a Specified Qualified Appraiser; *provided* that, (i) if VesselsValueTM ceases to exist, (ii) if access to such information originating from VesselsValueTM becomes (x) commercially unavailable or impractical to obtain or (y) otherwise materially more costly to obtain, then the Borrower shall (or, with respect to clause (ii)(y), may at its sole election) select a Specified Qualified Appraiser or another appraiser that is reasonably acceptable to the Administrative Agent to determine the Vessel Collateral Value Amount in place of VesselsValueTM.

“**Vessel Mortgage**” means (a) each First Amendment A&R Vessel Mortgage or (b) a first preferred single vessel mortgage or fleet mortgage, as applicable, in substantially the form of Exhibit M, in each case as the same may be amended, modified or supplemented from time to time.

“**Vessels**” means marine vessels (other than recreational vessels), and “**Vessel**” shall mean any of such Vessels.

“**Voting Stock**” of a Person means all classes of Equity Interests of such Person then outstanding and normally entitled to vote in the election of directors.

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

- (a) the sum of the products obtained by multiplying (i) the number of years (calculated to the nearest one-twelfth) from the date of determination to the date of each successive scheduled principal payment of such Indebtedness or redemption or similar payment with respect to such Disqualified Equity Interests or Preferred Stock, by (ii) the amount of such payment, by
- (b) the sum of all such payments; provided that, for purposes of determining the Weighted Average Life to Maturity of any Indebtedness, the effects of any prepayments or amortization made on such Indebtedness prior to the date of such determination will be disregarded;

provided that for purposes of determining the Weighted Average Life to Maturity of (i) any Refinanced Debt or (ii) any Indebtedness that is being modified, refinanced, refunded, renewed, replaced or extended (in any such case, the “**Applicable Indebtedness**”), the effects of any amortization payments or other prepayments made on such Applicable Indebtedness (including the effect of any prepayment on remaining scheduled amortization) prior to the date of the applicable modification, refinancing, refunding, renewal, replacement, extension or incurrence shall be disregarded.

“**wholly-owned**” means, with respect to a Subsidiary of a Person, a Subsidiary of such Person all of the outstanding Equity Interests of which (other than (a) director’s qualifying shares and (b) nominal shares issued to foreign nationals to the extent required by applicable Law) are owned by such Person and/or by one or more wholly-owned Subsidiaries of such Person.

“**Withdrawal Liability**” means the liability to a Multiemployer Plan as a result of a complete or partial withdrawal from such Multiemployer Plan, as such term is defined in Part I of Subtitle E of Title IV of ERISA.

“**Withholding Agent**” means the Borrower, any Guarantor or the Administrative Agent.

“**Write-Down and Conversion Powers**” means, (a) with respect to any EEA Resolution Authority, the write-down and conversion powers of such EEA Resolution Authority from time to time under the Bail-In Legislation for the applicable EEA Member Country, which write-down and conversion powers are described in the EU Bail-In Legislation Schedule, and (b) with respect to the United Kingdom, any powers of the applicable Resolution Authority under the Bail-In Legislation to cancel, reduce, modify or change the form of a liability of any UK Financial Institution or any contract or instrument under which that liability arises, to convert all or part of that liability into shares, securities or obligations of that person or any other person, to provide that any such contract or instrument is to have effect as if a right had been exercised under it or to suspend any obligation in respect of that liability or any of the powers under that Bail-In Legislation that are related to or ancillary to any of those powers.

SECTION 1.02 Other Interpretive Provisions. With reference to this Agreement and each other Loan Document, unless otherwise specified herein or in such other Loan Document:

(a) The meanings of defined terms are equally applicable to the singular and plural forms of the defined terms.

(b) (i) The words “herein,” “hereto,” “hereof” and “hereunder” and words of similar import when used in any Loan Document shall refer to such Loan Document as a whole and not to any particular provision thereof; (ii) references in this Agreement to an Exhibit, Schedule, Article, Section, clause or sub-clause refer (A) to the appropriate Exhibit or Schedule to, or Article, Section, clause or sub-clause in this Agreement or (B) to the extent such references are not present in this Agreement, to the Loan Document in which such reference appears; (iii) the term “including” is by way of example and not limitation; (iv) the term “documents” includes any and all instruments, documents, agreements, certificates, notices, reports, financial statements and other writings, however evidenced, whether in physical or electronic form; (v) the term “continuing” means, with respect to a Default or Event of Default, that it has not been cured or waived; and (vi) in the computation of periods of time from a specified date to a later specified date, the word “from” means “from and including;” the words “to” and “until” each mean “to but excluding;” and the word “through” means “to and including.”

(c) Section headings herein and in the other Loan Documents are included for convenience of reference only and shall not affect the interpretation of this Agreement or any other Loan Document.

(d) For all purposes under the Loan Documents, in connection with any division or plan of division under Delaware law (or any comparable event under a different jurisdiction's laws) (a "**Division**"), if (a) any asset, right, obligation or liability of any Person becomes the asset, right, obligation or liability of a different Person, then it shall be deemed to have been transferred from the original Person to the subsequent Person, and (b) any new Person comes into existence, such new Person shall be deemed to have been organized on the first date of its existence by the holders of its Equity Interests at such time.

SECTION 1.03 Accounting and Finance Terms; Accounting Periods; Unrestricted Subsidiaries. All accounting terms, financial terms or components of such terms not specifically or completely defined herein shall be construed in conformity with GAAP to the extent GAAP defines such term or a component of such term. To the extent GAAP does not define such term or a component of such term, such term shall be calculated by the Borrower in good faith. For purposes of calculating any consolidated amounts necessary to determine compliance by any Person and, if applicable, its Restricted Subsidiaries with any ratio or other financial covenant in this Agreement, Unrestricted Subsidiaries shall be excluded. Unless the context indicates otherwise, any reference to a "fiscal year" shall refer to a fiscal year of the Borrower ending December 31, and any reference to a "fiscal quarter" shall refer to a fiscal quarter of the Borrower ending March 31, June 30, September 30 or December 31.

SECTION 1.04 Rounding. Any financial ratios required to be satisfied in order for a specific action to be permitted under this Agreement or any other Loan Document shall be calculated by dividing the appropriate component by the other component, carrying the result to one decimal place more than the number of decimal places by which such ratio is expressed herein (the "**applicable decimal place**") and rounding the result up or down to the applicable decimal place.

SECTION 1.05 References to Agreements, Laws, Etc. Unless otherwise expressly provided herein, (a) references to Organization Documents, agreements (including the Loan Documents) and other contractual instruments shall be deemed to include all subsequent amendments, restatements, extensions, supplements and other modifications thereto, but only to the extent that such amendments, restatements, extensions, supplements and other modifications are not prohibited by any Loan Document; and (b) references to any Law shall include all statutory and regulatory provisions consolidating, amending, replacing, supplementing or interpreting such Law.

SECTION 1.06 Times of Day. Unless otherwise specified, all references herein to times of day shall be references to New York City time (daylight or standard, as applicable).

SECTION 1.07 [Reserved].

SECTION 1.08 Pro Forma Calculations; Limited Condition Transactions; Basket and Ratio Compliance.

(a) Notwithstanding anything to the contrary herein, the Revolving Credit Facility Net Leverage Ratio, the Collateral Coverage Ratio, the RCF Collateral Coverage Ratio, the Total Net Leverage Ratio, the Fixed Charge Coverage Ratio and the Secured Net Leverage Ratio shall be calculated in the manner prescribed by this Section 1.08; *provided*, that notwithstanding anything to the contrary in clauses (b), (c) or (d) of this Section 1.08, when calculating the Revolving Credit Facility Net Leverage Ratio, the Collateral Coverage Ratio and the RCF Collateral Coverage Ratio, in each case, for purposes of Section 8.01, the events described in this Section 1.08 that occurred subsequent to the end of the applicable Test Period shall not be given *pro forma* effect.

(b) For purposes of calculating the Revolving Credit Facility Net Leverage Ratio, the Collateral Coverage Ratio, the RCF Collateral Coverage Ratio, the Total Net Leverage Ratio, the Fixed Charge Coverage Ratio and the Secured Net Leverage Ratio, in addition to the adjustments provided for in the definition of “Consolidated Adjusted EBITDA” and “Fixed Charge Coverage Ratio” (including any QSC Adjustment), (i) any transaction or series of related transactions that results in a Person becoming a Restricted Subsidiary, (ii) any designation of a Subsidiary as a Restricted Subsidiary or an Unrestricted Subsidiary, (iii) any transaction or series of related transactions that results in a Restricted Subsidiary ceasing to be a Subsidiary of the Borrower, (iv) any acquisition or disposition of any assets constituting a business unit, line of business or division of another Person or a facility or an acquisition or disposition of any Vessel, (v) any incurrence or repayment of Indebtedness and (vi) any payment or Investment permitted by Section 7.06 that have been made or occurred (i) during the applicable Test Period or (ii) (other than for purposes of calculating the Financial Covenants pursuant to Section 8.01), subsequent to such Test Period and prior to or simultaneously with the event for which the calculation of any such ratio is made shall be calculated on a *pro forma* basis assuming that all such transactions (and any increase or decrease in Consolidated Adjusted EBITDA and the component financial definitions used therein attributable to any such transaction) had occurred on the first day of the applicable Test Period.

(c) In the event that the Borrower or any Restricted Subsidiary incurs (including by assumption or guarantees) or repays (including by redemption, repayment, retirement or extinguishment) any Indebtedness included in the calculations of the Revolving Credit Facility Net Leverage Ratio, the Collateral Coverage Ratio, the RCF Collateral Coverage Ratio, the Fixed Charge Coverage Ratio, the Total Net Leverage Ratio and the Secured Net Leverage Ratio, as the case may be (in each case, other than, except for purposes of Article VIII), (i) during the applicable Test Period or (ii) subsequent to the end of the applicable Test Period and prior to or simultaneously with the event for which the calculation of any such ratio is made, then the Revolving Credit Facility Net Leverage Ratio, the Collateral Coverage Ratio, the RCF Collateral Coverage Ratio, the Fixed Charge Coverage Ratio, the Total Net Leverage Ratio and the Secured Net Leverage Ratio shall be calculated giving *pro forma* effect to such incurrence or repayment of Indebtedness, to the extent required, as if the same had occurred on the last day of the applicable Test Period with respect to leverage ratios or the first day of such Test Period with respect to the Fixed Charge Coverage Ratio.

(d) Notwithstanding anything to the contrary in this Agreement or any classification under GAAP of any Person, business, assets or operations in respect of which a definitive agreement for the disposition thereof has been entered into as discontinued operations, no *pro forma* effect shall be given to any discontinued operations (and the Consolidated Adjusted EBITDA attributable to any such Person, business, assets or operations shall not be excluded for any purposes hereunder) until such disposition shall have been consummated.

(e) Notwithstanding anything in this Agreement or any Loan Document to the contrary,

(i) the Borrower may rely on more than one basket or exception hereunder (including both ratio-based and non-ratio based baskets and exceptions, and including partial reliance on different baskets that, collectively, permit the entire proposed transaction) at the time of any proposed transaction, and the Borrower may, in their sole discretion, at any later time divide, classify or reclassify such transaction (or any portion thereof) in any manner that complies with the available baskets and exceptions hereunder at such later time (*provided* that with respect to reclassification of Indebtedness and Liens, any such reclassification shall be subject to the parameters of Sections 7.01 and 7.03, as applicable),

(ii) unless the Borrower elects otherwise, if the Borrower or its Restricted Subsidiaries in connection with any transaction or series of related transactions (A) incurs Indebtedness, creates Liens, makes Dispositions, makes Investments, designates any Subsidiary as restricted or unrestricted or repays any Indebtedness or takes any other action under or as permitted by a ratio-based basket and (B) incurs Indebtedness, creates Liens, makes Dispositions, makes Investments, designates any Subsidiary as restricted or unrestricted or repays any Indebtedness or takes any other action under a non-ratio-based basket (which shall occur within five Business Days of the events in clause (A) above), then the applicable ratio will be calculated with respect to any such action under the applicable ratio-based basket without regard to any such action under such non-ratio-based basket made in connection with such transaction or series of related transactions,

(iii) if the Borrower or its Restricted Subsidiaries enters into any revolving, delayed draw or other committed debt facility, the Borrower may elect by written notice to the Administrative Agent (or shall be deemed to have elected with respect to any Incremental Loans) to determine compliance of such debt facility (including the incurrence of Indebtedness and Liens from time to time in connection therewith) with this Agreement and each other Loan Document on the date commitments with respect thereto are first received, assuming the full amount of such facility is incurred (and any applicable Liens are granted) on such date, in which case such committed amount may thereafter be borrowed or reborrowed, in whole or in part, from time to time, without further compliance with such applicable ratio-based basket hereunder, in lieu of determining such compliance on any subsequent date (including any date on which Indebtedness is incurred pursuant to such facility); *provided* that, in each case, any future calculation of such ratio-based basket shall only include amounts borrowed and outstanding as of such date of determination, and

(iv) if the Borrower or any Restricted Subsidiary incurs Indebtedness under a ratio-based basket, such ratio-based basket (together with any other ratio-based basket utilized in connection therewith, including in respect of other Indebtedness, Liens, Dispositions, Investments, Permitted Payments or other transactions permitted by Section 7.06 or payments in respect of Junior Financing) will be calculated excluding the cash proceeds of such Indebtedness for netting purposes (i.e., such cash proceeds shall not reduce the Borrower's Consolidated Net Debt or Consolidated Secured Net Debt pursuant to clause (b) of the definition of such term), *provided* that the actual application of such proceeds may reduce Indebtedness for purposes of determining compliance with any such applicable ratio-based basket.

(f) Notwithstanding anything in this Agreement or any Loan Document to the contrary, when calculating the availability under any basket or ratio under this Agreement or compliance with any provision of this Agreement in connection with any Limited Condition Transaction and any actions or transactions related thereto (including acquisitions, Investments, the incurrence, issuance or assumption of Indebtedness and the use of proceeds thereof, the incurrence or creation of Liens, repayments, Restricted Payments and Dispositions), in each case, at the option of the Borrower (the Borrower's election to exercise such option, an "**LCT Election**"), the date of determination for availability under any such basket or ratio and whether any such action or transaction is permitted (or any requirement or condition therefor is complied with or satisfied (including as to the absence of any continuing Default or Event of Default)) under this Agreement shall be deemed to be the date (the "**LCT Test Date**") the definitive agreement for such Limited Condition Transaction is entered into (or, if applicable, the date of delivery of an irrevocable declaration of a Restricted Payment or similar event) in respect of a target of a Limited Condition Transaction and, in each case, if, after giving pro forma effect to the Limited Condition Transaction and any actions or transactions related thereto (including acquisitions, Investments, the incurrence, issuance or assumption of Indebtedness and the use of proceeds thereof, the incurrence or creation of Liens, repayments, Restricted Payments and Dispositions) and any related pro forma adjustments, the Borrower or any of its Restricted Subsidiaries would have been permitted to take such actions or consummate such transactions on the relevant LCT Test Date in compliance with such ratio, test or basket (and any related requirements and conditions), such ratio, test or basket (and any related requirements and conditions) shall be deemed to have been complied with (or satisfied) for all purposes (in the case of Indebtedness, for example, whether such Indebtedness is committed, issued, assumed or incurred at the LCT Test Date or at any time thereafter); *provided*, that (a) if financial statements for one or more fiscal quarters shall have subsequently become available, the Borrower may elect, in its sole discretion, to redetermine all such ratios, tests or baskets on the basis of such financial statements, in which case, such date of redetermination shall thereafter be the applicable LCT Test Date for purposes of such ratios, tests or baskets, (b) except as contemplated in the foregoing clause (a), compliance with such ratios, test or baskets (and any related requirements and conditions) shall not be determined or tested at any time after the applicable LCT Test Date for such Limited Condition Transaction and any actions or transaction related thereto (including acquisitions, Investments, the incurrence, issuance or assumption of Indebtedness and the use of proceeds thereof, the incurrence or creation of Liens, repayments, Restricted Payments and Dispositions) and (c) Consolidated Interest Expense for purposes of the Fixed Charge Coverage Ratio will be calculated using an assumed interest rate as reasonably determined by the Borrower.

(g) For purposes of determining the maturity date of any Indebtedness, customary bridge loans that are subject to customary conditions (including no payment or bankruptcy event of default) that would either automatically be extended as, converted into or required to be exchanged for permanent refinancing shall be deemed to have the maturity date as so extended, converted or exchanged.

SECTION 1.09 Currency Equivalents Generally.

(a) For purposes of determining compliance with Sections 7.01 and 7.03 with respect to any amount of Lien, Indebtedness or Investment in a currency other than Dollars, no Default or Event of Default shall be deemed to have occurred solely as a result of changes in rates of currency exchange occurring after the time such Lien, Indebtedness or Investment is incurred (so long as such Indebtedness or Investment, at the time incurred, made or acquired, was permitted hereunder).

(b) For purposes of this Agreement and the other Loan Documents, where the permissibility of a transaction or determinations of required actions or circumstances depend upon compliance with, or are determined by reference to, amounts stated in Dollars, any requisite currency translation shall be based on the rate of exchange between the applicable currency and Dollars as reasonably determined by the Borrower, in each case in effect on the Business Day immediately preceding the date of such transaction or determination (subject to clauses (c) and (d) below) and shall not be affected by subsequent fluctuations in exchange rates. For the avoidance of doubt, the Financial Covenants, the Revolving Credit Facility Net Leverage Ratio, Collateral Coverage Ratio, the RCF Collateral Coverage Ratio, the Total Net Leverage Ratio, the Secured Net Leverage Ratio and the Fixed Charge Coverage Ratio, including Consolidated Adjusted EBITDA, shall not be recalculated following any such fluctuation in exchange rate to provide for additional Dollar-equivalent principal amount of Indebtedness to be incurred or otherwise affected by subsequent fluctuations in exchange rates to provide for additional basket capacity.

(c) For purposes of determining compliance with any Dollar-denominated restriction on the incurrence of Indebtedness, the Dollar-equivalent principal amount of Indebtedness denominated in a foreign currency shall be calculated based on the Exchange Rate in effect on the date such Indebtedness was incurred, in the case of term debt, or first committed, in the case of revolving credit debt (or, in the case of an LCT Election, on the date of the applicable LCT Test Date); *provided* that, if such Indebtedness is incurred to refinance other Indebtedness denominated in a foreign currency, and such refinancing would cause the applicable Dollar-denominated restriction to be exceeded if calculated at the Exchange Rate in effect on the date of such refinancing, such Dollar-denominated restriction shall be deemed not to have been exceeded so long as the principal amount of such Indebtedness so refinanced does not exceed the principal amount of such Indebtedness being refinanced. Notwithstanding the foregoing, the principal amount of any Indebtedness incurred to refinance other Indebtedness, if incurred in a different currency from the Indebtedness being refinanced, shall be calculated based on the Exchange Rate that is in effect on the date of such refinancing.

(d) For purposes of determining the Revolving Credit Facility Net Leverage Ratio, Collateral Coverage Ratio, the RCF Collateral Coverage Ratio, the Total Net Leverage Ratio, the Secured Net Leverage Ratio, the Total Net Leverage Ratio and the Fixed Charge Coverage Ratio, including Consolidated Adjusted EBITDA when calculating such ratios, all amounts denominated in a currency other than Dollars will be converted to Dollars for any purpose (including testing the any financial maintenance covenant) at the effective rate of exchange in respect thereof reflected in the consolidated financial statements of the Borrower for the applicable Test Period for which such measurement is being made, and will reflect the currency translation effects, determined in accordance with GAAP, of Hedge Agreements permitted hereunder for currency exchange risks with respect to the applicable currency in effect on the date of determination of the Dollar equivalent of such Indebtedness.

ARTICLE II

The Commitments and Borrowings

SECTION 2.01 [Reserved].

SECTION 2.02 Revolving Loans.

(a) Revolving Loan Commitment. During the Commitment Period, subject to the terms and conditions hereof, each Lender severally agrees to make revolving loans to the Borrower from time to time on any Business Day in Dollars (“**Revolving Loans**”) in an aggregate amount up to but not exceeding such Lender’s Commitment; *provided*, that after giving effect to the making of any Revolving Loans in no event shall the Total Utilization of Commitments exceed the Commitments then in effect. Amounts borrowed pursuant to this Section 2.02(a) may be repaid and reborrowed during the Commitment Period. Each Lender’s Commitment shall expire on the Commitment Termination Date, and all Revolving Loans and all other amounts owed hereunder with respect to the Revolving Loans and the Commitments shall be paid in full no later than the Maturity Date.

(b) Borrowing Mechanics for Revolving Loans.

(i) Subject to Article IV, each Borrowing of Revolving Loans shall be made upon the Borrower’s irrevocable notice to the Administrative Agent, which may only be given in writing. Each such notice must be received by the Administrative Agent not later than (A) 1:00 p.m. three Business Days prior to the requested date of any Borrowing of SOFR Rate Loans, and (B) 1:00 p.m. one Business Day prior to the requested date of any Borrowing of Base Rate Loans. Each notice by the Borrower pursuant to this Section 2.02(b), must be delivered to the Administrative Agent in the form of a Committed Loan Notice, appropriately completed and signed by a Responsible Officer of the Borrower. Each Borrowing of SOFR Rate Loans shall be in a minimum principal amount of \$500,000 or a whole multiple of \$100,000 in excess thereof. Each Borrowing of Base Rate Loans shall be in a minimum principal amount of \$500,000 or a whole multiple of \$100,000 in excess thereof. Each Committed Loan Notice shall specify (1) the requested date of the Borrowing (which shall be a Business Day), (2) the principal amount of Revolving Loans to be borrowed, (3) the Type of Revolving Loans to be borrowed and (4) if applicable, the duration of the Interest Period with respect thereto. If the Borrower fails to specify a Type of Revolving Loan in a Committed Loan Notice, then in the case of Revolving Loans, the applicable Revolving Loans shall be made as Base Rate Loans. If the Borrower requests a Borrowing of SOFR Rate Loans in any such Committed Loan Notice, but fails to specify an Interest Period for such SOFR Rate Loans, the Borrower will be deemed to have specified an Interest Period of one month.

(ii) Following receipt of a Committed Loan Notice, the Administrative Agent shall promptly notify each Lender of the amount of its Pro Rata Share of the applicable Revolving Loans. In the case of each Borrowing, each Appropriate Lender shall make the amount of its Revolving Loan available to the Administrative Agent in Same Day Funds at the Administrative Agent's Office not later than 1:00 p.m., on the Business Day specified in the applicable Committed Loan Notice. Upon satisfaction of the applicable conditions set forth in Article IV, the Administrative Agent shall make all funds so received available to the Borrower in like funds as received by the Administrative Agent by wire transfer of such funds, in each case in accordance with instructions provided to (and reasonably acceptable to) the Administrative Agent by the Borrower; *provided, however*, that if, on the date the Committed Loan Notice with respect to such Borrowing is given by the Borrower, there are Reimbursement Obligations outstanding, then the proceeds of such Borrowing shall be applied, first, to the payment in full of any such Reimbursement Obligations, and second, to the Borrower as provided above.

(iii) The failure of any Lender to make the Revolving Loan to be made by it as part of any Borrowing shall not relieve any other Lender of its obligation, if any, hereunder to make its Revolving Loan on the date of such Borrowing, but no Lender shall be responsible for the failure of any other Lender to make the Revolving Loan to be made by such other Lender on the date of any Borrowing.

SECTION 2.03 [Reserved].

(a) Letter of Credit Commitment.

(i) Subject to the terms and conditions set forth herein, (A) each Issuing Bank agrees, in reliance upon the agreements of the Revolving Lenders set forth in this Section 2.04, (1) from time to time on any Business Day during the Commitment Period on or prior to the fifth Business Day prior to the Commitment Termination Date, to issue Letters of Credit for the account of the Borrower, subject to satisfactory receipt of such information and documentation reasonably requested by the Administrative Agent or any Lender in order to comply with applicable “know your customer” and anti-money laundering rules and regulations, including the USA PATRIOT Act or a Restricted Subsidiary (*provided* that any Letter of Credit issued for the benefit of any Restricted Subsidiary shall be issued for the account of the Borrower but such Letter of Credit shall indicate that it is being issued for the benefit of such Restricted Subsidiary, as applicable) and to amend, renew or extend Letters of Credit previously issued by it, in accordance with Section 2.04(b) and (2) to honor drawings under the Letters of Credit; and (B) the Revolving Lenders severally agree to participate in such Letters of Credit and any drawings thereunder; *provided* that the Issuing Banks shall not be obligated to make any Letter of Credit Extension if, as of the date of such Letter of Credit Extension, (1) the Total Utilization of Commitments would exceed the Commitments, (2) the Total Utilization of Commitments of any Revolving Lender would exceed such Lender’s Commitment, (3) the Letter of Credit Usage would exceed the Letter of Credit Sublimit or (4) the Letter of Credit Usage with respect to Letters of Credit issued by such Issuing Bank would exceed the amount of such Issuing Bank’s Letter of Credit Percentage of the Letter of Credit Sublimit. Within the foregoing limits, and subject to the terms and conditions hereof, the Borrower’s ability to obtain Letters of Credit shall be fully revolving, and accordingly the Borrower may, during the foregoing period, obtain Letters of Credit to replace Letters of Credit that have expired or that have been drawn upon and reimbursed. On and after the Closing Date, each Existing Letter of Credit shall be deemed to be a Letter of Credit issued hereunder on the Closing Date for all purposes under this Agreement and the other Loan Documents.

(ii) An Issuing Bank shall not be under any obligation to issue any Letter of Credit if:

(A) any order, judgment or decree of any Governmental Authority or arbitrator shall by its terms purport to enjoin or restrain such Issuing Bank from issuing such Letter of Credit, or any Law applicable to such Issuing Bank or any request or directive (whether or not having the force of law) from any Governmental Authority with jurisdiction over such Issuing Bank shall prohibit, or request that such Issuing Bank refrain from, the issuance of letters of credit generally or such Letter of Credit in particular or shall impose upon such Issuing Bank with respect to such Letter of Credit any restriction, reserve or capital requirement (for which such Issuing Bank is not otherwise compensated hereunder) not in effect on the Closing Date, or shall impose upon such Issuing Bank any unreimbursed loss, cost or expense which was not applicable on the Closing Date and which such Issuing Bank in good faith deems material to it (for which such Issuing Bank is not otherwise compensated hereunder);

(B) the issuance of such Letter of Credit would violate one or more policies of such Issuing Bank applicable to letters of credit generally;

(C) except as otherwise agreed by the Administrative Agent and such Issuing Bank, such Letter of Credit is in an initial stated amount less than \$10,000;

(D) [reserved];

(E) such Letter of Credit contains any provisions for automatic reinstatement of the stated amount after any drawing thereunder; and

(F) any Revolving Lender is at such time a Defaulting Lender, unless such Issuing Bank has entered into arrangements, including reallocation of such Lender's Pro Rata Share of the outstanding Letter of Credit Obligations pursuant to Section 2.20(a)(iii) or the delivery of Cash Collateral, satisfactory to such Issuing Bank (in its sole discretion) with the Borrower or such Lender to eliminate such Issuing Bank's actual or potential Fronting Exposure (after giving effect to Section 2.20(a)(iii)) with respect to such Lender arising from either the Letter of Credit then proposed to be issued or such Letter of Credit and all other Letter of Credit Obligations as to which such Issuing Bank has actual or potential Fronting Exposure, as it may elect in its sole discretion.

(iii) No Issuing Bank shall be under any obligation to amend or extend any Letter of Credit if (A) such Issuing Bank would have no obligation at such time to issue the Letter of Credit in its amended form under the terms hereof or (B) the beneficiary of such Letter of Credit does not accept the proposed amendment thereto.

(iv) Unless Cash Collateralized or backstopped pursuant to arrangements reasonably acceptable to the applicable Issuing Bank, each standby Letter of Credit shall expire at or prior to the close of business on the earlier of (A) the date twelve months after the date of issuance of such Letter of Credit (or, in the case of any Auto-Renewal Letter of Credit, twelve months after the then current expiration date of such Letter of Credit) and (B) the Letter of Credit Expiration Date (unless arrangements reasonably satisfactory to the Issuing Banks have been entered into).

(b) Procedures for Issuance and Amendment of Letters of Credit; Auto Renewal Letters of Credit.

(i) Each Letter of Credit shall be issued or amended, as the case may be, upon the request of the Borrower delivered to the applicable Issuing Bank (with a copy to the Administrative Agent) in the form of a Letter of Credit Application, appropriately completed and signed by a Responsible Officer of the Borrower. Such Letter of Credit Application must be received by the applicable Issuing Bank and the Administrative Agent not later than 1:00 p.m. at least five Business Days (or such shorter period as the applicable Issuing Bank and the Administrative Agent may agree in a particular instance in their sole discretion) prior to the proposed issuance date or date of amendment, as the case may be. In the case of a request for an initial issuance of a Letter of Credit, such Letter of Credit Application shall specify in form and detail reasonably satisfactory to the applicable Issuing Bank (A) the proposed issuance date of the requested Letter of Credit (which shall be a Business Day); (B) the amount thereof; (C) the expiry date thereof; (D) the name and address of the beneficiary thereof; (E) the documents to be presented by such beneficiary in case of any drawing thereunder; (F) the full text of any certificate to be presented by such beneficiary in case of any drawing thereunder; (G) the currency in which the requested Letter of Credit will be denominated (which must be Dollars or any other currency agreed to by the Borrower and the applicable Issuing Bank in its sole discretion) and (H) such other matters as the applicable Issuing Bank may reasonably request. In the case of a request for an amendment of any outstanding Letter of Credit, the Letter of Credit Application shall specify in form and detail reasonably satisfactory to the applicable Issuing Bank (1) the Letter of Credit to be amended; (2) the proposed date of amendment thereof (which shall be a Business Day); and (3) the nature of the proposed amendment. Additionally, the Borrower shall furnish to the applicable Issuing Bank and the Administrative Agent such other documents and information pertaining to such requested Letter of Credit issuance or amendment, including any Letter of Credit Documents, as the applicable Issuing Bank or the Administrative Agent may reasonably require.

(ii) Promptly after receipt of any Letter of Credit Application, the applicable Issuing Bank will confirm with the Administrative Agent that the Administrative Agent has received a copy of such Letter of Credit Application from the Borrower and, if not, the applicable Issuing Bank will provide the Administrative Agent with a copy thereof. Upon receipt by the applicable Issuing Bank of confirmation from the Administrative Agent that the requested issuance or amendment is permitted in accordance with the terms hereof, then, subject to the terms and conditions set forth herein, such Issuing Bank shall, on the requested date, issue a Letter of Credit for the account of the Borrower or enter into the applicable amendment, as the case may be. Immediately upon the issuance of each Letter of Credit, each Revolving Lender shall be deemed to, and hereby irrevocably and unconditionally agrees to, purchase from the applicable Issuing Bank a participation in such Letter of Credit in an amount equal to such Lender's Pro Rata Share of the amount of such Letter of Credit.

(iii) If the Borrower so requests in any applicable Letter of Credit Application for a standby Letter of Credit, the applicable Issuing Bank may, in its reasonable discretion, agree to issue a standby Letter of Credit that has automatic renewal provisions (each, an "**Auto-Renewal Letter of Credit**"); *provided* that any such Auto-Renewal Letter of Credit shall permit such Issuing Bank to prevent any such renewal at least once in each twelve-month period (commencing with the date of issuance of such Letter of Credit) by giving prior notice to the beneficiary thereof not later than a day (the "**Nonrenewal Notice Date**") in each such twelve-month period to be agreed upon at the time such Letter of Credit is issued. Unless otherwise directed by the applicable Issuing Bank, the Borrower shall not be required to make a specific request to such Issuing Bank for any such renewal. Once an Auto-Renewal Letter of Credit has been issued, the Revolving Lenders shall be deemed to have authorized (but may not require) the applicable Issuing Bank to permit the renewal of such Letter of Credit at any time to an expiry date not later than the Letter of Credit Expiration Date; *provided, however*, that no Issuing Bank shall (A) permit any such renewal if (1) such Issuing Bank has determined that it would not be permitted at such time to issue such Letter of Credit in its renewed form under the terms hereof (by reason of the provisions of clause (ii) or (iii) of Section 2.04(a) or otherwise) or (2) it has received written notice on or before the day that is seven Business Days before the Nonrenewal Notice Date from the Administrative Agent that the Required Lenders have elected not to permit such renewal or (B) be obligated to permit such renewal if it has received written notice on or before the day that is seven Business Days before the Nonrenewal Notice Date from the Administrative Agent, any Revolving Lender or the Borrower that one or more of the applicable conditions set forth in Section 4.03 is not then satisfied, and in each such case directing the applicable Issuing Bank not to permit such renewal.

(iv) Promptly after its delivery of any Letter of Credit or any amendment to a Letter of Credit to an advising bank with respect thereto or to the beneficiary thereof, the applicable Issuing Bank will also deliver to the Borrower and the Administrative Agent a true and complete copy of such Letter of Credit or amendment.

(c) Drawings and Reimbursement; Funding of Participations.

(i) Upon receipt from the beneficiary of any Letter of Credit of any notice of a drawing under such Letter of Credit, the applicable Issuing Bank shall notify the Borrower and the Administrative Agent thereof, and such Issuing Bank shall, within a reasonable time following its receipt thereof, examine all documents purporting to represent a demand for payment under such Letter of Credit. If an Issuing Bank notifies the Borrower of any payment by such Issuing Bank under a Letter of Credit, then the Borrower shall reimburse such Issuing Bank in an amount equal to the amount of such drawing not later than 3:00 p.m. on the next succeeding Business Day. If the Borrower fails to so reimburse such Issuing Bank by such time, such Issuing Bank shall promptly notify the Administrative Agent of such failure and the Administrative Agent shall promptly thereafter notify each Revolving Lender of such payment date, the amount of the unreimbursed drawing (the “**Reimbursement Obligations**”) and the amount of such Lender’s Pro Rata Share thereof. In such event, the Borrower shall be deemed to have requested a Revolving Loan Borrowing of Base Rate Loans to be disbursed on such date in an amount equal to such Reimbursement Obligation, without regard to the minimum and multiples specified in Section 2.02(b) for the principal amount of Base Rate Loans to be disbursed on such date in an amount equal to the Dollar Amount of such Reimbursement Obligation. Any notice given by an Issuing Bank or the Administrative Agent pursuant to this clause (i) shall be given in writing.

(ii) Each Revolving Lender (including each Revolving Lender acting as an Issuing Bank) shall upon any notice pursuant to Section 2.04(c)(i) make funds available (and the Administrative Agent may apply Cash Collateral provided for this purpose) for the account of the applicable Issuing Bank, in Dollars at the Administrative Agent’s Office in an amount equal to its Pro Rata Share of the relevant Reimbursement Obligation not later than 3:00 p.m. on the Business Day specified in such notice by the Administrative Agent, whereupon, subject to the provisions of Section 2.04(c)(iii), each Revolving Lender that so makes funds available shall be deemed to have made a Revolving Loan that is in the case of a Letters of Credit denominated in Dollars or a Base Rate Loan. The Administrative Agent shall remit the funds so received to the applicable Issuing Bank in accordance with the instructions provided to the Administrative Agent by such Issuing Bank (which instructions may include standing payment instructions, which may be updated from time to time by such Issuing Bank, *provided* that, unless the Administrative Agent shall otherwise agree, any such update shall not take effect until the Business Day immediately following the date on which such update is provided to the Administrative Agent).

(iii) With respect to any Reimbursement Obligation that is not fully refinanced by a Revolving Loan Borrowing of Base Rate Loans for Letters of Credit denominated in Dollars because the conditions set forth in Section 4.03 cannot be satisfied or for any other reason, the Borrower shall be deemed to have incurred from the applicable Issuing Bank a Letter of Credit Borrowing in the amount of the Reimbursement Obligation that is not so refinanced. In such event, each Revolving Lender's payment to the Administrative Agent for the account of such Issuing Bank pursuant to Section 2.04(c)(i) shall be deemed payment in respect of its participation in such Letter of Credit Borrowing and shall constitute a Letter of Credit Advance from such Lender in satisfaction of its participation obligation under this Section.

(iv) Until each Revolving Lender funds its Revolving Loan or Letter of Credit Advance to reimburse the applicable Issuing Bank for any amount drawn under any Letter of Credit, interest in respect of such Lender's Pro Rata Share of such amount shall be solely for the account of such Issuing Bank.

(v) Each Revolving Lender's obligations to make Revolving Loans or Letter of Credit Advances to reimburse an Issuing Bank for amounts drawn under Letters of Credit, as contemplated by this Section 2.04(c), shall be absolute and unconditional and shall not be affected by any circumstance, including (A) any setoff, counterclaim, recoupment, defense or other right which such Lender may have against such Issuing Bank, the Borrower or any other Person for any reason whatsoever; (B) the occurrence or continuance of a Default; or (C) any other occurrence, event or condition, whether or not similar to any of the foregoing; *provided* that each Revolving Lender's obligation to make Revolving Loans pursuant to this paragraph (c) is subject to the conditions set forth in Section 4.03. No such funding of a participation in any Letter of Credit shall relieve or otherwise impair the obligation of the Borrower to reimburse an Issuing Bank for the amount of any payment made by such Issuing Bank under such Letter of Credit, together with interest as provided herein.

(vi) If any Revolving Lender fails to make available to the Administrative Agent for the account of the applicable Issuing Bank any amount required to be paid by such Lender pursuant to the foregoing provisions of this paragraph (c) by the time specified in Section 2.04(c)(ii), then, without limiting the other provisions of this Agreement, such Issuing Bank shall be entitled to recover from such Lender (acting through the Administrative Agent), on demand, such amount with interest thereon for the period from the date such payment is required to the date on which such payment is immediately available to such Issuing Bank at a rate *per annum* equal to the greater of the Federal Funds Rate from time to time in effect and a rate determined by such Issuing Bank in accordance with banking industry rules on interbank compensation, *plus* any reasonable administrative, processing or similar fees customarily charged by such Issuing Bank in connection with the foregoing. If such Lender pays such amount (with interest and fees as aforesaid), the amount so paid shall constitute such Lender's Revolving Loan included in the relevant Borrowing or Letter of Credit Advance in respect of the relevant Letter of Credit Borrowing, as the case may be. A certificate of the applicable Issuing Bank submitted to any Revolving Lender (through the Administrative Agent) with respect to any amounts owing under this clause (vi) shall be conclusive absent manifest error.

(d) Repayment of Participations.

(i) If, at any time after the applicable Issuing Bank has made payment in respect of any drawing under any Letter of Credit issued by it and has received from any Revolving Lender its Letter of Credit Advance in respect of such payment in accordance with Section 2.04(c), the Administrative Agent receives for the account of such Issuing Bank any payment in respect of the related Reimbursement Obligation, the Administrative Agent will distribute to such Lender its Pro Rata Share thereof (appropriately adjusted, in the case of interest payments, to reflect the period of time during which such Lender's Letter of Credit Advance was outstanding) in like funds as received by the Administrative Agent.

(ii) If any payment received by the Administrative Agent for the account of the applicable Issuing Bank pursuant to Section 2.04(c)(i) is required to be returned under any of the circumstances described in Section 11.06 (including pursuant to any settlement entered into by such Issuing Bank in its discretion), each Revolving Lender shall pay to the Administrative Agent for the account of such Issuing Bank its Pro Rata Share thereof on demand of the Administrative Agent, plus interest thereon from the date of such demand to the date such amount is returned by such Lender at a rate *per annum* equal to the Federal Funds Rate from time to time in effect. The obligations of the Revolving Lenders under this clause (ii) shall survive the payment in full of the Obligations and the termination of this Agreement.

(e) Obligations Absolute. The obligation of the Borrower to reimburse the Issuing Banks for each drawing under each Letter of Credit and to repay each Letter of Credit Borrowing shall be absolute, unconditional and irrevocable, and shall be paid strictly in accordance with the terms of this Agreement under all circumstances, including the following:

(i) any lack of validity or enforceability of such Letter of Credit or any term or provision thereof, any Loan Document, or any other agreement or instrument relating thereto;

(ii) the existence of any claim, counterclaim, setoff, defense or other right that the Borrower may have at any time against any beneficiary or any transferee of such Letter of Credit (or any Person for whom any such beneficiary or any such transferee may be acting), the Issuing Banks or any other Person, whether in connection with this Agreement, the transactions contemplated hereby or by such Letter of Credit or any agreement or instrument relating thereto, or any unrelated transaction;

(iii) any draft, demand, certificate or other document presented under such Letter of Credit proving to be forged, fraudulent, invalid or insufficient in any respect or any statement therein being untrue or inaccurate in any respect; or any loss or delay in the transmission or otherwise of any document required in order to make a drawing under such Letter of Credit;

(iv) any payment by an Issuing Bank under such Letter of Credit against presentation of documents that do not comply strictly with the terms of such Letter of Credit; or any payment made by an Issuing Bank under such Letter of Credit to any Person purporting to be a trustee in bankruptcy, debtor in possession, assignee for the benefit of creditors, liquidator, receiver or other representative of or successor to any beneficiary or any transferee of such Letter of Credit, including arising in connection with any proceeding under any Debtor Relief Law;

(v) any exchange, release or non-perfection of any collateral, or any release or amendment or waiver of or consent to departure from any guarantee, for all or any of the Obligations of the Borrower in respect of such Letter of Credit; or

(vi) any other circumstance or happening whatsoever, whether or not similar to any of the foregoing, including any other circumstance that might otherwise constitute a defense available to, or a discharge of, the Borrower.

The Borrower shall promptly examine a copy of each Letter of Credit and each amendment thereto that is delivered to it and, in the event of any claim of noncompliance with the Borrower's instructions or other irregularity, the Borrower will promptly notify the applicable Issuing Bank. The Borrower shall be conclusively deemed to have waived any such claim against any Issuing Bank and its correspondents unless such notice is given as aforesaid.

(f) Role of Issuing Banks. Each Revolving Lender and the Borrower agrees that, in paying any drawing under a Letter of Credit, the Issuing Banks shall not have any responsibility to obtain any document (other than any sight draft, certificates and documents expressly required by such Letter of Credit) or to ascertain or inquire as to the validity or accuracy of any document or the authority of the Person executing or delivering any document. None of any Issuing Bank, any Agent Affiliate nor any of the respective correspondents, participants or assignees of any Issuing Bank shall be liable to any Revolving Lender for (i) any action taken or omitted in connection herewith at the request or with the approval of the requisite Revolving Lenders; (ii) any action taken or omitted in the absence of gross negligence or willful misconduct; or (iii) the due execution, effectiveness, validity or enforceability of any document or instrument related to any Letter of Credit or Letter of Credit Application. The Borrower hereby assumes all risks of the acts of omissions of any beneficiary or transferee with respect to its use of any Letter of Credit; *provided* that this assumption is not intended to, and shall not, preclude the Borrower from pursuing such rights and remedies as it may have against the beneficiary or transferee at law or under any other agreement. None of the Issuing Banks, any Agent Affiliate nor any of the respective correspondents, participants or assignees of the Issuing Banks shall be liable or responsible for any of the matters described in Section 2.04(e); *provided* that, notwithstanding anything in such clauses to the contrary, the Borrower may have a claim against an Issuing Bank, and an Issuing Bank may be liable to the Borrower, to the extent, but only to the extent, of any direct (as opposed to indirect, special, punitive, consequential or exemplary) damages suffered by the Borrower which a court of competent jurisdiction determines in a final non-appealable judgment were caused by such Issuing Bank's gross negligence or willful misconduct or such Issuing Bank's willful or grossly negligent failure to pay under any Letter of Credit after the presentation to it by the beneficiary of a document(s) strictly complying with the terms and conditions of a Letter of Credit. In furtherance and not in limitation of the foregoing, the applicable Issuing Bank may accept documents that appear on their face to be in order, without responsibility for further investigation, regardless of any notice or information to the contrary, and the Issuing Banks shall not be responsible for the validity or sufficiency of any instrument transferring or assigning or purporting to transfer or assign a Letter of Credit or the rights or benefits thereunder or proceeds thereof, in whole or in part, which may prove to be invalid or ineffective for any reason. The Issuing Banks may send a Letter of Credit or conduct any communication to or from the beneficiary via the Society for Worldwide Interbank Financial Telecommunication (SWIFT) message or overnight courier, or any other commercially reasonable means of communication with a beneficiary.

(g) Applicability of ISP. Unless otherwise expressly agreed by the applicable Issuing Bank and the Borrower when a standby Letter of Credit is issued, the rules of the “International Standby Practices 1998” published by the Institute of International Banking Law & Practice (or such later version thereof as may be in effect at the time of issuance) shall apply to such standby Letter of Credit.

(h) Conflict with Letter of Credit Application. In the event of any conflict between the terms of this Agreement and the terms of any Letter of Credit Application, the terms hereof shall control.

(i) Reporting. No later than the third Business Day following the last day of each month, (or at such other intervals as the Administrative Agent and the applicable Issuing Bank shall agree), the applicable Issuing Bank shall provide to the Administrative Agent a schedule of the Letters of Credit issued by it, in form and substance reasonably satisfactory to the Administrative Agent, showing the date of issuance of each Letter of Credit, the account party, the original face amount (if any), the expiration date, and the reference number of any Letter of Credit outstanding at any time during such month, and showing the aggregate amount (if any) payable by the Borrower to such Issuing Bank during such month.

(j) [Reserved].

(k) Resignation and Removal of an Issuing Bank. Any Issuing Bank may resign as an Issuing Bank upon sixty (60) days’ prior written notice to the Administrative Agent, the Lenders and the Borrower. Any Issuing Bank may be replaced at any time by written agreement among the Borrower, the Administrative Agent, the Issuing Bank being replaced (*provided* that no consent will be required if the Issuing Bank being replaced has no Letters of Credit or Reimbursement Obligations with respect thereto outstanding) and the successor Issuing Bank. The Administrative Agent shall notify the Lenders of any such replacement of an Issuing Bank. At the time any such replacement or resignation shall become effective, the Borrower shall pay all unpaid fees accrued for the account of the replaced Issuing Bank. From and after the effective date of any such replacement or resignation, (i) any successor Issuing Bank shall have all the rights and obligations of an Issuing Bank under this Agreement with respect to Letters of Credit to be issued thereafter and (ii) references herein to the term “**Issuing Bank**” shall be deemed to refer to such successor or to any previous Issuing Bank, or to such successor and all previous Issuing Banks, as the context shall require. After the replacement or resignation of an Issuing Bank hereunder, the replaced or resigning Issuing Bank shall remain a party hereto to the extent that Letters of Credit issued by it remain outstanding and shall continue to have all the rights and obligations of an Issuing Bank under this Agreement with respect to Letters of Credit issued by it prior to such replacement or resignation, but shall not be required to issue additional Letters of Credit.

(l) Cash Collateral Account. At any time and from time to time (i) after the occurrence and during the continuance of an Event of Default, the Administrative Agent, at the direction or with the consent of the Required Lenders, may require the Borrower to deliver to the Administrative Agent such amount of cash as is equal to 105% of the aggregate Stated Amount of all Letters of Credit at any time outstanding (whether or not any beneficiary under any Letter of Credit shall have drawn or be entitled at such time to draw thereunder) and (ii) in the event of a prepayment under Section 2.07(b)(i) or Section 2.07(b)(ii), as contemplated by Section 2.07(d), the Administrative Agent will retain such amount as may then be required to be retained, such amounts in each case under clauses (i) and (ii) above to be held by the Administrative Agent in a Cash Collateral Account. The Borrower hereby grants (or, if registration thereof is required in any applicable jurisdiction, shall grant) to the Administrative Agent, for the benefit of the Issuing Banks and the Revolving Lenders, a Lien upon and security interest in the Cash Collateral Account and all amounts held therein from time to time as security for Letter of Credit Usage, and for application to the Borrower's Letter of Credit Obligations as and when the same shall arise. The Administrative Agent shall have exclusive dominion and control, including the exclusive right of withdrawal, over such account. Other than any interest on the investment of such amounts in Cash Equivalents, which investments shall be made at the direction of the Borrower (unless an Event of Default shall have occurred and be continuing, in which case the determination as to investments shall be made at the option and in the discretion of the Administrative Agent), amounts in the Cash Collateral Account shall not bear interest. Interest and profits, if any, on such investments shall accumulate in such account. In the event of a drawing, and subsequent payment by the applicable Issuing Bank, under any Letter of Credit at any time during which any amounts are held in the Cash Collateral Account, the Administrative Agent will deliver to such Issuing Bank an amount equal to the Reimbursement Obligation created as a result of such payment (or, if the amounts so held are less than such Reimbursement Obligation, all of such amounts) to reimburse such Issuing Bank therefor. Any amounts remaining in the Cash Collateral Account after the expiration of all Letters of Credit and reimbursement in full of each Issuing Bank for all of its obligations thereunder shall be held by the Administrative Agent, for the benefit of the Borrower, to be applied against the Obligations in such order and manner as the Administrative Agent may direct. If the Borrower is required to provide Cash Collateral pursuant to this Section 2.04(l), such amount (to the extent not applied as aforesaid) shall be returned to the Borrower on demand, *provided* that after giving effect to such return (A) the sum of (1) the aggregate principal dollar amount of all Revolving Loans outstanding at such time and (2) the aggregate Letter of Credit Usage at such time would not exceed the aggregate Commitments at such time and (B) no Event of Default shall have occurred and be continuing at such time. If the Borrower is required to provide Cash Collateral pursuant to Section 2.07(b)(i) or Section 2.07(b)(ii), as contemplated by Section 2.07(d), such amount shall be returned to the Borrower on demand; *provided* that, after giving effect to such return, all outstanding Letters of Credit shall have expired and each Issuing Bank shall have been reimbursed in full for all of its obligations thereunder. If the Borrower is required to provide Cash Collateral as a result of an Event of Default, such amount (to the extent not applied as aforesaid) shall be returned to the Borrower within three Business Days after all Events of Default have been cured or waived.

(m) Addition of an Issuing Bank. One or more Revolving Lenders (other than a Defaulting Lender) selected by the Borrower that agrees to act in such capacity and reasonably acceptable to the Administrative Agent may become an additional Issuing Bank hereunder pursuant to a written agreement in form and substance reasonably satisfactory to the Administrative Agent among the Borrower, the Administrative Agent and such Revolving Lender. The Administrative Agent shall notify the Revolving Lenders of any such additional Issuing Bank.

SECTION 2.05 Conversion/Continuation.

(a) Each conversion of Loans from one Type to another, and each continuation of SOFR Rate Loans shall be made upon the Borrower's irrevocable notice to the Administrative Agent, which may only be given in writing. Each such notice must be received by the Administrative Agent not later than 1:00 p.m. one Business Day prior to the date of any conversion of SOFR Rate Loans to Base Rate Loans and not later than 1:00 p.m. three Business Days prior to the requested date of continuation of any SOFR Rate Loans or any conversion of Base Rate Loans to SOFR Rate Loans. Each notice by the Borrower pursuant to this Section 2.05(a) must be delivered to the Administrative Agent in the form of a Conversion/Continuation Notice, appropriately completed and signed by a Responsible Officer of such Borrower. Each conversion to or continuation of SOFR Rate Loans shall be in a minimum principal amount of \$500,000 or a whole multiple of \$100,000 in excess thereof. Each conversion to Base Rate Loans shall be in a minimum principal amount of \$500,000 or a whole multiple of \$100,000 in excess thereof. Each Conversion/Continuation Notice shall specify (i) whether the Borrower is requesting a conversion of Loans from one Type to the other, or a continuation of SOFR Rate Loans, (ii) the requested date of the conversion or continuation, as the case may be (which shall be a Business Day), (iii) the principal amount and currency of Loans to be converted or continued, (iv) the Class of Loans to be converted or continued, (v) the Type of Loans to which such existing Loans are to be converted, if applicable, and (vi) if applicable, the duration of the Interest Period with respect thereto. If with respect to any SOFR Rate Loans, the Borrower fails to give a timely notice requesting a conversion or continuation, then the applicable Loans shall be converted to Base Rate Loans. Any such automatic conversion or continuation pursuant to the immediately preceding sentence shall be effective as of the last day of the Interest Period then in effect with respect to the applicable SOFR Rate Loans. If the Borrower requests a conversion to, or continuation of SOFR Rate Loans in any such Conversion/Continuation Notice, but fails to specify an Interest Period, it will be deemed to have specified an Interest Period of one month.

(b) Following receipt of a Conversion/Continuation Notice, the Administrative Agent shall promptly notify each applicable Lender of its Pro Rata Share of the applicable Class of Loans, and if no timely notice of a conversion or continuation is provided by the Borrower, the Administrative Agent shall notify each Lender of the details of any automatic conversion to Base Rate Loans or continuation of Loans described in Section 2.05(a).

(c) Except as otherwise provided herein, a SOFR Rate Loan may be continued or converted only on the last day of an Interest Period for such SOFR Rate Loan. Upon the occurrence and during the continuation of an Event of Default, the Administrative Agent or the Required Lenders may require by notice to the Borrower that no Loans denominated in Dollars may be converted to or continued as SOFR Rate Loans.

SECTION 2.06 Availability. Unless the Administrative Agent shall have received notice from a Lender prior to the date of any Borrowing that such Lender will not make available to the Administrative Agent such Lender's Pro Rata Share of such Borrowing, the Administrative Agent may, in its sole discretion, assume that such Lender has made such Pro Rata Share available to the Administrative Agent on the date of such Borrowing, and the Administrative Agent may in its sole discretion, in reliance upon such assumption, make available to the Borrower on such date a corresponding amount. If the Administrative Agent shall have so made funds available, then, to the extent that such Lender shall not have made such portion available to the Administrative Agent, each of such Lender and such Borrower severally agrees to repay to the Administrative Agent forthwith on demand such corresponding amount together with interest thereon, for each day from the date such amount is made available to such Borrower until the date such amount is repaid to the Administrative Agent at (a) in the case of such Borrower, the interest rate applicable at the time to the applicable Loans comprising such Borrowing and (b) in the case of such Lender, the Overnight Rate *plus* any administrative, processing, or similar fees customarily charged by the Administrative Agent in accordance with the foregoing. A certificate of the Administrative Agent submitted to any Lender with respect to any amounts owing under this Section 2.06 shall be conclusive in the absence of manifest error. If such Borrower and such Lender shall pay such interest to the Administrative Agent for the same or an overlapping period, the Administrative Agent shall promptly remit to such Borrower the amount of such interest paid by such Borrower for such period. If such Lender pays its share of the applicable Borrowing to the Administrative Agent, then the amount so paid shall constitute such Lender's applicable Loan included in such Borrowing. Any payment by the Borrower shall be without prejudice to any claim such Borrower may have against a Lender that shall have failed to make such payment to the Administrative Agent. A notice of the Administrative Agent to any Lender or the Borrower with respect to any amount owing under this Section 2.06 shall be conclusive, absent manifest error.

SECTION 2.07 Prepayments.

(a) Optional.

(i) The Borrower may, upon written notice to the Administrative Agent in the form of a Prepayment Notice, at any time or from time to time, voluntarily prepay the Loans in whole or in part without premium or penalty; *provided* that:

(A) such Prepayment Notice must be received by the Administrative Agent not later than 1:00 p.m. three Business Days prior to any date of prepayment of SOFR Rate Loans or Base Rate Loans;

(B) any prepayment of SOFR Rate Loans shall be in a minimum principal amount of \$1,000,000 or a whole multiple of \$100,000 in excess thereof; and

(C) any prepayment of Base Rate Loans shall be in a minimum principal amount of \$1,000,000 or a whole multiple of \$100,000 in excess thereof.

Each Prepayment Notice shall specify the date, amount and currency of such prepayment and the Class(es) and Type(s) of Loans to be prepaid, and the payment amount specified in each Prepayment Notice shall be due and payable on the date specified therein. The Administrative Agent will promptly notify each Appropriate Lender of its receipt of a Prepayment Notice and of the amount of such Lender's Pro Rata Share of such prepayment; *provided*, "non-consenting" Lenders may be repaid in full in an amount equal to the amount outstanding under such Non-Consenting Lenders' Commitments on a non-pro rata basis in connection with an Extension Offer or a Refinancing Amendment. Any prepayment of Loans shall be subject to Section 2.07(c). Revolving Loans and Incremental Loans prepaid pursuant to this subsection (a) may be reborrowed, subject to the terms and conditions of this Agreement.

(ii) Notwithstanding anything to the contrary contained in this Agreement, the Borrower may rescind, in whole or in part, any notice of prepayment under Section 2.07(a)(i), if such prepayment would have resulted from a refinancing of all or a portion of the applicable Facility, which refinancing shall not be consummated or shall otherwise be delayed.

(iii) Voluntary prepayments of Revolving Loans permitted hereunder shall be applied in a manner determined at the discretion of the Borrower and specified in the notice of prepayment (and absent such direction, in direct order of maturity).

(b) Mandatory.

(i) The Borrower shall from time to time prepay the Revolving Loans to the extent necessary so that the Total Utilization of Commitments shall not at any time exceed the Commitments then in effect; *provided* that, to the extent such excess amount is greater than the aggregate principal amount of Revolving Loans outstanding immediately prior to the application of such prepayment, the amount so prepaid shall be retained by the Administrative Agent and held in the Cash Collateral Account as cover for Letter of Credit Usage, as more particularly described in Section 2.04(l), and thereupon such cash shall be deemed to reduce the aggregate Letter of Credit Usage by an equivalent amount.

(ii) To the extent the Financial Covenants set forth in Section 8.01(b) and/or Section 8.01(c) are not satisfied as of any Measurement Date as set forth in any Compliance Certificate delivered in accordance with Section 6.02(a), the Borrower shall prepay the Revolving Loans in accordance with clause (iii) below within ten (10) Business Days of the date of delivery of such Compliance Certificate to the extent necessary such that the Financial Covenants set forth in Section 8.01(b) and/or Section 8.01(c) would, if recalculated to give Pro Forma Effect to such repayment, be satisfied as of such Measurement Date (or, if less, the remaining outstanding principal balance of the Facility) and, as long as such payment is made as of such date, no Default or Event of Default shall occur in respect of such breach.

(iii) The Borrower shall give notice to the Administrative Agent of any mandatory prepayment of the Loans pursuant to Section 2.07(b)(i) or Section 2.07(b)(ii) by 11:00 a.m. at least three Business Days prior to the date on which such payment is due. Such notice shall state that the Borrower is offering to make or will make such mandatory prepayment on or before the date specified in Section 2.07(b)(i) or Section 2.07(b)(ii) (a “**Prepayment Date**”). Once given, such notice shall be irrevocable (*provided* that the Borrower may rescind any notice of prepayment if such prepayment would have resulted from a refinancing of all or any portion of the Facility or been made in connection with a Disposition, which refinancing or Disposition shall not be consummated or shall otherwise be delayed) and all amounts subject to such notice shall be due and payable on the Prepayment Date (except as otherwise provided in the last sentence of this Section 2.07(b)(iii)). Upon receipt by the Administrative Agent of such notice, the Administrative Agent shall immediately give notice to each Lender of the prepayment, the Prepayment Date and of such Lender’s Pro Rata Share of the prepayment. Each Lender may elect (in its sole discretion) to decline all (but not less than all) of its Pro Rata Share of any mandatory prepayment by giving notice of such election in writing to the Administrative Agent by 11:00 a.m., on the date that is one Business Day prior to such prepayment. If a Lender fails to deliver a notice of election declining receipt of its Pro Rata Share of such mandatory prepayment to the Administrative Agent within the time frame specified above, any such failure will be deemed to constitute an acceptance of such Lender’s Pro Rata Share of the total amount of such mandatory prepayment of Loans. Upon receipt by the Administrative Agent of such notice, the Administrative Agent shall immediately notify the Borrower of such election. Any amount so declined by any Lender shall be retained by the Borrower and the Restricted Subsidiaries and/or applied by the Borrower or any of the Restricted Subsidiaries in any manner not inconsistent with the terms of this Agreement.

(c) Interest, Funding Losses, Etc. All prepayments under this Section 2.07 shall be accompanied by all accrued interest thereon, together with, in the case of any such prepayment of a SOFR Rate Loan on a date prior to the last day of an Interest Period therefor, any amounts owing in respect of such SOFR Rate Loan pursuant to Section 3.05.

(d) Application of Prepayment Amounts. In the event that the Borrower elects to prepay the Loans pursuant to subsection (a) above or the obligations of the Borrower to prepay the Loans arise pursuant to subsection (b) above:

(i) *first*, the Borrower shall prepay the outstanding principal amount of the Revolving Loans, without a corresponding permanent reduction to the Commitments; and

(ii) *second*, to the extent of any excess remaining after application as provided in clause (i) above, the Borrower shall pay any outstanding Reimbursement Obligations, and thereafter the Borrower shall Cash Collateralize the Letter of Credit Usage pursuant to Section 2.04(1).

Each payment or prepayment pursuant to the provisions of this Section 2.07(d) shall be applied ratably among the Lenders of each Class holding the Loans being prepaid, in proportion to the principal amount held by each.

(e) Interest Period Deferrals. Notwithstanding any of the other provisions of this Section 2.07, so long as no Event of Default shall have occurred and be continuing, if any prepayment of SOFR Rate Loans is required to be made under this Section 2.07 prior to the last day of the Interest Period therefor, in lieu of making any payment pursuant to this Section 2.07 in respect of any such SOFR Rate Loan, prior to the last day of the Interest Period therefor, the Borrower may, in their sole discretion, deposit an amount sufficient to make any such prepayment otherwise required to be made thereunder together with accrued interest to the last day of such Interest Period into a Cash Collateral Account until the last day of such Interest Period, at which time the Administrative Agent shall be authorized (without any further action by or notice to or from the Borrower or any other Loan Party) to apply such amount to the prepayment of such Loans in accordance with this Section 2.07. Upon the occurrence and during the continuance of any Event of Default, the Administrative Agent shall also be authorized (without any further action by or notice to or from the Borrower or any other Loan Party) to apply such amount to the prepayment of the outstanding Loans in accordance with the relevant provisions of this Section 2.07.

SECTION 2.08 Termination or Reduction of Commitments.

(a) Optional. The Borrower may, upon written notice to the Administrative Agent, terminate the unused Commitments of any Class, or from time to time permanently reduce the unused Commitments of any Class, in each case without premium or penalty; *provided* that (i) any such notice shall be received by the Administrative Agent three (3) Business Days prior to the date of termination or reduction, (ii) any such partial reduction shall be in an aggregate amount of \$1,000,000 or any whole multiple of \$1,000,000 in excess thereof or, if less, the entire remaining amount thereof and (iii) the Borrower shall not terminate or reduce (A) the Commitments if, after giving effect to any concurrent prepayment of the Revolving Loans in accordance with Section 2.07, the Total Utilization of Commitments would exceed the total Commitments, or (B) the Letter of Credit Sublimit if, after giving effect thereto, (1) the Letter of Credit Usage not fully Cash Collateralized hereunder at 105% of the maximum face amount of any such Letters of Credit would exceed the Letter of Credit Sublimit or (2) the Letter of Credit Usage with respect to Letters of Credit issued by an applicable Issuing Bank not fully Cash Collateralized hereunder at 105% of the maximum face amount of any such Letters of Credit would exceed the amount of such Issuing Bank's Letter of Credit Percentage of the Letter of Credit Sublimit. Notwithstanding the foregoing, the Borrower may rescind or postpone any notice of termination of the Commitments if such termination would have resulted from a refinancing of all or a portion of the applicable Facility, which refinancing shall not be consummated or otherwise shall be delayed.

(b) Mandatory.

(i) the Commitments shall terminate on the Commitment Termination Date.

(ii) If after giving effect to any reduction or termination of Commitments under this Section 2.08, the Letter of Credit Sublimit exceeds the amount of the Commitments at such time, the Letter of Credit Sublimit shall be automatically reduced by the amount of such excess.

(c) Effect of Termination or Reduction. Any termination or reduction of the Commitments of any Class shall be permanent. Each reduction of Commitments of any Class shall be made ratably among the Lenders in accordance with their respective Pro Rata Share of Commitments of such Class.

SECTION 2.09 Repayment of Loans.

(a) [Reserved].

(b) The Borrower shall repay to the Administrative Agent for the ratable account of the Appropriate Lenders the outstanding principal amount of the Revolving Loans on the Maturity Date.

SECTION 2.10 Interest.

(a) Subject to the provisions of Section 2.10(b), (i) each SOFR Rate Loan shall bear interest on the outstanding principal amount thereof for each Interest Period at a rate *per annum* equal to SOFR for such Interest Period plus the Applicable Rate and (ii) each Base Rate Loan shall bear interest on the outstanding principal amount thereof from the applicable Borrowing date at a rate *per annum* equal to the Base Rate plus the Applicable Rate.

(b) If any amount of principal of any Loan is not paid when due (without regard to any applicable grace periods), whether at stated maturity, by acceleration or otherwise, such amount shall thereafter bear interest at a fluctuating interest rate *per annum* at all times equal to the Default Rate to the fullest extent permitted by applicable Laws.

(c) If any amount (other than principal of any Loan) payable by the Borrower under any Loan Document is not paid when due (without regard to any applicable grace periods), whether at stated maturity, by acceleration or otherwise, then upon the request of the Required Lenders (or, after the occurrence of an actual or deemed entry of an order for relief with respect to the Borrower under any Debtor Relief Law, automatically and without further action by the Administrative Agent or any Lender) such amount shall thereafter bear interest at a fluctuating interest rate *per annum* at all times equal to the Default Rate to the fullest extent permitted by applicable Laws.

(d) Accrued and unpaid interest on the principal amount of all outstanding past due Obligations (including interest on past due interest) shall be due and payable upon demand (or, after the occurrence of an actual or deemed entry of an order for relief with respect to the Borrower under any Debtor Relief Law, automatically and without further action by the Administrative Agent or any Lender).

(e) Interest on each Loan shall be due and payable (i) with respect to Base Rate Loans, in arrears on each Interest Payment Date applicable thereto and at such other times as may be specified herein and (ii) with respect to SOFR Rate Loans, at the end of each Interest Period, and, if an Interest Period exceeds three months, every three months. Interest hereunder shall be due and payable in accordance with the terms hereof before and after judgment, and before and after the commencement of any proceeding, under any Debtor Relief Law.

(f) The Administrative Agent shall promptly notify the Borrower and the Lenders of the interest rate applicable to any Interest Period for any SOFR Rate Loans upon determination of such interest rate. The determination of SOFR by the Administrative Agent shall be conclusive in the absence of manifest error. At any time when Base Rate Loans are outstanding, the Administrative Agent shall notify the Borrower and the Lenders of any change in the “prime rate” used in determining the Base Rate promptly following the public announcement of such change.

(g) After giving effect to all Borrowings, all conversions of Loans from one Type to the other, and all continuations of Loans as the same Type, there shall not be more than ten Interest Periods in effect unless otherwise agreed between the Borrower and the Administrative Agent; *provided* that after the establishment of any new Class of Loans pursuant to a Refinancing Amendment or Extension, the number of Interest Periods otherwise permitted by this Section 2.10(g) shall increase by three Interest Periods for each applicable Class so established.

SECTION 2.11 Fees.

(a) The Borrower shall pay to the Agents such fees as shall have been separately agreed upon in writing (including pursuant to the Fee Letter) in the amounts and at the times so specified. Such fees shall be fully earned when paid and shall not be refundable for any reason whatsoever (except as expressly agreed between the Borrower and the applicable Agent).

(b) The Borrower agrees to pay to Lenders having Revolving Exposure:

(i) if, for any day in each calendar quarter for the period from and including the Closing Date to and including the Commitment Termination Date, (I) the daily unpaid balance of the sum of the aggregate principal amount of all outstanding Revolving Loans *plus* (II) the Letter of Credit Usage (such sum, the “**Usage Amount**”) does not equal the Commitments, a fee at a rate equal to the Applicable Commitment Fee *per annum* for each such day on the amount by which the Commitments on such day exceeds such Usage Amount (the “**Unused Line Fee**”). The Unused Line Fee shall be payable to Lenders having Revolving Exposure in arrears on the first Business Day of each calendar quarter with respect to each day in the previous calendar quarter and on the Commitment Termination Date with respect to the period ending on the Commitment Termination Date; and

(ii) letter of credit fees with respect to all Letters of Credit (the “L/C Fee”) equal to (A) the Applicable Rate for Revolving Loans that are SOFR Rate Loans, times (B) the average aggregate daily maximum amount available to be drawn under all Letters of Credit (regardless of whether any conditions for drawing could then be met and determined as of the close of business on any date of determination and whether or not such maximum amount is then in effect under such Letter of Credit if such maximum amount increases periodically pursuant to the terms of such Letter of Credit).

All fees referred to in this Section 2.11(b) shall be paid to the Administrative Agent at the Administrative Agent’s Office and upon receipt, the Administrative Agent shall promptly distribute to each Lender its Pro Rata Share thereof.

(c) The Borrower agrees to pay directly to the applicable Issuing Bank, for its own account, the following fees:

(i) a fronting fee in an amount equal to 0.25% *per annum* times the daily maximum amount then available to be drawn under such Letter of Credit (whether or not such maximum amount is then in effect under such Letter of Credit if such maximum amount increases periodically pursuant to the terms of such Letter of Credit) determined as of the close of business on any date of determination; and

(ii) such documentary and processing charges for any issuance, amendment, transfer or payment of a Letter of Credit as are in accordance with such Issuing Bank’s standard schedule for such charges and as in effect at the time of such issuance, amendment, transfer or payment, as the case may be, which fees, costs and charges shall be payable to such Issuing Bank within three Business Days after its demand therefor and are nonrefundable.

(d) All fees referred to in Sections 2.11(b) and 2.11(c)(i) shall be payable quarterly in arrears on the last Business Day of each fiscal quarter of each year during the Commitment Period, commencing with the first full fiscal quarter ending after the Closing Date, and on the Commitment Termination Date; *provided* that any such fees accruing after the Commitment Termination Date shall be payable on demand.

(e) [Reserved].

SECTION 2.12 Computation of Interest and Fees.

(a) All computations of interest for Base Rate Loans calculated by reference to the “prime rate” or Federal Funds Rate shall be made on the basis of a year of 365 days or 366 days, as the case may be, and actual days elapsed. All other computations of fees and interest shall be made on the basis of a 360-day year and actual days elapsed (which results in more fees or interest, as applicable, being paid than if computed on the basis of a 365-day year). Interest shall accrue on each Loan for the day on which the Loan is made, and shall not accrue on a Loan, or any portion thereof, for the day on which the Loan or such portion is paid; *provided* that any Loan that is repaid on the same day on which it is made shall, subject to Section 2.10(a), bear interest for one day. Each determination by the Administrative Agent of an interest rate or fee hereunder shall be conclusive and binding for all purposes, absent manifest error.

(b) [Reserved].

SECTION 2.13 Evidence of Indebtedness.

(a) The Borrowings made by each Lender shall be evidenced by one or more accounts or records maintained by such Lender and evidenced by one or more entries in the Register maintained by the Administrative Agent, acting solely for purposes of Treasury Regulation Section 5f.103-1(c), as non-fiduciary agent for the Borrower, in each case in the ordinary course of business. The accounts or records maintained by the Administrative Agent and each Lender shall be *prima facie* evidence absent manifest error of the amount of the Borrowings made by the Lenders to the Borrower and the interest and payments thereon. Any failure to so record or any error in doing so shall not, however, limit or otherwise affect the obligation of the Borrower hereunder to pay any amount owing with respect to the Obligations. In the event of any conflict between the accounts and records maintained by any Lender and the accounts and records of the Administrative Agent in respect of such matters, the accounts and records of the Administrative Agent shall control in the absence of manifest error.

Upon the request of any Lender, the Borrower shall execute and deliver to such Lender (through the Administrative Agent) a Revolving Loan Note payable to such Lender, which shall evidence the relevant Class of such Lender’s Loans in addition to such accounts or records. Each Lender may attach schedules to its Revolving Loan Note and endorse thereon the date, Type (if applicable), amount and maturity of its Loans and payments with respect thereto.

(b) Entries made in good faith by the Administrative Agent in the Register pursuant to Section 2.13(a), and by each Lender in its account or accounts pursuant to Section 2.13(a), shall be *prima facie* evidence of the amount of principal and interest due and payable or to become due and payable from the Borrower to, in the case of the Register, each Lender and, in the case of such account or accounts, such Lender, under this Agreement and the other Loan Documents, absent manifest error; *provided* that the failure of the Administrative Agent or such Lender to make an entry, or any finding that an entry is incorrect, in the Register or such account or accounts shall not limit or otherwise affect the obligations of the Borrower under this Agreement and the other Loan Documents.

SECTION 2.14 Payments Generally.

(a) All payments to be made by the Borrower shall be made on the date when due, in immediately available funds without condition or deduction for any counterclaim, defense, recoupment or setoff. Except as otherwise expressly provided herein, all payments by the Borrower hereunder shall be made to the Administrative Agent, for the account of the respective Lenders to which such payment is owed, at the applicable Administrative Agent's Office for payment and in Same Day Funds not later than 1:00 p.m. (unless otherwise agreed by the Administrative Agent) on the date specified herein. The Administrative Agent will promptly distribute to each Appropriate Lender its Pro Rata Share (or other applicable share as provided herein) of such payment in like funds as received by wire transfer to such Lender's Lending Office; *provided* that the proceeds of any borrowing of Revolving Loans to finance the reimbursement of a drawn Letter of Credit as provided in Section 2.04(c) shall be remitted by the Administrative Agent to the applicable Issuing Bank. All payments received by the Administrative Agent after 1:00 p.m. (or such other time as agreed by the Administrative Agent) may in each case be deemed received on the next succeeding Business Day and any applicable interest or fee shall continue to accrue.

(b) If any payment to be made by the Borrower shall come due on a day other than a Business Day, payment shall be made on the next following Business Day, and such extension of time shall be reflected in computing interest or fees, as the case may be.

(c) Unless the Borrower has notified the Administrative Agent, prior to the date any payment is required to be made by the Borrower to the Administrative Agent hereunder for the account of any Lender or any Issuing Bank, as applicable, that the Borrower will not make such payment, the Administrative Agent may assume that the Borrower has timely made such payment and may (but shall not be so required to), in reliance thereon, make available a corresponding amount to such Lender or such Issuing Bank. If and to the extent that such payment was not in fact made to the Administrative Agent in Same Day Funds, then such Lender or such Issuing Bank, as applicable, shall forthwith on demand repay to the Administrative Agent the portion of such assumed payment that was made available to such Lender or such Issuing Bank in Same Day Funds, together with interest thereon in respect of each day from and including the date such amount was made available by the Administrative Agent to such Lender or such Issuing Bank, as applicable, to the date such amount is repaid to the Administrative Agent in Same Day Funds at the applicable Overnight Rate from time to time in effect.

(d) If any Lender makes available to the Administrative Agent funds for any Loan to be made by such Lender as provided in the foregoing provisions of this Article II, and such funds are not made available to the Borrower by the Administrative Agent because the conditions to the Borrowing set forth in Article IV are not satisfied or waived in accordance with the terms hereof, the Administrative Agent shall return such funds (in like funds as received from such Lender) to such Lender, without interest.

(e) The obligations of the Lenders hereunder to make Loans, to fund participations in Letters of Credit and to make payments pursuant to Section 10.07 are several and not joint. The failure of any Lender to make any Loan on any date required hereunder shall not relieve any other Lender of its corresponding obligation to do so on such date, and no Lender shall be responsible for the failure of any other Lender to so make its Loan or purchase its participation.

(f) Nothing herein shall be deemed to obligate any Lender to obtain the funds for any Loan in any particular place or manner or to constitute a representation by any Lender that it has obtained or will obtain the funds for any Loan in any particular place or manner.

(g) Whenever any payment received by the Administrative Agent under this Agreement or any of the other Loan Documents is insufficient to pay in full all amounts due and payable to the Administrative Agent and the Lenders under or in respect of this Agreement and the other Loan Documents on any date, such payment shall be distributed by the Administrative Agent and applied by the Administrative Agent and the Lenders in the order of priority set forth in Section 9.03. If the Administrative Agent receives funds for application to the Obligations of the Loan Parties under or in respect of the Loan Documents under circumstances for which the Loan Documents do not specify the manner in which such funds are to be applied, the Administrative Agent may, but shall not be obligated to, elect to distribute such funds to each of the Lenders in accordance with such Lender's Pro Rata Share of such of the outstanding Loans or other Obligations then owing to such Lender.

(h) If any Lender shall fail to make any payment required to be made by it pursuant to Section 2.04(c), 2.06, 2.15 or 10.07, then the Administrative Agent may, in its discretion and notwithstanding any contrary provision hereof, (i) apply any amounts thereafter received by the Administrative Agent for the account of such Lender for the benefit of the Administrative Agent or the Issuing Banks, as applicable, to satisfy such Lender's obligations to the Administrative Agent and the Issuing Banks until all such unsatisfied obligations are fully paid and/or (ii) hold any such amounts in a segregated account as cash collateral for, and application to, any future funding obligations of such Lender under any such Section, in the case of each of clauses (i) and (ii) above, in any order as determined by the Administrative Agent in its discretion.

SECTION 2.15 Sharing of Payments, Etc. If, other than as expressly provided elsewhere herein, any Lender shall obtain payment in respect of any principal of or interest on account of the Loans of a particular Class made by it (whether voluntary, involuntary, through the exercise of any right of setoff, or otherwise) in excess of its ratable share (or other share contemplated hereunder) thereof, such Lender shall immediately (a) notify the Administrative Agent of such fact, and (b) purchase from the other Lenders such participations in the Loans made by them and/or such sub-participations in the participations in L/C obligations held by them, as the case may be, as shall be necessary to cause such purchasing Lender to share the excess payment in respect of such Loans or such participations, as the case may be, pro rata with each of them; *provided* that if all or any portion of such excess payment is thereafter recovered from the purchasing Lender under any of the circumstances described in Section 11.06 (including pursuant to any settlement entered into by the purchasing Lender in its discretion), such purchase shall to that extent be rescinded and each relevant Lender shall repay to the purchasing Lender the purchase price paid therefor, together with an amount equal to such paying Lender's ratable share (according to the proportion of (i) the amount of such paying Lender's required repayment to (ii) the total amount so recovered from the purchasing Lender) of any interest or other amount paid or payable by the purchasing Lender in respect of the total amount so recovered, without further interest thereon. The provisions of this paragraph shall not be construed to apply to (A) any payment made by the Borrower pursuant to and in accordance with the express terms of this Agreement as in effect from time to time (including 11.07), (B) any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Loans to any assignee or participant permitted hereunder or (C) any payment received by such Lender not in its capacity as a Lender. The Borrower agrees that any Lender so purchasing a participation from another Lender may, to the fullest extent permitted by applicable Law, exercise all its rights of payment (including the right of setoff, but subject to Section 11.09) with respect to such participation as fully as if such Lender were the direct creditor of the Borrower in the amount of such participation. The Administrative Agent will keep records (which shall be conclusive and binding in the absence of manifest error) of participations purchased under this Section 2.15 and will in each case notify the Lenders following any such purchases or repayments. Each Lender that purchases a participation pursuant to this Section 2.15 shall from and after such purchase have the right to give all notices, requests, demands, directions and other communications under this Agreement with respect to the portion of the Obligations purchased to the same extent as though the purchasing Lender were the original owner of the Obligations purchased.

SECTION 2.16 Incremental Borrowings.

(a) Notice. At any time and from time to time, on one or more occasions, the Borrower may, by notice to the Administrative Agent increase the aggregate principal amount of Commitments under the Loan Documents (the “**Incremental Facilities**”, and the revolving loans and other extensions of credit made thereunder, the “**Incremental Loans**”) ; *provided*, that (i) if a Default or Event of Default has occurred and is continuing that (A) is a Specified Event of Default or (B) would require the consent of each of the Lenders to waive or otherwise consent to waive, the consent of each of the Lenders hereto shall be required to make notice of such Incremental Facilities and (ii) if a Default or Event of Default has occurred and is continuing that is not of the type described in the foregoing clause (i), the consent of the Required Lenders hereto shall be required to make notice of such Incremental Facilities.

(b) Ranking. Incremental Facilities (i) may rank either junior in right of payment with the existing Revolving Loans or *pari passu* in right of payment with the existing Revolving Loans, (ii) may either be unsecured or secured (on a junior basis or on a *pari passu* basis) by the Collateral (or assets that become Collateral substantially concurrently with the incurrence of such Incremental Facility) (*provided* that such Incremental Facilities shall only be permitted to be secured on a *pari passu* basis by the Collateral to the extent the relevant parties have entered in to a Junior Lien Intercreditor Agreement in substantially the form of Exhibit K-2 or Existing Junior Lien Intercreditor Agreement has either (A) been amended to increase the amount of the “Maximum First Lien Obligations Amount” to accommodate such *pari passu* liens or (B) terminated on or prior to the date of incurrence of such Incremental Facility) and (iii) may be guaranteed solely by the Loan Parties (or Persons that become Loan Parties substantially concurrently with the incurrence of such Incremental Facility).

(c) Size and Currency. The aggregate principal amount of Incremental Facilities on any date Indebtedness thereunder is first incurred, together with the aggregate principal amount of any Incremental Facilities outstanding on such date, will not exceed \$50,000,000 or such greater amount as consented to by all Lenders (the “**Incremental Amount**”). Each Incremental Facility will be in an integral multiple of \$1,000,000 and in an aggregate principal amount that is not less than \$5,000,000 (or such lesser minimum amount approved by the Administrative Agent in its reasonable discretion); *provided* that such amount may be less than such minimum amount or integral multiple amount if such amount represents all the remaining availability under the Incremental Amount at such time. Any Incremental Facility may be denominated in Dollars, and the minimum amount and integral multiples shall be a Dollar Amount of \$5,000,000 or \$1,000,000, respectively (or, in each case, such lesser minimum amount approved by the Administrative Agent in its reasonable discretion).

(d) Incremental Lenders. Incremental Facilities may be provided by any existing Lender (it being understood that no existing Lender shall have an obligation to make, or provide commitments with respect to, an Incremental Loan) or by any Additional Lender. While existing Lenders may (but are not obligated to) participate in any syndication of an Incremental Facility and may (but are not obligated to) become lenders with respect thereto; *provided* that (x) the opportunity to provide any Incremental Facility shall first be offered to the then-existing Revolving Lenders before being offered to Additional Lenders and (y) if the then-existing Revolving Lenders decline to provide all or any portion of such Incremental Facility, the Additional Lender(s) providing all or any portion of such Incremental Facility shall be subject to the consent of the Required Lenders (such consent not to be unreasonably withheld, delayed or conditioned), which may include any Lenders that decline to provide a commitment to an Incremental Loan. Final allocations in respect of Incremental Facilities will be made by the Borrower together with the arrangers thereof, if any, in their discretion, on the terms permitted by this Section 2.16; *provided* that the lenders providing the Incremental Facilities will be reasonably acceptable to (i) the Borrower, (ii) the Administrative Agent and (iii) each Issuing Bank (except that, in the case of clauses (ii) and (iii), only to the extent such Person otherwise would have a consent right to an assignment of such loans or commitments to such lender in accordance with Section 11.05) and if any then-existing Revolving Lenders elect to participate, they will be allocated (at their election) at least their pro rata share of the Incremental Facilities.

(e) Incremental Facility Amendments; Use of Proceeds. Each Incremental Facility will become effective pursuant to an amendment (each, an “**Incremental Amendment**”) to this Agreement and, as appropriate, the other Loan Documents, executed by the Borrower and each Person providing such Incremental Facility and the Administrative Agent. The Administrative Agent will promptly notify each Lender as to the effectiveness of each Incremental Amendment. Incremental Amendments may, without the consent of any other Lenders, effect such amendments to this Agreement and the other Loan Documents as may be necessary or appropriate, in the reasonable opinion of the Borrower in consultation with the Administrative Agent, to effect the provisions of this Section 2.16 and, to the extent practicable, to make an Incremental Loan fungible (including for Tax purposes) with other Loans (subject to the limitations under sub-clauses (g) and (h) of this Section) to the extent practicable. Each of the parties hereto hereby agrees that, upon the effectiveness of any Incremental Amendment, this Agreement and the other Loan Documents, as applicable, will be amended to the extent necessary to reflect the existence and terms of the Incremental Facility and the Incremental Loans evidenced thereby. This Section 2.16 shall supersede any provisions in Section 2.15 or 11.01 to the contrary. The Borrower may use the proceeds of the Incremental Loans for any purpose not prohibited by this Agreement.

(f) Conditions. The availability of Incremental Facilities under this Agreement will be subject solely to the following conditions and any other conditions required by the Lenders providing such Incremental Facility, subject, for the avoidance of doubt, to Section 1.08, measured on the date of the initial borrowing under such Incremental Facility:

(i) no Event of Default shall have occurred and be continuing or would result therefrom; *provided* that the condition set forth in this clause (i) may be waived or not required (other than with respect to Specified Events of Default) by the Persons providing such Incremental Facilities if the proceeds of the initial Borrowings under such Incremental Facilities will be used to finance, in whole or in part, a Permitted Investment or other acquisition permitted hereunder; and

(ii) the representations and warranties in the Loan Documents will be true and correct in all material respects (except for representations and warranties that are already qualified by materiality, which representations and warranties will be true and correct in all respects) immediately prior to, and after giving effect to, the incurrence of such Incremental Facility; *provided* that the condition set forth in this clause (ii) may be waived or not required by the Persons providing such Incremental Facilities if the proceeds of the initial Borrowings under such Incremental Facilities will be used to finance, in whole or in part, a Permitted Investment or other acquisition permitted hereunder.

(g) Terms. Each Incremental Amendment will set forth the amount and terms of the relevant Incremental Facility. The terms of each Incremental Facility will be as agreed between the Borrower and the Persons providing such Incremental Facility; *provided* that:

(i) (A) to the extent secured, such Incremental Facilities shall not be secured by any Lien on any property or asset of the Borrower or any Guarantor that does not also secure the Revolving Loans at the time of such incurrence (except (1) customary cash collateral in favor of an agent, letter of credit issuer or similar “fronting” lender, (2) Liens on property or assets applicable only to periods after the Latest Maturity Date of the Revolving Loans at the time of incurrence and (3) any Liens on property or assets to the extent that a Lien on such property or asset is also added for the benefit of the Lenders under the Revolving Loans) and (B) to the extent guaranteed, such Incremental Facilities shall not be incurred or guaranteed by any Loan Party other than the Borrower and the Guarantors (including any Person required to be a Guarantor) (except (1) for guarantees by other Persons that are applicable only to periods after the Latest Maturity Date of the Revolving Loans at the time of incurrence and (2) any such Person incurring or guaranteeing such Incremental Facilities, as applicable, that also guarantees the Revolving Loans);

(ii) [reserved];

(iii) if such Incremental Loans are Pari Passu Lien Debt, unless otherwise consented to by the Lenders, payments in respect of such Incremental Loans shall be subject to the Priority Waterfall or another agreement with substantially equivalent provisions; and

(iv) except as otherwise set forth herein, all terms of any Incremental Facility shall be on terms and pursuant to documentation applicable to the Facility and all other terms of any Incremental Facility shall be on terms (including subordination terms, if applicable) and pursuant to documentation to be determined by the Borrower and the providers of the Incremental Facility; *provided* that the operational and agency provisions contained in such documentation shall be reasonably satisfactory to the Administrative Agent and the Borrower.

(h) Pricing. The pricing terms in respect of Incremental Facilities that are *pari passu* in right of payment and *pari passu* in lien priority with the existing Revolving Loan (including the rate of interest, timing of payments, and amount of fees due thereunder) shall be on the same terms as the Obligations unless the Required Lenders otherwise agree; *provided*, that the maturity date and timing of any interest and principal payments due with respect to such Incremental Facilities shall be on the same terms as the Facility.

(i) Adjustments to Revolving Loans. Upon each increase in the Commitments pursuant to this Section 2.16,

(i) each Revolving Lender immediately prior to such increase will automatically and without further act be deemed to have assigned to each lender providing a portion of such increase (each an “**Incremental Facility Lender**”), and each such Incremental Facility Lender will automatically and without further act be deemed to have assumed, a portion of such Revolving Lender’s participations hereunder in outstanding Letters of Credit such that, after giving effect to each such deemed assignment and assumption of participations, the percentage of the aggregate outstanding participations hereunder in Letters of Credit held by each Revolving Lender will equal the percentage of the aggregate Commitments of all Lenders represented by such Revolving Lender’s Commitments; and

(ii) if, on the date of such increase, there are any Revolving Loans outstanding, such Revolving Loans shall on or prior to the effectiveness of such Incremental Facility be prepaid from the proceeds of Incremental Loans made hereunder (reflecting such increase in Commitments), which prepayment shall be accompanied by accrued interest on the Revolving Loans being prepaid and any costs incurred by any Revolving Lender in accordance with Section 3.05.

(j) The Administrative Agent and the Lenders hereby agree that the minimum borrowing, *pro rata* borrowing and *pro rata* payment requirements contained elsewhere in this Agreement shall not apply to the transactions effected pursuant to this Section 2.16.

SECTION 2.17 Refinancing Amendments.

(a) Refinancing Loans. The Borrower may obtain, from any Lender or any Additional Lender, Refinancing Indebtedness in respect of all or any portion of the Revolving Loans, in the form of Refinancing Loans or Refinancing Commitments made pursuant to a Refinancing Amendment.

(b) Refinancing Amendments. The effectiveness of any Refinancing Amendment will be subject only to the satisfaction on the date thereof of such conditions as may be requested by the providers of applicable Refinancing Loans or Refinancing Commitments. The Administrative Agent will promptly notify each Lender as to the effectiveness of each Refinancing Amendment. Each of the parties hereto hereby agrees that, upon the effectiveness of any Refinancing Amendment, this Agreement will be deemed amended to the extent (but only to the extent) necessary to reflect the existence and terms of the Refinancing Loans and Refinancing Commitments incurred pursuant thereto (including any amendments necessary to treat the Revolving Loans subject thereto as Refinancing Revolving Loans, respectively). Each Refinancing Amendment shall be subject to the provisions of Section 11.01(b), and no Refinancing Amendment shall materially adversely and directly affect any Lender which does not agree to make a Refinancing Loan or maintain Refinancing Commitment without such Lender's consent (including but not limited to, a subordination of such Lender's rights, or any dilution of such Lender's existing Commitments or Loans while they are outstanding).

(c) Required Consents. Any Refinancing Amendment may, without the consent of any Person other than the Administrative Agent, the Borrower and the Persons providing the applicable Refinancing Loans, effect such amendments to this Agreement and the other Loan Documents as may be necessary or appropriate, in the reasonable opinion of the Administrative Agent and the Borrower, to effect the provisions of this Section 2.17. This Section 2.17 supersedes any provisions in Section 11.01 to the contrary; *provided, however*, no amendment or modification shall be effective against any Lender to the extent such amendment or modification would otherwise require such Lender's consent under Section 11.01(b) on account of such Lender being directly and adversely affected thereby; *provided*, Non-Consenting Lenders may be repaid on a non-pro rata basis in connection with an Extension Offer or a Refinancing Amendment without such Lender's consent.

(d) Providers of Refinancing Loans. Refinancing Loans may be provided by any existing Lender (it being understood that no existing Lender shall have an obligation to make all or any portion of any Refinancing Loan) or by any Additional Lender (subject to Section 11.07(h)); *provided* that the opportunity to provide any Refinancing Revolving Loans shall be offered to all then-existing Revolving Lenders. The lenders providing the Refinancing Loans will be reasonably acceptable to the (i) Borrower, (ii) the Administrative Agent and (iii) solely with respect to any Refinancing Revolving Loans, each Issuing Bank (except that, in the case of clauses (ii) and (iii), only to the extent such Person otherwise would have a consent right to an assignment of such loans or commitments to such lender, such consent not to be unreasonably withheld, conditioned or delayed).

SECTION 2.18 Extensions of Loans

(a) Extension Offers. Pursuant to one or more offers (each, an “**Extension Offer**”) made from time to time by the Borrower to all Lenders holding Loans and/or Commitments of a particular Class with a like Maturity Date, such Borrower(s) may extend such Maturity Date and otherwise modify the terms of such Loans and/or Commitments pursuant to the terms set forth in an Extension Offer (each, an “**Extension**”). Each Extension Offer will specify the minimum amount of Loans and/or Commitments with respect to which an Extension Offer may be accepted, which will be an integral multiple of \$1,000,000 and an aggregate principal amount that is not less than \$5,000,000, or, if less, (i) the aggregate principal amount of such Class of Loans outstanding or (ii) such lesser minimum amount as is approved by the Administrative Agent, such approval not to be unreasonably withheld, conditioned or delayed. Extension Offers will be made on a *pro rata* basis to all Lenders holding Loans and/or Commitments of a particular Class with a like Maturity Date. If the aggregate outstanding principal amount of such Loans (calculated on the face amount thereof) and/or Commitments in respect of which Lenders have accepted an Extension Offer exceeds the maximum aggregate principal amount of Loans and/or Commitments offered to be extended pursuant to such Extension Offer, then the Loans and/or Commitments of such Lenders will be extended ratably up to such maximum amount based on the respective principal amounts (but not to exceed actual holdings of record) with respect to which such Lenders have accepted such Extension Offer. There is no requirement that any Extension Offer or Extension Amendment (defined as follows) be subject to any “most favored nation” pricing provisions. The terms of an Extension Offer shall be determined by the Borrower, and Extension Offers may contain one or more conditions to their effectiveness, including a condition that a minimum amount of Loans and/or Commitments of any or all applicable tranches be tendered.

(b) Extension Amendments. The Lenders hereby irrevocably authorize the Administrative Agent to enter into amendments to this Agreement and the other Loan Documents (an “**Extension Amendment**”) as may be necessary or appropriate in order to establish new tranches in respect of Extended Loans and Extended Commitments and such amendments as permitted by clause (c) below as may be necessary or appropriate in the reasonable opinion of the Borrower, in consultation with the Administrative Agent, in connection with the establishment of such new tranches of Loans. This Section 2.18 shall supersede any provisions in Section 2.15 or 11.01 to the contrary; *provided, however*, no amendment or modification shall be effective against any Lender to the extent such amendment or modification would otherwise require such Lender’s consent under Section 11.01(b) on account of such Lender being directly and adversely affected thereby. Except as otherwise set forth in an Extension Offer, there will be no conditions to the effectiveness of an Extension Amendment. Extensions will not constitute a voluntary or mandatory payment or prepayment for purposes of this Agreement. Each Extension Amendment shall be subject to the provisions of Section 11.01(b), and no Extension Amendment shall materially adversely and directly affect any Lender which does not agree to make a extend its Loan or Commitment without such Lender’s consent (including but not limited to, a subordination of such Lender’s rights, or any dilution of such Lender’s Commitments or Loans while they are outstanding).

(c) Terms of Extension Offers and Extension Amendments. The terms of any Extended Loans and Extended Commitments will be set forth in an Extension Offer and as agreed between the Borrower and the Extending Lenders accepting such Extension Offer; *provided* that the final maturity date of such Extended Loans and Extended Commitments will be no earlier than the Latest Maturity Date applicable to the Loans and/or Commitments subject to such Extension Offer.

Any Extended Loans will constitute a separate tranche of Revolving Loans from the Revolving Loans held by Lenders that did not accept the applicable Extension Offer.

(d) Extension of Commitments. In the case of any Extension of Commitments and/or Revolving Loans, the following shall apply:

(i) all borrowings and all prepayments of Revolving Loans shall continue to be made on a ratable basis among all Revolving Lenders, based on the relative amounts of their Commitments, until the repayment of the Revolving Loans attributable to the non-extended Commitments on the relevant Maturity Date;

(ii) the allocation of the participation exposure with respect to any then-existing or subsequently issued Letter of Credit as between the Commitments of such new tranche and the remaining Commitments shall be made on a ratable basis in accordance with the relative amounts thereof until the Maturity Date relating to such non-extended Commitments has occurred;

(iii) no termination of extended Commitments and no repayment of extended Loans accompanied by a corresponding permanent reduction in extended Commitments shall be permitted unless such termination or repayment (and corresponding reduction) is accompanied by at least a *pro rata* termination or permanent repayment (and corresponding *pro rata* permanent reduction), as applicable, of each other tranche of Revolving Loans and Commitments (or each other tranche of Commitments and Revolving Loans shall have otherwise been terminated and repaid in full);

(iv) the Maturity Date with respect to the Commitments may not be extended without the prior written consent of each Issuing Bank; and

(v) at no time shall there be more than five different tranches of Commitments.

If the Total Utilization of Commitments exceeds the Commitment as a result of the occurrence of the Maturity Date with respect to any tranche of Commitments while an extended tranche of Commitments remains outstanding, the Borrower shall make such payments as are necessary in order to eliminate such excess on such Maturity Date.

(e) Required Consents. No consent of any Lender or any other Person will be required to effectuate any Extension, other than the consent of the Administrative Agent (such consent not to be unreasonably withheld, delayed or conditioned), the Borrower and the applicable Extending Lender. The transactions contemplated by this Section 2.18 (including, for the avoidance of doubt, payment of any interest, fees or premium in respect of any Extended Loans on such terms as may be set forth in the relevant Extension Offer) will not require the consent of any other Lender or any other Person, and the requirements of any provision of this Agreement or any other Loan Document that may otherwise prohibit any such Extension or any other transaction contemplated by this Section 2.18 will not apply to any of the transactions effected pursuant to this Section 2.18. Notwithstanding the foregoing clause (e), no amendment or modification shall be effective against any Lender to the extent such amendment or modification would otherwise require such Lender's consent under Section 11.01(b) on account of such Lender being directly and adversely affected thereby.

SECTION 2.20 Defaulting Lenders.

(a) Defaulting Lender Adjustments. Notwithstanding anything to the contrary contained in this Agreement, if any Lender becomes a Defaulting Lender, then, until such time as such Lender is no longer a Defaulting Lender, to the extent permitted by applicable law:

(i) Defaulting Lender Waterfall. Any payment of principal, interest, fees or other amounts received by the Administrative Agent for the account of such Defaulting Lender (whether voluntary or mandatory, at maturity, pursuant to Article IX or otherwise) or received by the Administrative Agent from a Defaulting Lender pursuant to Section 11.09 shall be applied at such time or times as may be determined by the Administrative Agent as follows: *first*, to the payment of any amounts owing by such Defaulting Lender to the Administrative Agent hereunder; *second*, to the payment on a pro rata basis of any amounts owing by such Defaulting Lender to each Issuing Bank hereunder; *third*, to Cash Collateralize each Issuing Bank's Fronting Exposure with respect to such Defaulting Lender with respect to outstanding Letters of Credit (in an amount equal to 105% of the maximum face amount of all outstanding Letters of Credit) in accordance with Section 2.20(d); *fourth*, as the Borrower may request (so long as no Event of Default shall have occurred and be continuing), to the funding of any Loan in respect of which such Defaulting Lender has failed to fund its portion thereof as required by this Agreement, as determined by the Administrative Agent; *fifth*, if so determined by the Administrative Agent and the Borrower, to be held in a Cash Collateral Account and released *pro rata* in order to (A) satisfy such Defaulting Lender's potential future funding obligations with respect to Loans under this Agreement and (B) Cash Collateralize each Issuing Bank's (in an amount equal to 105% of the maximum face amount of all outstanding Letters of Credit) with respect to future Letters of Credit issued under this Agreement, in accordance with Section 2.20(d); *sixth*, to the payment of any amounts owing to the Lenders or the Issuing Banks as a result of any judgment of a court of competent jurisdiction obtained by any Lender or any Issuing Bank against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; *seventh*, so long as no Event of Default shall have occurred and be continuing, to the payment of any amounts owing to the Borrower as a result of any judgment of a court of competent jurisdiction obtained by the Borrower against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; and *eighth*, to such Defaulting Lender or as otherwise directed by a court of competent jurisdiction; *provided* that if (1) such payment is a payment of the principal amount of any Loans or Reimbursement Obligations in respect of which such Defaulting Lender has not fully funded its appropriate share, and (2) such Loans were made or the related Letters of Credit were issued at a time when the conditions set forth in Section 4.03 were satisfied or waived, such payment shall be applied solely to pay the Loans of, and Reimbursement Obligations owed to, all Non-Defaulting Lenders on a *pro rata* basis prior to being applied to the payment of any Loans of, or Reimbursement Obligations owed to, such Defaulting Lender until such time as all Loans and funded and unfunded participations in Letters of Credit are held by the Lenders pro rata in accordance with the applicable Commitments without giving effect to Section 2.20(a)(iii). Any payments, prepayments or other amounts paid or payable to a Defaulting Lender that are applied (or held) to pay amounts owed by a Defaulting Lender or to post Cash Collateral pursuant to this Section 2.20(a)(i) shall be deemed paid to and redirected by such Defaulting Lender, and each Lender irrevocably consents hereto.

(ii) Certain Fees.

(A) No Defaulting Lender shall be entitled to receive any fee pursuant to Section 2.11(b) for any period during which that Lender is a Defaulting Lender (and the Borrower shall not be required to pay any such fee that otherwise would have been required to have been paid to that Defaulting Lender); *provided* such Defaulting Lender shall be entitled to receive fees pursuant to Section 2.11(b)(ii) for any period during which that Lender is a Defaulting Lender only to the extent allocable to its Pro Rata Share of the Stated Amount of Letters of Credit for which it has provided Cash Collateral pursuant to Section 2.04.

(B) With respect to any fees not required to be paid to any Defaulting Lender pursuant to clause (A) above, the Borrower shall (1) pay to each Non-Defaulting Lender that portion of any such fee otherwise payable to such Defaulting Lender with respect to such Defaulting Lender's participation in Letters of Credit that has been reallocated to such Non-Defaulting Lender pursuant to clause (iii) below, (2) pay to each Issuing Bank the amount of any such fee otherwise payable to such Defaulting Lender to the extent allocable to such Issuing Bank's Fronting Exposure to such Defaulting Lender, and (3) not be required to pay the remaining amount of any such fee.

(iii) Reallocation of Participations to Reduce Fronting Exposure. All or any part of such Defaulting Lender's participation in Letters of Credit shall be reallocated among the Non-Defaulting Lenders in accordance with their respective Pro Rata Shares (calculated without regard to such Defaulting Lender's Commitment) but only to the extent that (A) the conditions set forth in Section 4.03 are satisfied at the time of such reallocation (and, unless the Borrower shall have otherwise notified the Administrative Agent at such time, the Borrower shall be deemed to have represented and warranted that such conditions are satisfied at such time), and (B) such reallocation does not cause the aggregate Revolving Exposure of any Non-Defaulting Lender to exceed such Non-Defaulting Lender's Commitment. Subject to Section 11.25, no reallocation hereunder shall constitute a waiver or release of any claim of any party hereunder against a Defaulting Lender arising from that Lender having become a Defaulting Lender, including any claim of a Non-Defaulting Lender as a result of such Non-Defaulting Lender's increased exposure following such reallocation.

(iv) Cash Collateral. If the reallocation described in clause (iii) above cannot, or can only partially, be effected, the Borrower shall, without prejudice to any right or remedy available to it hereunder or under law, Cash Collateralize Issuing Bank's Fronting Exposure (in an amount equal to 105% of the maximum face amount of all outstanding Letters of Credit) in accordance with the procedures set forth in Section 2.04.

(b) Defaulting Lender Cure. If the Borrower, the Administrative Agent and each Issuing Bank agree in writing that a Lender is no longer a Defaulting Lender, the Administrative Agent will so notify the parties hereto, whereupon as of the effective date specified in such notice and subject to any conditions set forth therein (which may include arrangements with respect to any Cash Collateral), that Lender will, to the extent applicable, purchase at par that portion of outstanding Loans of the other Lenders or take such other actions as the Administrative Agent may determine to be necessary to cause the Loans and funded and unfunded participations in Letters of Credit to be held pro rata by the Lenders in accordance with the applicable Commitments (without giving effect to Section 2.04) whereupon such Lender will cease to be a Defaulting Lender; *provided* that no adjustments will be made retroactively with respect to fees accrued or payments made by or on behalf of the Borrower while that Lender was a Defaulting Lender; *provided further*, that except to the extent otherwise expressly agreed by the affected parties, no change hereunder from Defaulting Lender to Lender will constitute a waiver or release of any claim of any party hereunder arising from that Lender having been a Defaulting Lender.

(c) New Letters of Credit. So long as any Revolving Lender is a Defaulting Lender, no Issuing Bank shall be required to issue, extend or amend any Letter of Credit unless it is satisfied that it will have no Fronting Exposure after giving effect thereto.

(d) Cash Collateral. At any time that there shall exist a Defaulting Lender and Section 2.20(a)(iv) is applicable, within one Business Day following the written request of the Administrative Agent or any Issuing Bank (with a copy to the Administrative Agent), the Borrower shall Cash Collateralize the applicable Issuing Bank's Fronting Exposure with respect to such Defaulting Lender (determined after giving effect to Section 2.04 and any Cash Collateral provided by such Defaulting Lender) in an amount not less than the Minimum L/C Collateral Amount.

(i) Grant of Security Interest. The Borrower, and to the extent provided by any Defaulting Lender, such Defaulting Lender, hereby grants to the Administrative Agent, for the benefit of the Issuing Banks and the Revolving Lenders, and agrees to maintain, a first priority security interest in all such Cash Collateral as security for the Defaulting Lender's obligation to fund participations in respect of Letters of Credit, to be applied pursuant to clause (ii) below. If at any time the Administrative Agent determines that the Cash Collateral is subject to any right or claim of any Person other than the Administrative Agent, the Issuing Banks or the Revolving Lenders as herein provided, or that the total amount of such Cash Collateral is less than the Minimum L/C Collateral Amount, the Borrower will, promptly upon demand by the Administrative Agent, pay or provide to the Administrative Agent additional Cash Collateral in an amount sufficient to eliminate such deficiency (after giving effect to any Cash Collateral provided by the Defaulting Lender).

(ii) Application. Notwithstanding anything to the contrary contained in this Agreement, Collateral provided under this Section 2.20 in respect of Letters of Credit shall be applied to the satisfaction of the Defaulting Lender's obligation to fund participations in respect of Letters of Credit (including, as to Cash Collateral provided by a Defaulting Lender, any interest accrued on such obligation) for which the Cash Collateral was so provided, prior to any other application of such property as may otherwise be provided for herein.

(iii) Termination of Requirement. Cash Collateral (or the appropriate portion thereof) provided to reduce any Issuing Bank's Fronting Exposure shall no longer be required to be held as Cash Collateral pursuant to this Section 2.20 following (A) the elimination of the applicable Fronting Exposure (including by the termination of Defaulting Lender status of the applicable Lender) or (B) the determination by the Administrative Agent or the applicable Issuing Bank that there exists excess Cash Collateral; *provided* that, subject to the other provisions of this Section 2.20, the Person providing Cash Collateral and the applicable Issuing Bank may agree that the Cash Collateral shall be held to support future anticipated Fronting Exposure or other obligations; *provided further* that to the extent that such Cash Collateral was provided by the Borrower, such Cash Collateral shall remain subject to the security interest granted pursuant to the Loan Documents.

(e) Hedge Banks. So long as any Lender is a Defaulting Lender, such Lender shall not be a Hedge Bank with respect to any Secured Hedge Agreement entered into while such Lender was a Defaulting Lender.

SECTION 2.21 Judgment Currency.

(a) If, for the purpose of obtaining judgment in any court, it is necessary to convert a sum owing hereunder in one currency into another currency, each party hereto (and by its acceptance of its appointment in such capacity, each Lead Arranger) agrees, to the fullest extent that it may effectively do so, that the rate of exchange used shall be that at which, in accordance with normal banking procedures in the relevant jurisdiction, the first currency could be purchased with such other currency on the Business Day immediately preceding the day on which final judgment is given.

(b) The obligations of the Borrower in respect of any sum due to any party hereto or any holder of the obligations owing hereunder (the "**Applicable Creditor**") shall, notwithstanding any judgment in a currency (the "**Judgment Currency**") other than the currency in which such sum is stated to be due hereunder (the "**Agreement Currency**"), be discharged only to the extent that, on the Business Day following receipt by the Applicable Creditor of any sum adjudged to be so due in the Judgment Currency, the Applicable Creditor may in accordance with normal banking procedures in the relevant jurisdiction purchase the Agreement Currency with the Judgment Currency; if the amount of the Agreement Currency so purchased is less than the sum originally due to the Applicable Creditor in the Agreement Currency, the Borrower as a separate obligation and notwithstanding any such judgment, agree to indemnify the Applicable Creditor against such loss. The obligations of the Borrower contained in this Section shall survive the termination of this Agreement and the payment of all other amounts owing hereunder.

ARTICLE III
Taxes, Increased Costs Protection and Illegality

SECTION 3.01 Taxes.

(a) Except as required by applicable Law, any and all payments by the Borrower or any Guarantor to or for the account of any Agent, Lender or Issuing Bank under any Loan Document shall be made free and clear of and without deduction for any and all present or future taxes, duties, levies, imposts, deductions, assessments, fees, withholdings or similar charges imposed by any Governmental Authority, and all additions to tax, penalties and interest with respect thereto (“**Taxes**”). If an applicable Withholding Agent is required to deduct any Taxes from or in respect of any sum payable under any Loan Document to any Agent, Lender or Issuing Bank, (i) if such Taxes are Indemnified Taxes, the sum payable shall be increased as necessary so that after making all required deductions (including deductions applicable to additional sums payable under this Section 3.01(a)(i)), each of such Agent, Lender or Issuing Bank receives an amount equal to the sum it would have received had no such deductions for Indemnified Taxes been made, (ii) the applicable Withholding Agent shall make such deductions, (iii) the applicable Withholding Agent shall pay the full amount deducted to the relevant taxing authority, and (iv) as soon as practicable after any such payment by the Borrower or any Guarantor, the Borrower or applicable Guarantor shall furnish to such Agent, Lender or Issuing Bank (as the case may be) the original or a facsimile copy of a receipt evidencing payment thereof to the extent such a receipt has been made available to the Borrower or applicable Guarantor (or other evidence of payment reasonably satisfactory to the Administrative Agent).

(b) Each Agent, Lender or Issuing Bank (including an Eligible Assignee to which a Lender assigns its interest in accordance with Section 11.07, unless such Eligible Assignee is already a Lender hereunder) that is entitled to an exemption from or reduction of withholding Tax with respect to payments made under any Loan Document shall deliver to the Borrower and Administrative Agent, at the time or times reasonably requested by the Borrower and Administrative Agent, such properly completed and executed documentation reasonably requested by the Borrower and Administrative Agent as will permit such payments to be made without withholding or at a reduced rate of withholding. In addition, any such Agent, Lender, Issuing Bank or Eligible Assignee, if reasonably requested by the Borrower and Administrative Agent, shall deliver such other documentation prescribed by applicable law or reasonably requested by the Borrower and Administrative Agent as will enable the Borrower and Administrative Agent to determine whether or not such Lender is subject to backup withholding or information reporting requirements. Notwithstanding anything to the contrary in the preceding two sentences, the completion, execution and submission of such documentation (other than such documentation set forth in Sections 3.01(b)(i), (d) and (e) below) shall not be required if in such Lender’s, Agent’s, Issuing Bank’s or Eligible Assignee’s reasonable judgment such completion, execution or submission would subject such Agent, Lender, Issuing Bank or Eligible Assignee to any material unreimbursed cost or expense or would materially prejudice the legal or commercial position of such Lender.

(i) Without limiting the generality of the foregoing, to the extent it is legally able to do so, each Agent, Lender or Issuing Bank (including an Eligible Assignee to which a Lender assigns its interest in accordance with Section 11.07, unless such Eligible Assignee is already a Lender hereunder) that is not a “United States person” within the meaning of Section 7701(a)(30) of the Code (each, a “**Foreign Lender**”) agrees to complete and deliver to the Borrower and the Administrative Agent on or prior to the date on which the Foreign Lender becomes a party hereto (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), two accurate, complete and duly executed copies of whichever of the following is applicable:

(A) in the case of a Foreign Lender claiming the benefits of an income tax treaty to which the United States is a party, (1) with respect to the payments of interest under any Loan Document, IRS Form W-8BEN or Form W-8BEN-E establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the “interest” article of such tax treaty, and (2) with respect to any other applicable payments under any Loan Document, IRS Form W-8BEN or IRS Form W-8BEN-E establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the “business profits” or “other income” article of such tax treaty;

(B) IRS Form W-8ECI certifying that the income receivable pursuant to any Loan Document is effectively connected with the conduct of a trade or business in the United States;

(C) in the case of a Foreign Lender claiming the benefits of the exemption for portfolio interest under Section 881(c) of the Code, (1) a certificate substantially in the form of Exhibit G-1 to the effect that such Foreign Lender is not a “bank” within the meaning of Section 881(c)(3)(A) of the Code, a “10 percent shareholder” of the Borrower within the meaning of Section 871(h)(3)(B) of the Code, or a “controlled foreign corporation” related to the Borrower as described in Section 881(c)(3)(C) of the Code (a “**U.S. Tax Compliance Certificate**”) and (2) an IRS Form W-8BEN or Form W-8BEN-E, certifying that the Foreign Lender is not a United States person;

(D) to the extent a Foreign Lender is not the beneficial owner for U.S. federal income tax purposes, IRS Form W-8IMY (or any successor forms) of the Foreign Lender, accompanied by, as and to the extent applicable, an IRS Form W-8BEN, Form W-8BEN-E, Form W-8ECI, a U.S. Tax Compliance Certificate substantially in the form of Exhibit G-2 or Exhibit G-3, Form W-9, Form W-8IMY (or other successor forms) and any other required supporting information from each beneficial owner; provided that if the Foreign Lender is a partnership and one or more direct or indirect partners of such Foreign Lender are claiming the portfolio interest exemption, such Foreign Lender may provide a U.S. Tax Compliance Certificate substantially in the form of Exhibit G-4 on behalf of each such direct and indirect partner

(ii) Without limiting the generality of the foregoing, any Foreign Lender shall, to the extent it is legally entitled to do so, deliver to Borrower and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or about the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), accurate, complete and duly executed copies of any other form prescribed by applicable requirements of applicable Law as a basis for claiming exemption from or a reduction in U.S. federal withholding Tax, together with such supplementary documentation as may be prescribed by applicable requirements of law to permit the Borrower and the Administrative Agent to determine the withholding or deduction required to be made.

(c) In addition, each Agent, Lender, Issuing Bank or Eligible Assignee shall, to the extent it is legally entitled to do so, (i) promptly submit to the Borrower and the Administrative Agent two accurate, complete and duly executed copies of such other or additional forms or certificates (or such successor forms or certificates as shall be adopted from time to time by the relevant taxing authorities) as may then be applicable or available to secure an exemption from or reduction in the rate of withholding Tax (1) on or before the date that such Agent's, Lender's, Issuing Bank's or Eligible Assignee's most recently delivered form, certificate or other evidence expires or becomes obsolete or inaccurate in any material respect, (2) after the occurrence of a change in such Agent's, Lender's, Issuing Bank's or Eligible Assignee's circumstances requiring a change in the most recent form, certificate or evidence previously delivered by it to the Borrower and the Administrative Agent, and (3) from time to time thereafter if reasonably requested by the Borrower or the Administrative Agent, and (ii) promptly notify the Borrower and the Administrative Agent of any change in such Agent's, Lender's, Issuing Bank's or Eligible Assignee's circumstances that would modify or render invalid any claimed exemption or reduction. This Section 3.01(c) shall not apply to any reporting requirements under FATCA.

(d) If a payment made to a Lender under any Loan Document would be subject to Tax imposed by FATCA if such Lender were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code, as applicable), such Lender shall deliver to the Borrower and the Administrative Agent at the time or times prescribed by Law and at such time or times reasonably requested by the Borrower or the Administrative Agent such documentation prescribed by applicable Law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by the Borrower or the Administrative Agent as may be necessary for the Borrower and the Administrative Agent to comply with their obligations under FATCA and to determine whether such Lender has complied with such Lender's obligations under FATCA or to determine the amount to deduct and withhold from such payment. Solely for purposes of this Section 3.01(d), "FATCA" shall include any amendments made to FATCA after the date of this Agreement. Each Lender agrees that if any form or certification it previously delivered expires or becomes obsolete or inaccurate in any respect, it shall update such form or certification or promptly notify Borrower and Administrative Agent in writing of its legal inability to do so.

(e) Without limiting the generality of Section 3.01(b), each Lender or Issuing Bank that is a “United States person” (within the meaning of Section 7701(a)(30) of the Code) (each, a “**U.S. Lender**”) agrees to complete and deliver to the Borrower and the Administrative Agent two copies of accurate, complete and duly executed IRS Form W-9 or successor form certifying that such U.S. Lender is not subject to U.S. federal backup withholding Tax (i) on or prior to the Closing Date (or on or prior to the date it becomes a party to this Agreement), (ii) on or before the date that such form expires or becomes obsolete or inaccurate in any material respect, (iii) after the occurrence of a change in the U.S. Lender’s circumstances requiring a change in the most recent form previously delivered by it to the Borrower and the Administrative Agent, and (iv) from time to time thereafter if reasonably requested by the Borrower or the Administrative Agent.

(f) Without duplication of any amounts payable under Sections 3.01(a) or 3.01(g), the Borrower agrees to pay any and all present or future stamp, court or documentary intangible, recording, filing, mortgage recording or similar Taxes that arise from any payment made under any Loan Document or from the execution, delivery, performance, enforcement or registration of, or otherwise with respect to, any Loan Document excluding, in each case, such amounts that are Other Connection Taxes imposed in connection with an Assignment and Assumption, grant of a participation, transfer or assignment to or designation of a new applicable Lending Office or other office for receiving payments under any Loan Document, except to the extent that any such change is requested in writing by the Borrower (all such Taxes described in this Section 3.01(f), other than Excluded Taxes, being hereinafter referred to as “**Other Taxes**”).

(g) Without duplication of any amounts payable under Sections 3.01(a) or 3.01(f), if any Indemnified Taxes are directly asserted against any Agent, Lender or Issuing Bank with respect to any payment received by such Agent, Lender or Issuing Bank in respect of any Loan Document, such Agent, Lender or Issuing Bank may pay such Indemnified Taxes and the Borrower will promptly indemnify and hold harmless such Agent, Lender or Issuing Bank for the full amount of such Indemnified Taxes imposed on amounts payable under this Section 3.01), and any reasonable expenses arising therefrom or with respect thereto (other than any expenses or penalties determined by a court of competent jurisdiction by a final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of such Recipient), whether or not such Indemnified Taxes were correctly or legally imposed or asserted. Payments under this Section 3.01(g) shall be made within ten days after the date the Borrower receive written demand for payment from such Agent, Lender or Issuing Bank.

(h) A Participant shall comply with the provisions of Sections 3.01(b), 3.01(c), 3.01(d) and 3.01(e) hereof and shall not be entitled to receive any greater payment under this Section 3.01 than the applicable Lender would have been entitled to receive with respect to the participation sold to such Participant, unless the sale of the participation to such Participant is made with the Borrower’s prior written consent or such entitlement to a greater payment results from a change in law that occurs after the Participant acquired the participation.

(i) If any Agent, Lender, Issuing Bank or Participant determines, in its sole discretion, exercised in good faith, that it has received a refund in respect of any Taxes as to which it has been indemnified by the Borrower or any Guarantor, as the case may be, or with respect to which the Borrower or any Guarantor, as the case may be, has paid additional amounts pursuant to this Section 3.01, it shall promptly pay to the indemnifying party an amount equal to such refund (but only to the extent of indemnity payments made, or additional amounts paid, by the indemnifying party under this Section 3.01 with respect to the Taxes giving rise to such refund), net of all reasonable out-of-pocket expenses incurred by such indemnified party and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund), *provided* that the Borrower or applicable Guarantor, as the case may be, upon the request of such indemnified party, agrees to repay the amount paid over to the Borrower or applicable Guarantor, as the case may be (*plus* any penalties, interest or other charges imposed by the relevant Governmental Authority) to such indemnified party in the event such indemnified party is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary in this Section 3.01(i), in no event will such indemnified party be required to pay any amount to the Borrower or applicable Guarantor pursuant to this Section 3.01(i) the payment of which would place such indemnified party in a less favorable net after-Tax position than the indemnified party would have been in if the Tax subject to indemnification and giving rise to such refund had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts with respect to such Tax had never been paid. Such Agent, Lender or Issuing Bank, as the case may be, shall provide the Borrower upon request with a copy of any notice of assessment or other evidence reasonably available of the requirement to repay such refund received from the relevant Governmental Authority (*provided* that such Lender, Agent or Issuing Bank may delete any information therein that such Lender, Agent or Issuing Bank deems confidential or not relevant to such refund in its reasonable discretion). This subsection shall not be construed to require any indemnified party to make available its tax returns (or any other information relating to its Taxes that it reasonably deems confidential) to the Borrower, any Guarantor or any other Person.

(j) Each Lender agrees that, upon the occurrence of any event giving rise to the operation of Section 3.01(a) or (g) with respect to such Lender, it will, if requested by the Borrower in writing, use reasonable efforts to mitigate the effect of any such event, including by designating another Lending Office for any Loan affected by such event and by completing and delivering or filing any Tax-related forms that such Lender is legally able to deliver and that would reduce or eliminate any amount of Indemnified Taxes required to be deducted or withheld or paid by the Borrower; *provided* that such efforts are made at the Borrower's expense and are on terms that, in the reasonable judgment of such Lender, do not cause such Lender or any of its Lending Offices to suffer any economic, legal or regulatory disadvantage, and *provided further* that nothing in this Section 3.01(j), shall affect or postpone any of the Obligations of the Borrower or the rights of such Lender pursuant to Section 3.01(a) or (g).

(k) Notwithstanding any other provision of this Agreement, the Borrower and the Administrative Agent may deduct and withhold any Taxes required by any applicable Law to be deducted and withheld from any payment under any of the Loan Documents, subject to the provisions of this Section 3.01.

(l) Each Agent or Lender, as applicable, shall severally indemnify the Administrative Agent, within ten days after demand therefor, for (i) any Taxes attributable to such Agent or Lender (but only to the extent that the Borrower have not already indemnified the Administrative Agent for such Taxes and without limiting the obligation of the Borrower to do so), (ii) any Taxes attributable to such Lender's failure to comply with the provisions of Section 11.07(e) relating to the maintenance of a Participant Register and (iii) any Excluded Taxes attributable to such Agent or Lender, in each case, that are payable or paid by the Administrative Agent in connection with any Loan Document, and any reasonable expenses arising therefrom or with respect thereto, whether or not such Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to any Agent or Lender by the Administrative Agent shall be conclusive absent manifest error. Each Agent and Lender hereby authorizes the Administrative Agent to set off and apply any and all amounts at any time owing to such Agent or Lender under any Loan Document or otherwise payable by the Administrative Agent to such Agent or Lender from any other source against any amount due to the Administrative Agent under this Section 3.01(l).

(m) The agreements in this Section 3.01 shall survive the resignation or replacement of the Administrative Agent, termination of this Agreement and the payment of the Loans and all other amounts payable hereunder and any assignment of rights by, or replacement of, any Lender.

(n) For purposes of this Section, the term "Lender" includes any Issuing Bank and reference to "applicable Law" includes FATCA.

SECTION 3.02 Illegality. If any Lender reasonably determines that any Law has made it unlawful, or that any Governmental Authority has asserted that it is unlawful, for any Lender or its applicable Lending Office to make, maintain or fund Loans whose interest is determined by reference to SOFR, or to determine or charge interest rates based upon SOFR, or any Governmental Authority has imposed material restrictions on the authority of such Lender to purchase or sell, or to take deposits of, Dollars in the London interbank market, then, on notice thereof by such Lender to the Borrower through the Administrative Agent, (i) any obligation of such Lender to make or continue SOFR Rate Loans or to convert Base Rate Loans to SOFR Rate Loans, as applicable, shall be suspended, and (ii) if such notice asserts the illegality of such Lender making or maintaining Base Rate Loans the interest rate on which is determined by reference to the SOFR component of the Base Rate, the interest rate on which Base Rate Loans of such Lender shall, if necessary to avoid such illegality, be determined by the Administrative Agent without reference to the SOFR component of the Base Rate in each case until such Lender notifies the Administrative Agent and the Borrower that the circumstances giving rise to such determination no longer exist. Upon receipt of such notice, (A) with respect to Borrowings denominated in Dollars, the Borrower may revoke any pending request for a Borrowing of, conversion to or continuation of SOFR Rate Loans and shall, upon demand from such Lender (with a copy to the Administrative Agent), prepay or, if applicable, convert all SOFR Rate Loans of such Lender to Base Rate Loans (the interest rate on which Base Rate Loans of such Lender shall, if necessary to avoid such illegality, be determined by the Administrative Agent without reference to the SOFR component of the Base Rate), either on the last day of the Interest Period therefor, if such Lender may lawfully continue to maintain such SOFR Rate Loans to such day, or immediately, if such Lender may not lawfully continue to maintain such SOFR Rate Loans or (B) if such notice asserts the illegality of such Lender determining or charging interest rates based upon the SOFR component of the Base Rate with respect to any Base Rate Loans, the Administrative Agent shall during the period of such suspension compute the Base Rate applicable to such Lender without reference to the SOFR component thereof until the Administrative Agent is advised in writing by such Lender that it is no longer illegal for such Lender to determine or charge interest rates based upon SOFR. Upon any such prepayment or conversion, the Borrower shall also pay accrued interest on the amount so prepaid or converted.

SECTION 3.03 Inability to Determine Rates. If the Administrative Agent or the Required Lenders reasonably determine that for any reason in connection with any request for a SOFR Rate Loan or a conversion to or continuation thereof that (a) adequate and reasonable means do not exist for determining SOFR for any requested Interest Period with respect to a proposed SOFR Rate Loan or in connection with an existing or proposed Base Rate Loan or (b) SOFR for any requested Interest Period with respect to a proposed SOFR Rate Loan does not adequately and fairly reflect the cost to such Lenders of funding such Loan, the Administrative Agent will promptly so notify the Borrower and each Lender. Thereafter, (i) the obligation of the Lenders to make or maintain SOFR Rate Loans shall be suspended, and (ii) in the event of a determination described in the preceding sentence: with respect to the SOFR component of the Base Rate, the utilization of the SOFR component in determining the Base Rate shall be suspended until the Administrative Agent (upon the instruction of the Required Lenders) revokes such notice. Upon receipt of such notice, the Borrower may revoke any pending request for a Borrowing of, conversion to or continuation of SOFR Rate Loans or, failing that, will be deemed to have converted such request into a request for a Borrowing of Base Rate Loans, in the case of SOFR Rate Loans in the amount specified therein; *provided, however*, that if the Borrower and the applicable Lenders cannot agree within a reasonable time on an alternative rate for such Loans, the Borrower may, at their discretion, either (x) prepay such Loans or (y) maintain such Loans outstanding, in which case, the interest rate payable to the applicable Lender on such Loans will be the rate determined by the Administrative Agent as its cost of funds to fund a Borrowing of such Loans with maturities comparable to the Interest Period applicable thereto plus the Applicable Rate.

SECTION 3.04 Increased Cost and Reduced Return: Capital Adequacy: Reserves on S Rate Loans.

(a) Increased Costs Generally. If any Change in Law shall:

(i) impose, modify or deem applicable any reserve, special deposit, compulsory loan, insurance charge or similar requirement against assets of, deposits with or for the account of, or credit extended or participated in by, any Lender or any Issuing Bank;

(ii) subject any Lender or any Issuing Bank to any tax of any kind whatsoever with respect to this Agreement, any Letter of Credit, any participation in a Letter of Credit or any SOFR Rate Loan made by it, or change the basis of taxation of payments to such Lender or Issuing Bank, as applicable, in respect thereof (except, in each case, for (A) Indemnified Taxes, (B) Taxes described in clauses (ii) through (v) of the definition of Excluded Taxes, and (C) Connection Income Taxes); or

(iii) impose on any Lender or any Issuing Bank or the London interbank market any other condition, cost or expense affecting this Agreement, any Letter of Credit, any participation in a Letter of Credit or SOFR Rate Loans made by such Lender or any Issuing Bank (other than with respect to Taxes) that is not otherwise accounted for in the definition of SOFR or this clause (a);

and the result of any of the foregoing shall be to increase the cost to such Lender or such Issuing Bank of making or maintaining any Loan the interest on which is determined by reference to SOFR or, in the case of a Change in Law with respect to Taxes, making or maintaining any Loan (or of maintaining its obligation to make any such Loan), or to increase the cost to such Lender, such Issuing Bank or such other Lender of participating in, issuing or maintaining any Letter of Credit (or of maintaining its obligation to participate in or to issue any Letter of Credit, or to reduce the amount of any sum received or receivable by such Lender or such Issuing Bank (whether of principal, interest or any other amount)) then, from time to time within ten days after demand by such Lender, such Issuing Bank setting forth in reasonable detail such increased costs (with a copy of such demand to the Administrative Agent) (provided that such calculation will not in any way require disclosure of confidential or price-sensitive information or any other information the disclosure of which is prohibited by law), the Borrower will pay to such Lender or such Issuing Bank such additional amount or amounts as will compensate such Lender or such Issuing Bank for such additional costs incurred or reduction suffered. No Lender or Issuing Bank or shall request that the Borrower pay any additional amount pursuant to this Section 3.04(a) unless it shall concurrently make similar requests to other borrowers similarly situated and affected by such Change in Law and from whom such Lender or Issuing Bank is entitled to seek similar amounts.

(b) Capital Requirements. If any Lender or any Issuing Bank reasonably determines that any Change in Law affecting such Lender or such Issuing Bank or any Lending Office of such Lender or such Issuing Bank or such Lender's or Issuing Bank's holding company, if any, regarding liquidity or capital requirements has or would have the effect of reducing the rate of return on such Lender's or Issuing Bank's capital or on the capital of such Lender's or Issuing Bank's holding company, if any, as a consequence of this Agreement, the Commitments of such Lender or such Issuing Bank or the Loans made by or Letters of Credit issued by it to a level below that which such Lender or such Issuing Bank or such Lender's or Issuing Bank's holding company could have achieved but for such Change in Law (taking into consideration such Lender's or such Issuing Bank's policies and the policies of such Lender's or Issuing Bank's holding company with respect to liquidity or capital adequacy), then from time to time upon demand of such Lender or such Issuing Bank setting forth in reasonable detail the charge and the calculation of such reduced rate of return (with a copy of such demand to the Administrative Agent) (provided that such calculation will not in any way require disclosure of confidential or price-sensitive information or any other information the disclosure of which is prohibited by law), the Borrower will pay to such Lender or such Issuing Bank, as the case may be, such additional amount or amounts as will compensate such Lender, such Issuing Bank or such Lender's or Issuing Bank's holding company for any such reduction suffered.

(c) Certificates for Reimbursement. A certificate of a Lender or an Issuing Bank setting forth the amount or amounts necessary to compensate such Lender or such Issuing Bank or their respective holding company, as the case may be, as specified in subsection (a) or (b) of this Section 3.04 and delivered to the Borrower shall be conclusive absent manifest error. The Borrower shall pay such Lender, as the case may be, the amount shown as due on any such certificate within ten days after receipt thereof.

(d) Delay in Requests. Failure or delay on the part of any Lender or any Issuing Bank to demand compensation pursuant to the foregoing provisions of this Section 3.04 shall not constitute a waiver of such Lender's or such Issuing Bank's right to demand such compensation, *provided* that the Borrower shall not be required to compensate a Lender or an Issuing Bank pursuant to the foregoing provisions of this Section 3.04 for any increased costs incurred or reductions suffered more than one hundred and eighty (180) days prior to the date that such Lender or such Issuing Bank notifies the Borrower of the Change in Law giving rise to such increased costs or reductions and of such Lender's or such Issuing Bank's intention to claim compensation therefor (except that, if the Change in Law giving rise to such increased costs or reductions is retroactive, then the 180-day period referred to above shall be extended to include the period of retroactive effect thereof).

(e) Reserves on SOFR Rate Loans. The Borrower shall pay to each Lender, as long as such Lender shall be required to maintain reserves with respect to liabilities or assets consisting of or including eurocurrency funds or deposits (currently known as "**Eurocurrency Liabilities**"), additional interest on the unpaid principal amount of each SOFR Rate Loan equal to the actual costs of such reserves allocated to such Loan by such Lender (as determined by such lender in good faith, which determination shall be conclusive), which shall be due and payable on each date on which interest is payable on such Loan made to the Borrower; *provided* the Borrower shall have received at least 10 days' prior notice (with a copy to the Administrative Agent) of such additional interest from such Lender. If a Lender fails to give notice 10 days prior to the relevant Interest Payment Date, such additional interest shall be due and payable 10 days from receipt of such notice.

SECTION 3.05 Funding Losses. Upon written demand of any Lender (with a copy to the Administrative Agent) from time to time, which demand shall set forth in reasonable detail the basis for requesting such amount (provided that such calculation will not in any way require disclosure of confidential or price-sensitive information or any other information the disclosure of which is prohibited by law), the Borrower shall promptly compensate such Lender for and hold such Lender harmless from any loss, cost, liability or expense (excluding loss of anticipated profits or margin) actually incurred by it as a result of:

(a) any continuation, conversion, payment or prepayment of any Loan other than a Base Rate Loan on a day prior to the last day of the Interest Period for such Loan (whether voluntary, mandatory, automatic, by reason of acceleration, or otherwise);

(b) any failure by the Borrower (for a reason other than the failure of such Lender to make a Loan) to prepay, borrow, continue or convert any Loan other than a Base Rate Loan on the date or in the amount notified by the Borrower; or

(c) any assignment of a SOFR Rate Loan on a day prior to the last day of the Interest Period therefor as a result of a request by the Borrower pursuant to Section 3.07;

including any loss or expense (excluding loss of anticipated profits or margin) actually incurred by reason of the liquidation or reemployment of funds obtained by it to maintain such Loan or from fees payable to terminate the deposits from which such funds were obtained.

SECTION 3.06 Matters Applicable to All Requests for Compensation.

(a) Designation of a Different Lending Office. If any Lender requests compensation under Section 3.04, or the Borrower are required to pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 3.01, or if any Lender gives a notice pursuant to Section 3.02, then such Lender shall use reasonable efforts to designate a different Lending Office for funding or booking its Loans hereunder or to assign its rights and obligations hereunder to another of its offices, branches or affiliates, if, in the judgment of such Lender, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Section 3.01 or 3.04, as the case may be, in the future, or eliminate the need for the notice pursuant to Section 3.02, as applicable, and (ii) in each case, would not subject such Lender to any unreimbursed cost or expense and would not otherwise be disadvantageous to such Lender in any material economic, legal or regulatory respect.

(b) Suspension of Lender Obligations. If any Lender requests compensation by the Borrower under Section 3.04, the Borrower may, by notice to such Lender (with a copy to the Administrative Agent), suspend the obligation of such Lender to make or continue SOFR Rate Loans from one Interest Period to another Interest Period, or to convert Base Rate Loans into SOFR Rate Loans, until the event or condition giving rise to such request ceases to be in effect (in which case the provisions of Section 3.06(c), shall be applicable); *provided* that such suspension shall not affect the right of such Lender to receive the compensation so requested.

(c) Conversion of SOFR Rate Loans. If any Lender gives notice to the Borrower (with a copy to the Administrative Agent) that the circumstances specified in Section 3.02, 3.03 or 3.04 hereof that gave rise to the conversion of such Lender's SOFR Rate Loans no longer exist (which such Lender agrees to do promptly upon such circumstances ceasing to exist) at a time when SOFR Rate Loans made by other Lenders are outstanding, such Lender's Base Rate Loans shall be automatically converted, on the first day(s) of the next succeeding Interest Period(s) for such outstanding SOFR Rate Loans, to the extent necessary so that, after giving effect thereto, all Loans of a given Class held by the Lenders of such Class holding SOFR Rate Loans and by such Lender are held pro rata (as to principal amounts, interest rate basis, and Interest Periods) in accordance with their respective Pro Rata Shares.

SECTION 3.07 Replacement of Lenders Under Certain Circumstances. If (i) any Lender requests compensation under Section 3.04 or ceases to make SOFR Rate Loans as a result of any condition described in Section 3.02 or Section 3.04, (ii) the Borrower is required to pay any Taxes or additional amounts to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 3.01 and such Lender has declined or is unable to designate a different Lending Office in accordance with Section 3.01(j), (iii) any Lender is a Non-Consenting Lender, (iv) any Lender does not accept an Extension Offer or Refinancing Amendment, (v) any Lender does not consent to the incurrence of any Incremental Facility pursuant to Section 2.16 or the incurrence of any Incremental Equivalent Debt, or (vi) (A) any Lender shall become and continue to be a Defaulting Lender and (B) such Defaulting Lender shall fail to cure the default pursuant to Section 2.20(b) within five Business Days after the Borrower's request that it cure such default, or (vi) any other circumstance exists hereunder that gives the Borrower the right to replace a Lender (other than a Disqualified Lender) as a party hereto, then the Borrower may, at their sole expense and effort, upon notice to such Lender and the Administrative Agent, require such Lender to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in, and consents required by, Section 11.07), all of its interests, rights and obligations under this Agreement and the related Loan Documents (other than its existing rights to payments pursuant to Section 3.01 or Section 3.04) to one or more Eligible Assignees that shall assume such obligations (any of which assignee may be another Lender, if a Lender accepts such assignment), *provided that*:

(a) the Borrower shall have paid to the Administrative Agent the assignment fee specified in Section 11.07(b)(iv);

(b) such Lender shall have received payment of an amount equal to the outstanding principal of its Loans and participations in Letters of Credit, accrued interest thereon, accrued fees and all other amounts payable to it hereunder and under the other Loan Documents (including any amounts payable under Section 3.05) from the assignee (to the extent of such outstanding principal and accrued interest and fees) or the Borrower (in the case of all other amounts);

(c) such Lender being replaced pursuant to this Section 3.07 shall (i) execute and deliver an Assignment and Assumption with respect to such Lender's Commitment and outstanding Loans and participations in Letters of Credit, and (ii) deliver any Revolving Loan Notes evidencing such Loans to the Borrower or Administrative Agent (or a lost or destroyed note indemnity in lieu thereof); *provided that* the failure of any such Lender to execute an Assignment and Assumption or deliver such Revolving Loan Notes evidencing such Loans shall not render such sale and purchase (and the corresponding assignment) invalid and such assignment shall be recorded in the Register and the Revolving Loan Notes evidencing such Loans shall be deemed to be canceled upon such failure;

(d) the Eligible Assignee shall become a Lender hereunder and the assigning Lender shall cease to constitute a Lender hereunder with respect to such assigned Loans, Commitments and participations, except with respect to indemnification provisions under this Agreement, which shall survive as to such assigning Lender;

(e) in the case of any such assignment resulting from a claim for compensation under Section 3.04 or payments required to be made pursuant to Section 3.01, such assignment will result in a reduction in such compensation or payments thereafter;

(f) in the case of any such assignment resulting from a Lender being a Non-Consenting Lender, the Eligible Assignee shall consent, at the time of such assignment, to each matter in respect of which such Lender being replaced was a Non-Consenting Lender; and

(g) such assignment does not conflict with applicable Laws.

Notwithstanding anything to the contrary contained above, any Lender that acts as an Issuing Bank may not be replaced hereunder at any time that it has any Letter of Credit outstanding hereunder unless arrangements reasonably satisfactory to such Issuing Bank (including the furnishing of a back-up standby letter of credit in form and substance, and issued by an issuer reasonably satisfactory to such Issuing Bank or the depositing of cash collateral into a cash collateral account in amounts and pursuant to arrangements reasonably satisfactory to such Issuing Bank) have been made with respect to each such outstanding Letter of Credit.

In the event that (i) the Borrower or the Administrative Agent has requested that the Lenders consent to a departure or waiver of any provisions of the Loan Documents or agree to any amendment thereto (including, without limitation, the incurrence of any Incremental Facility or any Incremental Equivalent Debt), (ii) the consent, waiver or amendment in question requires the agreement of each Lender, all affected Lenders or all the Lenders or all affected Lenders with respect to a certain Class or Classes of the Loans and (iii) the Required Lenders have agreed to such consent, waiver or amendment, then any Lender who does not agree to such consent, waiver or amendment shall be deemed a “**Non-Consenting Lender**.”

A Lender shall not be required to make any such assignment or delegation if, prior thereto, as a result of a waiver by such Lender or otherwise, the circumstances entitling the Borrower to require such assignment and delegation cease to apply.

SECTION 3.08 Survival. All of the Borrower’s obligations under this Article III shall survive termination of the Aggregate Commitments, repayment of all other Obligations hereunder and resignation of the Administrative Agent or the Collateral Agent.

SECTION 3.09 Successor Benchmark Rates.

(a) [Reserved].

(b) Benchmark Replacement. Notwithstanding anything to the contrary herein or in any other Loan Document, if a Benchmark Transition Event and its related Benchmark Replacement Date have occurred prior to the Reference Time in respect of any setting of the then-current Benchmark, then (x) if a Benchmark Replacement is determined in accordance with clause (1) or (2) of the definition of “Benchmark Replacement” for such Benchmark Replacement Date, such Benchmark Replacement will replace such Benchmark for all purposes hereunder and under any Loan Document in respect of such Benchmark setting and subsequent Benchmark settings without any amendment to, or further action or consent of any other party to, this Agreement or any other Loan Document and (y) if a Benchmark Replacement is determined in accordance with clause (3) of the definition of “Benchmark Replacement” for such Benchmark Replacement Date, such Benchmark Replacement will replace such Benchmark for all purposes hereunder and under any Loan Document in respect of any Benchmark setting at or after 5:00 p.m. (New York City time) on the fifth (5th) Business Day after the date notice of such Benchmark Replacement is provided to the Lenders without any amendment to, or further action or consent of any other party to, this Agreement or any other Loan Document so long as the Administrative Agent has not received, by such time, written notice of objection to such Benchmark Replacement from Lenders comprising the Required Lenders of each Class affected thereby. Notwithstanding anything to the contrary herein or in any other Loan Document and subject to the proviso below in this paragraph if a Term SOFR Transition Event and its related Benchmark Replacement Date have occurred prior to the Reference Time in respect of any setting of the then-current Benchmark, then the applicable Benchmark Replacement will replace the then-current Benchmark for all purposes hereunder or under any Loan Document in respect of such Benchmark setting and subsequent Benchmark settings, without any amendment to, or further action or consent of any other party to, this Agreement or any other Loan Document; *provided* that, this sentence shall not be effective unless the Administrative Agent has delivered to the Lenders and the Borrower a Term SOFR Notice. For the avoidance of doubt, the Administrative Agent shall not be required to deliver a Term SOFR Notice after a Term SOFR Transition Event and may do so in its sole discretion.

(c) Benchmark Replacement Conforming Changes. In connection with the implementation of a Benchmark Replacement, the Administrative Agent will have the right in consultation with the Borrower to make Benchmark Replacement Conforming Changes from time to time and, notwithstanding anything to the contrary herein or in any other Loan Document, any amendments implementing such Benchmark Replacement Conforming Changes will become effective without any further action or consent of any other party to this Agreement or any other Loan Document. Notwithstanding anything to the contrary in this Section 3.09, the Administrative Agent and the Lenders shall use commercially reasonable efforts to satisfy Section 1.1001-6 of the United States Treasury Regulations and/or any similar or related IRS guidance to the effect that the implementation of any Benchmark Replacement (together with any Benchmark Replacement Conforming Changes) will not result in a “significant modification” for purposes of Section 1.1001-3 of the United States Treasury Regulations of any obligation of any party under any debt instrument.

(d) Notices; Standards for Decisions and Determinations. The Administrative Agent will promptly notify the Borrower and the Lenders of (i) any occurrence of a Benchmark Transition Event, a Term SOFR Transition Event and its related Benchmark Replacement Date, (ii) the implementation of any Benchmark Replacement, (iii) the effectiveness of any Benchmark Replacement Conforming Changes, (iv) the removal or reinstatement of any tenor of a Benchmark pursuant to clause (e) below and (v) the commencement or conclusion of any Benchmark Unavailability Period. Any determination, decision or election that may be made by the Administrative Agent or, if applicable, any Lender (or group of Lenders) pursuant to this Section 3.09, including any determination with respect to a tenor, rate or adjustment or of the occurrence or non-occurrence of an event, circumstance or date and any decision to take or refrain from taking any action or any selection, will be conclusive and binding absent manifest error and may be made in its or their sole discretion and without consent from any other party to this Agreement or any other Loan Document, except, in each case, as expressly required pursuant to this Section 3.09.

(e) Tenor. Notwithstanding anything to the contrary herein or in any other Loan Document, at any time (including in connection with the implementation of a Benchmark Replacement), (i) if the then-current Benchmark is a term rate (including Adjusted Term SOFR) and either (A) any tenor for such Benchmark is not displayed on a screen or other information service that publishes such rate from time to time as selected by the Administrative Agent in its reasonable discretion or (B) the regulatory supervisor for the administrator of such Benchmark has provided a public statement or publication of information announcing that any tenor for such Benchmark is or will be no longer representative, then the Administrative Agent may modify the definition of “Interest Period” for any Benchmark settings at or after such time to remove such unavailable or non-representative tenor and (ii) if a tenor that was removed pursuant to clause (i), above either (A) is subsequently displayed on a screen or information service for a Benchmark (including a Benchmark Replacement) or (B) is not, or is no longer, subject to an announcement that it is or will no longer be representative for a Benchmark (including a Benchmark Replacement), then the Administrative Agent may modify the definition of “Interest Period” for all Benchmark settings at or after such time to reinstate such previously removed tenor.

(f) Benchmark Unavailability Period. Upon the Borrower’s receipt of notice of the commencement of a Benchmark Unavailability Period, the Borrower may revoke any request for a Borrowing of, conversion to or continuation of SOFR Rate Loans to be made, converted or continued during any Benchmark Unavailability Period and, failing that the Borrower will be deemed to have converted any request for a Borrowing of SOFR Rate Loans into a request for a Borrowing of or conversion to Base Rate Loans. During any Benchmark Unavailability Period or at any time that a tenor for the then-current Benchmark is not an Available Tenor, clause (c) of the definition of “Base Rate” based upon SOFR (i.e., the then-current Benchmark or such tenor for such Benchmark, as applicable) will not be used in any determination of Base Rate. Furthermore, if any SOFR Rate Loan is outstanding on the date of the Borrower’s receipt of notice of the commencement of a Benchmark Unavailability Period with respect to the SOFR applicable to such SOFR Rate Loan, then on the last day of the Interest Period applicable to such Loan (or the next succeeding Business Day, if such day is not a Business Day), such Loan shall be converted by the Administrative Agent to, and shall constitute, a Base Rate Loan on such day.

(g) Amendment. The provisions of this Section 3.09 shall, solely with respect to implementation of a Benchmark Replacement and Benchmark Replacement Conforming Changes as expressly set forth herein, supersede any contrary provision of Section 11.01.

ARTICLE IV
Conditions Precedent to the Closing Date, Borrowings and Letters of Credit

SECTION 4.01 Conditions to the Closing Date. This Agreement shall become effective on the date on which each of the following conditions is satisfied or waived in accordance with Section 11.01:

(a) The Administrative Agent's receipt of the following, each of which shall be originals or copies in .pdf format, unless otherwise specified:

(i) [reserved]

(ii) this Agreement duly executed by the Borrower;

(iii) the Collateral Agreement (pursuant to which the Administrative Agent is authorized to file customary "all asset" UCC-1 financing statements) duly executed by the Borrower and the Loan Parties;

(iv) [reserved]

(v) (A) certificates of good standing from the secretary of state or other applicable office of the state of organization or formation or provincial or territorial corporate registry of the Borrower and each other Loan Party, (B) organizational documents of each Loan Party, certified by the secretary (or equivalent officer) of such Loan Party, (C) resolutions or other applicable action of each Loan Party, as certified by the secretary (or equivalent officer) of such Loan Party, (D) an incumbency certificate and/or other certificate of Responsible Officers of each Loan Party, in each case evidencing the identity, authority and capacity of each Responsible Officer thereof authorized to act as a Responsible Officer in connection with this Agreement and the other Loan Documents to which it is a party or is to be a party on the Closing Date, and (E) a certificate of a Responsible Officer of the Borrower that the conditions specified in clause (c), below have been satisfied;

(vi) an opinion from Kirkland & Ellis LLP, counsel to the Loan Parties, with respect to matters of New York law and certain aspects of Delaware law; and

(vii) a certificate from the chief financial officer or other officer with equivalent duties of the Borrower as to the Solvency (after giving effect to the Transactions on the Closing Date) of the Borrower and their Subsidiaries substantially in the form attached hereto as Exhibit I; and

(viii) the following Loan Documents required to be entered into pursuant to the terms of this Agreement: (A) a joinder to the Existing Junior Lien Intercreditor Agreement by and among the Administrative Agent, the Collateral Agent, (B) the Revolving Loan Notes, if any, (C) the Agency Fee Letter, (D) the Collateral Agency Fee Letter and (F) the Fee Letter.

(b) [Reserved]

(c) No Default or Event of Default shall have occurred and be continuing.

(d) The Administrative Agent's receipt of certificates or abstracts of title, as applicable, in .pdf format, issued by the relevant Approved Flag Jurisdiction demonstrating that Vessel Collateral is registered in the name of the relevant Loan Party under the relevant Approved Flag Jurisdiction, free of Liens other than Permitted Liens;

(e) The Lenders shall have received at least three Business Days prior to the Closing Date (i) all documentation and other information about the Loan Parties in order to comply with applicable "know your customer" and anti-money laundering rules and regulations, including the USA PATRIOT Act, and (ii) to the extent the Borrower qualifies as a "legal entity customer" a customary FinCEN beneficial ownership certificate, that in each case has been requested in writing at least ten Business Days prior to the Closing Date.

(f) The Administrative Agent shall have received appraisals evidencing the Vessel Collateral Value Amount, as determined by VesselsValueTM, such valuations to be dated within thirty (30) days of the Closing Date, which evidence demonstrates that on a pro forma basis that upon the Closing Date (giving effect to the loans under the Second Lien Credit Agreement and any Loans under this Agreement requested on the Closing Date), the Collateral Coverage Ratio shall not be less than 1.50:1.00.

(g) The Administrative Agent shall have received financing statement searches under the Uniform Commercial Code in such jurisdictions as it may reasonably require relating to the Borrower and the Restricted Subsidiaries, demonstrating that the Collateral is (or will be on the Closing Date) free of Liens other than Permitted Liens.

(h) The Administrative Agent and the Lenders shall have received (i) an audited balance sheet and related statements of income (or operations) and cash flows of the Borrower and its Subsidiaries as of and for the year ended December 31, 2023, (ii) consolidated budget of the Borrower and its Subsidiaries for the fiscal year ending December 31, 2024 in form and substance consistent with the budget customarily prepared by management for internal use, (iii) the unaudited financial statements of the Borrower and its Subsidiaries for the fiscal quarter ended March 31, 2024 and (iv) a duly completed compliance certificate in form and substance satisfactory to the Administrative Agent and the Lenders demonstrating compliance with the Financial Covenants on a proforma basis as of the Closing Date.

(i) The Lenders shall have received at least three Business Days prior to the Closing Date (i) all documentation and other information about the Loan Parties in order to comply with applicable "know your customer" and anti-money laundering rules and regulations, including the USA PATRIOT Act, and (ii) to the extent the Borrower qualifies as a "legal entity customer" a customary FinCEN beneficial ownership certificate, that in each case has been requested in writing at least ten Business Days prior to the Closing Date.

Without limiting the generality of the provisions of the last paragraph of Section 11.01, for purposes of determining compliance with the conditions specified in this Section 4.01, each Lender that has signed this Agreement shall be deemed to have consented to, approved or accepted or to be satisfied with, each document or other matter required hereunder to be consented to or approved by or acceptable or satisfactory to a Lender, unless the Administrative Agent shall have received notice from such Lender prior to the proposed Closing Date specifying its objection thereto.

SECTION 4.02 Conditions to the Initial Funding Date. The obligation of each Lender to extend the Initial Revolving Loans to the Borrower and of each Issuing Bank to issue Letters of Credit hereunder is subject to the satisfaction, or waiver in accordance with Section 11.01, of each of the following conditions precedent, except as otherwise agreed between the Borrower and the Required Lenders or as set forth herein (such date, the "Initial Funding Date");

(a) The Administrative Agent's receipt of the following, each of which shall be originals or copies in .pdf format, unless otherwise specified:

(i) a Committed Loan Notice duly executed by the Borrower, in accordance with the requirements hereof;

(ii) other than with respect to Excluded Accounts, Control Agreements covering any Deposit Accounts or Securities Accounts of any Loan Party existing as of the Initial Funding Date (or such longer period (including after the Initial Funding Date) as the Administrative Agent may consent to in its sole discretion);

(iii) each Vessel Mortgage in recordable form, together with documentary evidence that each Vessel Mortgage has been duly filed for recordation as a valid first preferred or priority ship mortgage (subject to Permitted Liens) with respect to each Vessel constituting Vessel Collateral as of the Initial Funding Date, in accordance with the laws of the Approved Flag Jurisdiction on which the Vessel Collateral is registered;

(iv) a certificate from the chief financial officer or other officer with equivalent duties of the Borrower as to the Solvency (after giving effect to the Transactions on the Closing Date) of the Borrower and its Subsidiaries substantially in the form attached hereto as Exhibit I;

(v) certification from a Responsible Officer of the Borrower that each Vessel constituting Vessel Collateral (other than any Stacked Vessels) is insured in accordance with the requirements of Section 6.19(k) and the other Loan Documents, with the relevant loss payee endorsements required under the Collateral Agreement;

(vi) evidence that each Vessel constituting Vessel Collateral (excluding any Stacked Vessels) maintains the highest class for a vessel of its type with its classification society, free of any overdue recommendations or conditions affecting class, which status shall be established by a confirmation of class certificate or functional equivalent printout issued by the classification society and dated a date no earlier than thirty (30) days prior to the Initial Funding Date (or such longer period as the Administrative Agent may agree);

(vii) a report from a firm of independent marine insurance consultant in respect of the insurances on the Vessel Collateral, in form and substance reasonably satisfactory to the Administrative Agent, with the cost of such report to be reimbursed by the Borrower;

(viii) Certificates of insurance coverage of the Loan Parties evidencing that the Loan Parties are carrying insurance in accordance with Section 6.07(b); and

(ix) to the extent constituting Collateral, certificates, if any, representing the Pledged Equity of the Borrower and the Subsidiaries of the Borrower, in each case, accompanied by undated stock powers executed in blank.

provided, that any specific time periods described in this clause (a) may be modified as consented to by the Administrative Agent.

(b) All fees and expenses required to be paid hereunder on the Initial Funding Date (and all fees and expenses required to be paid under the Fee Letter on the Closing Date) and, with respect to expenses and legal fees, to the extent invoiced in reasonable detail at least two Business Days before the Initial Funding Date (except as otherwise reasonably agreed to by the Borrower) shall have been paid in full in cash (or, with respect to amounts due on the Initial Funding Date, will have been paid on the Initial Funding Date from the proceeds of the Revolving Loans).

Without limiting the generality of the provisions of the last paragraph of Section 11.01, for purposes of determining compliance with the conditions specified in this Section 4.02, each Lender that has funded Loans hereunder on the Initial Funding Date shall be deemed to have consented to, approved or accepted or to be satisfied with, each document or other matter required hereunder to be consented to or approved by or acceptable or satisfactory to a Lender, unless the Administrative Agent shall have received notice from such Lender prior to the proposed Initial Funding Date specifying its objection thereto.

SECTION 4.03 Conditions to All Borrowings After the Closing Date. Except as set forth herein with respect to Incremental Loans (other than any revolving Incremental Loans borrowed after the establishment of the relevant commitments), the obligation of each Lender to honor a Committed Loan Notice and of each Issuing Bank to issue, amend, renew or extend any Letter of Credit, is subject to the following conditions precedent:

(a) The representations and warranties of the Borrower and each other Loan Party contained in Article V or any other Loan Document shall be true and correct in all material respects on and as of the date of such Borrowing or issuance, amendment, renewal or extension of any Letter of Credit; *provided* that, to the extent that such representations and warranties specifically refer to an earlier date, they shall be true and correct in all material respects as of such earlier date; *provided, further*, that any representation and warranty that is qualified as to “materiality,” “Material Adverse Effect” or similar language shall be true and correct (after giving effect to any qualification therein) in all respects on such respective dates.

(b) As of the date of such Borrowing or the date of any issuance, amendment, renewal or extension of any Letter of Credit, no Default or Event of Default shall have occurred and be continuing on such date (immediately prior to giving effect to the extensions of credit requested to be made) or would result after giving effect to the extensions of credit requested to be made on such date.

(c) The Administrative Agent shall have received a Committed Loan Notice in accordance with the requirements hereof and, if applicable, the applicable Issuing Bank shall have received an Issuance Notice in accordance with the requirements hereof, which Committed Loan Notice or Issuance Notice, as applicable, shall include a representation from the Borrower that immediately prior to, and after giving effect to the extensions of credit requested to be made on such date, on a Pro Forma Basis, the Borrower will be in compliance with the Financial Covenants (based on the last delivered appraisals in the case of the Collateral Coverage Ratio and the RCF Collateral Coverage Ratio, and based on the financial statements in the most recently delivered Compliance Certificate, in the case of the Revolving Credit Facility Net Leverage Ratio); *provided however* if a Financial Covenant Blocking Event has occurred prior to such Borrowing without the Borrower subsequently delivering a Compliance Certificate evidencing compliance with the Financial Covenants, the Borrower shall provide calculations reasonably satisfactory to the Administrative Agent evidencing such compliance with the Financial Covenants on a Pro Forma Basis.

(d) As of the date of such Borrowing or the date of any issuance, amendment, renewal or extension of any Letter of Credit, the audited financial statements most recently delivered pursuant to Section 6.01(a) shall not have been subject to any “going concern” qualification (excluding any “emphasis of matter” paragraph or any explanatory statement), other than any such statement, qualification or exception resulting from or relating to (i) an anticipated breach of a Financial Covenant (provided that if such statement is included, the Borrower shall demonstrate in detail reasonably satisfactory to the Administrative Agent its compliance with the Financial Covenants as represented by the Borrower under paragraph (c) above), (ii) an upcoming maturity date or (iii) activities, operations, financial results or liabilities of any Person other than the Loan Parties and the Restricted Subsidiaries (unless waived by the Required Lenders).

(e) As of the date of such Borrowing or the date of any issuance, amendment, renewal or extension of any Letter of Credit, no Blocking Event shall have occurred and be continuing on such date (immediately prior to giving effect to the extensions of credit requested to be made) or would result after giving effect to the extensions of credit requested to be made on such date.

Subject to Section 1.08(g), each Committed Loan Notice (other than a Committed Loan Notice requesting only a conversion of Loans to another Type or a continuation of SOFR Rate Loans) and each Issuance Notice submitted by the Borrower shall be deemed to be a representation and warranty that the condition specified in Sections 4.03(a) and (b) has been satisfied on and as of the date of the applicable Borrowing or issuance, amendment, renewal or extension of a Letter of Credit.

ARTICLE V
Representations and Warranties

The Borrower represents and warrants with respect to each of the following to the Lenders, the Issuing Banks, the Administrative Agent and the Collateral Agent, in each case, to the extent and, unless otherwise specifically agreed by the Borrower, only on the dates required by Section 2.16, 4.01, 4.02 or 4.03.

SECTION 5.01 Existence, Qualification and Power; Compliance with Laws. Each Loan Party and each Restricted Subsidiary that is not an Immaterial Subsidiary,

(a) is duly organized or formed, validly existing and in good standing under the Laws of the jurisdiction of its incorporation or organization (to the extent such concepts exist in such jurisdiction);

(b) has all corporate or other organizational power and authority to (i) own its assets and carry on its business as currently conducted and (ii) in the case of the Loan Parties, execute, deliver and perform its obligations under the Loan Documents to which it is a party and consummate the Transactions;

(c) is duly qualified and in good standing (to the extent such concepts exist in such jurisdiction) under the Laws of each jurisdiction where its ownership, lease or operation of properties or the conduct of its business requires such qualification;

(d) is in compliance with all applicable Laws; and

(e) has all requisite governmental licenses, authorizations, consents and approvals to operate its business as currently conducted;

except in each case referred to in clauses (a) (other than with respect to the Borrower), (c), (d) or (e), to the extent that failure to do so has not resulted in, or is not reasonably expected, individually or in the aggregate, to result in a Material Adverse Effect.

SECTION 5.02 Authorization; No Contravention.

(a) The execution, delivery and performance by each Loan Party of each Loan Document to which it is a party has been duly authorized by all necessary corporate or other organizational action.

(b) Neither the execution, delivery and performance by each Loan Party of each Loan Document to which it is a party nor the consummation of the Transactions will,

(i) contravene the terms of any of its Organization Documents;

(ii) result in any breach or contravention of, or the creation of any Lien (other than a Permitted Lien) upon any of the property or assets of such Loan Party or any of the Restricted Subsidiaries under (A) any contractual obligation relating to Material Indebtedness or (B) any order, injunction, writ or decree of any Governmental Authority or any arbitral award to which such Loan Party or its property is subject;

(iii) violate any applicable Law; or

(iv) require any approval of stockholders, members or partners or any approval or consent of any Person under any contractual obligation relating to Material Indebtedness, except for such approvals or consents which will be obtained on or before the Closing Date;

except with respect to any breach, contravention or violation (but not creation of Liens) referred to in clauses (ii), (iii) and (iv), to the extent that such breach, contravention or violation has not resulted in, or is not reasonably expected, individually or in the aggregate, to result in a Material Adverse Effect.

SECTION 5.03 Governmental Authorization. No material approval, consent, exemption, authorization, or other action by, or notice to, or filing with, any Governmental Authority is necessary or required in connection with the execution, delivery or performance by, or enforcement against, any Loan Party of this Agreement or any other Loan Document, except for,

(a) filings necessary to perfect the Liens on the Collateral granted by the Loan Parties in favor of the Secured Parties;

(b) the approvals, consents, exemptions, authorizations, actions, notices and filings that have been duly obtained, taken, given or made and are in full force and effect (except to the extent not required to be obtained, taken, given or made or in full force and effect pursuant to the Collateral Documents); and

(c) those approvals, consents, exemptions, authorizations or other actions, notices or filings, the failure of which to obtain or make has not resulted in, or is not reasonably expected, individually or in the aggregate, to result in a Material Adverse Effect.

SECTION 5.04 Binding Effect. This Agreement and each other Loan Document has been duly executed and delivered by each Loan Party that is party hereto and thereto. This Agreement and each other Loan Document constitutes a legal, valid and binding obligation of each Loan Party, enforceable against each Loan Party that is party thereto in accordance with its terms, except as such enforceability may be limited by Debtor Relief Laws and by general principles of equity and principles of good faith and fair dealing.

SECTION 5.05 Financial Statements; No Material Adverse Effect.

(a) The Financial Statements fairly present in all material respects the financial condition of the Borrower and its Subsidiaries as of the dates thereof and their results of operations for the period covered thereby in accordance with GAAP (as in effect on the Closing Date (or the date of preparation)) consistently applied throughout the periods covered thereby, except as otherwise expressly noted therein.

(b) Since the Closing Date, there has been no event or circumstance, either individually or in the aggregate, that has resulted in, and is reasonably expected, individually or in the aggregate, to result in a Material Adverse Effect.

(c) The forecasts of consolidated balance sheets and statements of comprehensive income (loss) of the Borrower and its Subsidiaries which have been furnished to the Administrative Agent prior to the Closing Date, when taken as a whole, have been prepared in good faith on the basis of the assumptions stated therein, which assumptions were believed to be reasonable at the time made and at the time the forecasts are delivered, it being understood that (i) no forecasts are to be viewed as facts, (ii) any forecasts are subject to significant uncertainties and contingencies, many of which are beyond the control of the Loan Parties or the Sponsors, (iii) no assurance can be given that any particular forecasts will be realized and (iv) actual results may differ and such differences may be material.

SECTION 5.06 Litigation. Except as set forth in Schedule 5.06, there are no actions, suits, proceedings, claims or disputes pending or, to the knowledge of the Borrower, overtly threatened in writing, at law, in equity, in arbitration or before any Governmental Authority, by or against the Borrower or any of the Restricted Subsidiaries that has resulted in or if determined adversely would reasonably be expected, individually or in the aggregate, to result in Material Adverse Effect.

SECTION 5.07 Labor Matters. Except as set forth on Schedule 5.07 or except as has not resulted in, or is not reasonably expected, individually or in the aggregate, to result in a Material Adverse Effect: (a) there are no strikes or other labor disputes against any of the Borrower or the Restricted Subsidiaries pending or, to the knowledge of the Borrower, threatened and (b) hours worked by and payment made based on hours worked to employees of the Borrower or a Restricted Subsidiary have not been in material violation of the Fair Labor Standards Act or any other applicable Laws dealing with wage and hour matters.

SECTION 5.08 Ownership of Property; Liens. Each Loan Party and each Restricted Subsidiary has good and valid record title in fee simple to, or valid leasehold interests in, or easements or other limited property interests in, all real property necessary in the ordinary conduct of its business, free and clear of all Liens except for Permitted Liens and except where the failure to have such title or other interest has not resulted in, or is not reasonably expected, individually or in the aggregate, to result in a Material Adverse Effect.

SECTION 5.09 Environmental Matters.

(a) Except as has not resulted in, or is not reasonably expected, individually or in the aggregate, to result in a Material Adverse Effect, (i) the Loan Parties and the Restricted Subsidiaries are in compliance with all applicable Environmental Laws (including having obtained all Environmental Permits) and (ii) none of the Loan Parties or any of the Restricted Subsidiaries is subject to any pending, or to the knowledge of the Loan Parties, threatened Environmental Claim or any other Environmental Liability.

(b) None of the Loan Parties or any of the Restricted Subsidiaries has used, released, treated, stored, transported or disposed of Hazardous Materials, at or from any currently or formerly owned or operated real estate or facility relating to its business, in violation of Environmental Law and in a manner that has resulted in, or is reasonably expected, individually or in the aggregate, to result in a Material Adverse Effect.

SECTION 5.10 Taxes. Except as has not resulted in, or is not reasonably expected, individually or in the aggregate, to result in a Material Adverse Effect, the Borrower and the Restricted Subsidiaries have timely filed all tax returns and reports required to be filed, and have paid all foreign, U.S. federal and state, and other Taxes, assessments, fees and other governmental charges levied or imposed on their properties, income or assets or otherwise due and payable, except those which are being contested in good faith by appropriate actions diligently conducted and for which adequate reserves have been provided in accordance with GAAP.

SECTION 5.11 ERISA Compliance.

(a) Except as set forth in Schedule 5.11(a) or has not resulted in, or would not reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect, each Plan is in compliance with the terms of such Plan and applicable provisions of ERISA, the Code and other applicable Laws.

(b) Except, as set forth in Schedule 5.11(b) or, with respect to each of the below clauses of this Section 5.11(b), as has not resulted in, or would not reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect:

(i) no ERISA Event or Foreign Plan Event has occurred;

(ii) no Pension Plan has failed to satisfy the minimum funding standards (within the meaning of Section 412 of the Code or Section 302 of ERISA) applicable to such Pension Plan;

(iii) neither the Borrower, nor any Guarantor nor any of their respective ERISA Affiliates has incurred, or would reasonably be expected to incur, any liability (and no event has occurred which, with the giving of notice under Section 4219 of ERISA, would result in such liability) under Sections 4201 et seq. of ERISA with respect to a Multiemployer Plan;

(iv) neither the Borrower, nor any Guarantor nor any of their respective ERISA Affiliates has engaged in a transaction that is subject to Sections 4069 or 4212(c) of ERISA; and

(v) neither the Borrower, nor any Guarantor nor any ERISA Affiliate has been notified in writing that a Multiemployer Plan is insolvent (within the meaning of Section 4245 of ERISA) or has been determined to be in “endangered” or “critical” status (within the meaning of Section 432 of the Code or Section 305 of ERISA) and no such Multiemployer Plan is expected to be insolvent or in endangered or critical status.

SECTION 5.12 Subsidiaries. As of the Closing Date, all of the outstanding Equity Interests in the Borrower and each Restricted Subsidiary have been validly issued and are fully paid and (if applicable) non-assessable, and all Equity Interests owned by the Borrower or any Guarantor in any of their respective direct Material Subsidiaries are owned free and clear of all Liens (other than Permitted Liens) of any Person. As of the Closing Date, Schedule 5.12 (i) sets forth the name and jurisdiction of each Subsidiary, (ii) sets forth the ownership interest of the Borrower and each Subsidiary in each Subsidiary, including the percentage of such ownership and (iii) identifies each Subsidiary that is a Subsidiary the Equity Interests of which are required to be pledged on the Closing Date pursuant to the Collateral Documents.

SECTION 5.13 Margin Regulations; Investment Company Act.

(a) As of the Closing Date, none of the Collateral is Margin Stock. No Loan Party is engaged nor will it engage, principally or as one of its important activities, in the business of purchasing or carrying Margin Stock (within the meaning of Regulation U issued by the FRB), or extending credit for the purpose of purchasing or carrying Margin Stock, and no proceeds of any Borrowings or issuance of, or drawings under, any Letter of Credit will be used for any purpose that violates Regulation U.

(b) Neither the Borrower nor any Guarantor is an “investment company” under the Investment Company Act of 1940.

SECTION 5.14 Disclosure. As of the Closing Date, none of the written information and written data heretofore or contemporaneously furnished in writing by or on behalf of the Borrower or any Guarantor to any Agent or any Lender on or prior to the Closing Date in connection with the transactions contemplated hereby and the negotiation of this Agreement or delivered hereunder or any other Loan Document on or prior to the Closing Date, when taken as a whole, contains any material misstatement of fact or omits to state any material fact necessary to make such written information and written data taken as a whole, in the light of the circumstances under which it was delivered, not materially misleading (after giving effect to all modifications and supplements to such written information and written data, in each case, furnished after the date on which such written information or such written data was originally delivered); it being understood that for purposes of this Section 5.14, such written information and written data shall not include projections, *pro forma* financial information, financial estimates, forecasts and forward-looking information or information of a general economic or general industry nature.

SECTION 5.15 Properties; Titles, Etc.

(a) The relevant Loan Parties have good title to all of the Vessel Collateral, free and clear of all Liens except (i) Liens pursuant to the Loan Documents and the Junior Lien Debt (if any), (ii) Permitted Liens of the type permitted under clauses (a), (d) and (oo) of Section 7.01 and (iii) Liens being released on the Closing Date. Set forth on Schedule 5.15 hereto is a complete and accurate list of all Vessel Collateral owned by each Loan Party as of the Closing Date and to be subject to the Vessel Mortgage on the Closing Date; as of the Closing Date all Vessel Collateral is duly documented in the name of the applicable Loan Party as shipowner under the laws and flag of the United States and, except as set forth on Schedule 5.15, eligible to operate in the coastwise trade of the United States. Each Loan Party that owns Vessel Collateral is (i) if such Vessel Collateral is one or more Vessels registered under the laws and flag of the United States, a citizen of the United States within the meaning of Section 2(c) of the Shipping Act, 1916, as amended (46 U.S.C. § 50501), eligible to own and operate vessels in the coastwise trade of the United States, or (ii) eligible to own and operate vessels in whatever jurisdiction and trade the Vessel Collateral is qualified, as applicable.

(b) Except as otherwise permitted under the Loan Documents including the last sentence of this Section 5.15(b), all filings and other actions on behalf of the Borrower or, as applicable, any Restricted Subsidiary of the Borrower necessary or desirable to perfect and protect the security interest in the Vessel Collateral created under the Vessel Mortgages have been duly made or taken (or arrangements reasonably satisfactory to the Lenders with respect thereto have been made) and such security interests are in full force and effect, and the Vessel Mortgages create in favor of the Collateral Agent or trustee/mortgagee, as the case may be, for the benefit of the Secured Parties a valid and, together with such filings, recordations and other actions, when effected, perfected first priority security interest (except for Permitted Liens of the type permitted under clauses (a), (d), and (tt) of the Section 7.01) in the Vessel Collateral, securing the payment of the Indebtedness. To the extent that the Vessel Collateral is registered under the laws and flag of the United States, the Vessel Mortgage, executed and delivered, creates in favor of the Collateral Agent, as trustee/mortgagee, a legal, valid, and enforceable first preferred mortgage lien over the whole of the Vessel Collateral therein named and when duly recorded shall constitute a perfected first “preferred mortgage” within the meaning of Section 31301(6)(B) of Title 46 of the United States Code, entitled to the benefits accorded to a first preferred mortgage on a vessel registered under the laws and flag of the United States.

(c) All of the material properties of the Borrower and its Restricted Subsidiaries that are reasonably necessary for the operation of their businesses (other than Excluded Stacked Vessels) are in good working condition, ordinary wear and tear excepted, and are maintained in accordance with reasonable commercial business standards, except (i) as set forth in Schedule 5.15 or (ii) where the failure to be in such condition or maintain such property could not reasonably be expected to have a Material Adverse Effect.

SECTION 5.16 Solvency. On the Closing Date after giving effect to the Transactions, the Borrower and its Subsidiaries, on a consolidated basis, are Solvent.

SECTION 5.17 Compliance with Anti-Corruption Laws and Sanctions.

(a) No Relevant Person is:

(i) a Restricted Party; or

(ii) to its knowledge the subject of any claim, proceeding, formal notice, investigation or other action by any regulatory or enforcement authority concerning any alleged violation of Sanctions.

(b) The Borrower has implemented and maintains in effect policies and procedures designed to ensure compliance by the Borrower, its Subsidiaries and their respective directors, officers, employees and agents with applicable Anti-Corruption Laws and Sanctions, and the Borrower, its Subsidiaries and their respective officers and directors and to the knowledge of the Borrower its employees and agents, are in compliance with applicable Anti-Corruption Laws and Sanctions in all material respects and are not knowingly engaged in any activity that would reasonably be expected to result in the Borrower being designated as a Sanctioned Person.

SECTION 5.18 Collateral Documents. Except as otherwise contemplated hereby or under any other Loan Documents, the provisions of the Collateral Documents, together with such filings and other actions required to be taken hereby or by the applicable Collateral Documents or contemplated by the Collateral Documents (including the delivery to the Collateral Agent of any Pledged Collateral required to be delivered pursuant to the applicable Collateral Documents), are effective to create in favor of the Collateral Agent for the benefit of the Secured Parties a legal, valid and enforceable perfected Lien (subject to Permitted Liens) with the applicable priority contemplated herein or in the other Loan Documents on all right, title and interest of the Borrower and the applicable Guarantors, respectively, in the Collateral described therein.

SECTION 5.19 Use of Proceeds. The Borrower has used the proceeds of the Loans and the Letters of Credit issued hereunder only in compliance (and not in contravention of) applicable Laws and each Loan Document.

ARTICLE VI

Affirmative Covenants

So long as the Termination Conditions have not been satisfied, the Borrower shall, and shall (except in the case of the covenants set forth in Sections 6.01, 6.02, 6.03 and 6.05) cause each of the Restricted Subsidiaries to:

SECTION 6.01 Financial Statements. Deliver to the Administrative Agent for prompt further distribution by the Administrative Agent to each Lender each of the following:

(a) Audited Annual Financial Statements. Within one hundred twenty (120) days after the end of each fiscal year (commencing with the fiscal year ending December 31, 2024) of the Borrower, a consolidated balance sheet of the Borrower and its Subsidiaries as at the end of such fiscal year, and the related consolidated statements of comprehensive income (loss), stockholders' equity and cash flows for such fiscal year together with related notes thereto, setting forth in each case in comparative form the figures for the previous fiscal year (if ending after the Closing Date), prepared in accordance with GAAP, audited and accompanied by a report and opinion of the Borrower's auditor on the Closing Date or any other accounting firm of nationally or regionally recognized standing or another accounting firm reasonably acceptable to the Administrative Agent, which report and opinion shall be prepared in accordance with generally accepted auditing standards and which financial statements shall be accompanied by management's discussion and analysis describing results of operations in the form customarily prepared by management of the Borrower.

(b) Quarterly Financial Statements. As soon as available, but in any event within sixty (60) days after the end of each of the first three fiscal quarters of each fiscal year of the Borrower (commencing with the fiscal quarter ended September 30, 2024), (i) an unaudited consolidated balance sheet of the Borrower and its Subsidiaries as at the end of such fiscal quarter, (ii) the related unaudited consolidated statements of comprehensive income (loss) for such fiscal quarter and for the portion of the fiscal year then ended and (iii) the related unaudited consolidated statement of cash flows for the portion of the fiscal year then ended, setting forth, in each case of clauses (ii) and (iii), in comparative form, the figures for the corresponding fiscal quarter of the previous fiscal year and the corresponding portion of the previous fiscal year, in each case if ended after the Closing Date, certified by a Responsible Officer of the Borrower as fairly presenting in all material respects the financial condition, results of operations and cash flows of the Borrower and its Subsidiaries in material compliance with GAAP, subject to year-end adjustments and the absence of footnotes, which financial statements, to the extent the Borrower (or Parent Entity or Qualified Reporting Subsidiary) is not required to file a 10-Q, shall be accompanied by management's discussion and analysis describing results of operations in the form customarily prepared by management of the Borrower. Notwithstanding the foregoing, the Borrower shall deliver to the Administrative Agent, when available, the financial statements described in this paragraph (b) in respect of the fiscal quarter ended June 30, 2024; *provided* that no Compliance Certificate shall be required to be delivered in connection with or in respect of such financial statements pursuant to Section 6.02(a).

(c) Budget; Projections. On or prior to the date financial statements are required to be delivered pursuant to Section 6.01(a) (commencing with the first fiscal year ending after the Closing Date), a consolidated budget for the following fiscal year on a quarterly basis in form and substance consistent with the budget customarily prepared by management of the Borrower for their internal use.

(d) Unrestricted Subsidiaries. Simultaneously with the delivery of each set of consolidated financial statements referred to in Sections 6.01(a) and 6.01(b) above, such supplemental financial information (which need not be audited) as is necessary to eliminate the accounts of Unrestricted Subsidiaries (if any) from such consolidated financial statements.

Notwithstanding the foregoing, the obligations in paragraphs (a) and (b) of this Section 6.01 may be satisfied by furnishing, at the Borrower's option, (i) the applicable financial statements of (1) any wholly-owned Restricted Subsidiary of the Borrower that, together with its combined and consolidated Restricted Subsidiaries, constitutes substantially all of the assets of the Borrower and its combined consolidated Subsidiaries (a "**Qualified Reporting Subsidiary**") or (2) any Person of which the Borrower is a Subsidiary (such Person, a "**Parent Entity**") or (ii) the Borrower or a Qualified Reporting Subsidiary's or Parent Entity's Form 10-K or 10-Q, as applicable, filed with the SEC (or equivalent form whether or not filed with the SEC consistent with the Borrower's practice as of the Closing Date); *provided* that with respect to each of clauses (i) and (ii), (A) to the extent such information relates to a Qualified Reporting Subsidiary, or a Parent Entity, such information is accompanied by customary consolidating information (which need not be audited) that explains in reasonable detail the material differences between the information relating to such Qualified Reporting Subsidiary or Parent Entity, on the one hand, and the information relating to the Borrower and its Subsidiaries, on the other hand; (B) (i) in the event that the Borrower (or any Qualified Reporting Subsidiary or Parent Entity) delivers to the Administrative Agent a Form 10K for any fiscal year (or similar filing in the Applicable Jurisdiction), as filed with the SEC or in such form as would have been suitable for filing with the SEC (or similar governing body in the Applicable Jurisdiction, in each case), within the time frames set forth in paragraph (a) of this Section 6.01, such Form 10-K shall satisfy all requirements of paragraph (a) of this Section 6.01 with respect to such fiscal year to the extent that it contains the information and report and opinion required by such paragraph (a) and (ii) in the event that the Borrower (or any Qualified Reporting Subsidiary or Parent Entity) delivers to the Administrative Agent a Quarterly Report on Form 10-Q for any fiscal quarter (or similar filing in the Applicable Jurisdiction), as filed with the SEC or in such form as would have been suitable for filing with the SEC (or similar governing body in the Applicable Jurisdiction, in each case), within the time frames set forth in paragraph (b) of this Section 6.01, such Form 10-Q shall satisfy all requirements of paragraph (b) of this Section 6.01 with respect to such fiscal quarter to the extent that it contains the information required by such paragraph (b), (C) any financial statements required to be delivered pursuant to this Section 6.01 shall not be required to contain purchase accounting adjustments and (D) following the consummation of an acquisition in the applicable period or the period thereafter, the obligations in paragraphs (a) and (b) of this Section 6.01 with respect to the target of such acquisition may be satisfied by, at the option of the Borrower, (1) furnishing management accounts for the target of such acquisition or (2) omitting the target of such acquisition from the required financial statements of the Borrower and its Subsidiaries for the applicable period and period thereafter.

Notwithstanding the foregoing, upon the request of the Borrower in connection with any material Permitted Investment or other acquisition permitted hereunder, the Administrative Agent may consent to a thirty-day extension to the deadlines in this Section 6.01.

SECTION 6.02 Certificates; Other Information. Deliver to the Administrative Agent for prompt further distribution by the Administrative Agent to each Lender each of the following:

(a) Compliance Certificate. No later than fifteen (15) Business Days after the delivery of the financial statements referred to in Sections 6.01(a) and 6.01(b), a duly completed Compliance Certificate.

(b) VesselsValue™ Statement. Provided that VesselsValue™ (or any successor thereof) exists at the time such written request is received by the Borrower, within thirty (30) days of the reasonable written request of the Administrative Agent (or by such later date as the Administrative Agent may agree), a statement of the fair market value of each Vessel that is Collateral, as determined by VesselsValue™ (or any successor thereof).

(c) SEC Filings. Concurrently with each Compliance Certificate, copies of all annual, regular, periodic and special reports, proxy statements and registration statements which the Borrower or any Restricted Subsidiary has filed with the SEC subsequent to the delivery of the immediately preceding Compliance Certificate (or, if prior to the delivery of the first Compliance Certificate, subsequent to the Closing Date) (other than amendments to any registration statement (to the extent such registration statement, in the form it became effective, is delivered to the Administrative Agent), exhibits to any registration statement and, if applicable, any registration statement on Form S-8), and in any case not otherwise required to be delivered to the Administrative Agent pursuant to any other clause of this Section 6.02; *provided* that notwithstanding the foregoing, the obligations in this Section 6.02(b) may be satisfied by causing such information to be publicly available on the SEC's EDGAR website, another publicly available reporting service or the applicable regulator's website.

(d) Information Regarding Collateral. The Borrower will furnish to the Administrative Agent concurrently with each Compliance Certificate or by such later date as reasonably agreed to by the Administrative Agent, written notice of any change (i) in any Loan Party's legal name (as set forth in its certificate of organization or like document) or (ii) in the location of any Loan Party's chief executive office or the jurisdiction of incorporation or organization of any Loan Party or in the form of its organization, in each case, occurring subsequent to the delivery of the immediately preceding Compliance Certificate (or, if prior to the delivery of the first Compliance Certificate, subsequent to the Closing Date), in each case to the extent such information is necessary to enable the Collateral Agent to perfect or maintain the perfection or priority of its security interest in the Collateral of the relevant Loan Party.

(e) Lender Calls. Upon the reasonable request of the Administrative Agent, following delivery of the financial statements pursuant to Sections 6.01(a) and (b) above, the Borrower shall promptly hold a conference call (at a time selected by the Borrower and reasonably acceptable to the Administrative Agent) with all Lenders (including both "public" and "private" side lenders) who choose to attend such conference call, at which call shall be reviewed the financial information presented in such financial statements; *provided* that in no event shall more than one such conference call be requested in any fiscal quarter; *provided, further*, that the obligations of this Section 6.02(e) may be satisfied by (i) the Borrower holding a public earnings call in respect of such fiscal quarter or (ii) the Borrower inviting the Lenders to attend a conference call for such fiscal quarter with other holders of Indebtedness.

(f) Other Information. Such additional information (a) regarding the business operations of any Loan Party or any Restricted Subsidiary as the Administrative Agent may from time to time on its own behalf or on behalf of the Required Lenders reasonably request and (b) as may be reasonably requested by the Administrative Agent or any Lender through the Administrative Agent for purposes of compliance with applicable "know your customer" and anti-money laundering rules and regulations, including the USA PATRIOT Act and the Beneficial Ownership Regulation.

Documents required to be delivered pursuant to Section 6.01 or Section 6.02 may be delivered electronically and if so delivered, shall be deemed to have been delivered on the date (i) on which the Borrower (or any Qualified Reporting Subsidiary or Parent Entity) posts such documents, or provides a link thereto, on the Borrower's (or any Qualified Reporting Subsidiary's or Parent Entity's) website on the Internet, or (ii) on which such documents are posted on the Borrower's behalf on Syndtrak or another relevant website, if any, to which each Lender and the Administrative Agent have access (whether a commercial, third-party website or whether sponsored by the Administrative Agent). Each Lender shall be solely responsible for timely accessing posted documents or requesting delivery of paper copies of such documents from the Administrative Agent and maintaining its copies of such documents.

The Borrower hereby acknowledges that (a) the Administrative Agent and/or the Lead Arranger will make available to the Lenders materials and/or information provided by or on behalf of the Borrower hereunder (collectively, “**Borrower Materials**”) by posting the Borrower Materials on Syndtrak or another similar electronic system (the “**Platform**”) and (b) certain of the Lenders may have personnel who do not wish to receive any information with respect to the Borrower or its Subsidiaries, or the respective securities of any of the foregoing, that is not Public-Side Information, and who may be engaged in investment and other market-related activities with respect to such Person’s securities. The Borrower hereby agrees that (i) all Borrower Materials that are to be made available to Public Lenders shall be clearly and conspicuously marked “PUBLIC” which, at a minimum, shall mean that the word “PUBLIC” shall appear prominently on the first page thereof (and by doing so shall be deemed to have represented that such information contains only Public-Side Information); (ii) by marking Borrower Materials “PUBLIC,” the Borrower shall be deemed to have authorized the Administrative Agent, the Lead Arranger and the Lenders to treat such Borrower Materials as containing only Public-Side Information (*provided, however*, that to the extent such Borrower Materials constitute Information, they shall be treated as set forth in Section 11.08); (iii) all Borrower Materials marked “PUBLIC” are permitted to be made available through a portion of the Platform designated “Public-Side Information”; and (iv) the Administrative Agent and the Lead Arranger shall treat any Borrower Materials that are not marked “PUBLIC” as being suitable only for posting on a portion of the Platform not designated “Public-Side Information.”

For the avoidance of doubt, the foregoing shall be subject to the provisions of Section 11.08.

SECTION 6.03 Notices. Promptly after a Responsible Officer obtains actual knowledge thereof, notify the Administrative Agent for prompt further notification by the Administrative Agent to each Lender of:

(a) the occurrence and continuation of any Default or Event of Default; and

(b) (i) any dispute, litigation, investigation or proceeding between the Borrower or any Restricted Subsidiary and any arbitrator or Governmental Authority or (ii) the filing or commencement of, or any material development in, any litigation or proceeding affecting the Borrower or any Restricted Subsidiary, or (iii) the occurrence of any ERISA Event or Foreign Plan Event that, in any such case referred to in clause (i), (ii) or (iii), has resulted, or has a reasonable probability of being determined adversely and could reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect.

Each notice pursuant to this Section 6.03 shall be accompanied by a written statement of a Responsible Officer of the Borrower setting forth a summary description of the occurrence referred to therein and stating what action the Borrower has taken and proposes to take with respect thereto. For the avoidance of doubt, the foregoing shall be subject to the provisions of Section 11.08.

SECTION 6.04 Payment of Certain Taxes. Pay, discharge or otherwise satisfy, as the same shall become due and payable, all obligations and liabilities in respect of Taxes imposed upon it or upon its income or profits or in respect of its property, except, in each case, to the extent (a) any such Tax, assessment, charge or levy is being contested in good faith and by appropriate actions diligently conducted and for which appropriate reserves have been established in accordance with GAAP or (b) the failure to pay, discharge or otherwise satisfy the same has not resulted in, or is not reasonably expected, individually or in the aggregate, to result in a Material Adverse Effect.

SECTION 6.05 Preservation of Existence of the Borrower. Preserve, renew and maintain in full force and effect its legal existence under the Laws of the jurisdiction of its incorporation or organization, except as otherwise expressly permitted under this Agreement.

SECTION 6.06 Maintenance of Properties. Maintain, preserve and protect all of its material properties and equipment used in the operation of its business in good working order, repair and condition (ordinary wear and tear excepted and casualty or condemnation excepted), except to the extent the failure to do so has not resulted in, or is not reasonably expected, individually or in the aggregate, to result in a Material Adverse Effect.

SECTION 6.07 Maintenance of Insurance.

(a) Maintain or cause to be maintained with insurance companies that the Borrower believe (in the good faith judgment of their management) are financially sound and reputable at the time the relevant coverage is placed or renewed or with a Captive Insurance Subsidiary, insurance with respect to its properties and business against loss or damage of the kinds customarily insured against by Persons engaged in the same or similar business and of such types and in such amounts (after giving effect to any self-insurance) as are customarily carried under similar circumstances by such other Persons, and furnish to the Administrative Agent, which, absent a continuing Event of Default, shall not be made more than once in any twelve month period, upon reasonable written request from the Administrative Agent, information presented in reasonable detail as to the insurance so carried. Schedule 6.07 sets forth a true, complete and accurate description of all material insurance maintained by or on behalf of the Borrower or the other Loan Parties as of the Closing Date.

(b) Following the Initial Funding Date, the Borrower shall use commercially reasonable efforts such that each such policy of insurance (as appropriate and is customary and with respect to jurisdictions outside the United States, to the extent available in such jurisdiction without undue cost or expense),

(i) (A) names the Collateral Agent and the Administrative Agent, on behalf of the Secured Parties, as an additional insured thereunder (with respect to liability insurance) and/or (B) to the extent covering Collateral in the case of property insurance, contains a loss payable clause or endorsement that names the Collateral Agent and the Administrative Agent, on behalf of the Secured Parties, as the loss payee thereunder; and

(ii) provides that it shall not be cancelled, modified (such modification, to the extent causing a material impairment or otherwise adverse effect on the interests of the Lenders) or not renewed (x) by reason of nonpayment of premium except upon not less than 10 days' prior written notice thereof by the insurer to the Administrative Agent (giving the Administrative Agent the right to cure defaults in the payment of premiums) or (y) for any other reason except upon not less than thirty (30) days' prior written notice thereof by the insurer to the Administrative Agent. The Borrower shall deliver to the Administrative Agent, prior to the cancellation, modification (such modification, to the extent causing a material impairment or otherwise adverse effect on the interests of the Lenders) or non-renewal of any such policy of insurance, a copy of a renewal or replacement policy (or other evidence of renewal of a policy previously delivered to the Administrative Agent, including an insurance binder) together with evidence reasonably satisfactory to the Administrative Agent of payment of the premium therefor;

provided that (A) absent a Specified Event of Default that is continuing, any proceeds of any insurance shall be delivered by the insurer(s) to the Borrower or one of their Subsidiaries and applied in accordance with this Agreement and (B) this Section 6.07(b) shall not be applicable to (1) business interruption insurance, workers' compensation policies, employee liability policies, fiduciary policies, directors and officers policies and certain other policies as agreed between the Borrower and the Administrative Agent or (2) the extent unavailable from the relevant insurer after the Borrower's use of their commercially reasonable efforts.

SECTION 6.08 Compliance with Laws. Comply with the requirements of all Laws (including applicable ERISA-related laws and all Environmental Laws) and all orders, writs, injunctions and decrees of any Governmental Authority applicable to it or to its business or property, except to the extent the failure to comply therewith has not resulted in, or is not reasonably expected, individually or in the aggregate, to result in a Material Adverse Effect.

SECTION 6.09 Books and Records. Maintain proper books of record and account in which entries that are full, true and correct in all material respects shall be made of all material financial transactions and material matters involving the assets and business of the Borrower or such Restricted Subsidiary, as the case may be (it being understood and agreed that Foreign Subsidiaries may maintain individual books and records in conformity with generally accepted accounting principles in their respective countries of organization or operations and that such maintenance shall not constitute a breach of the representations, warranties or covenants hereunder), in each case, to the extent necessary to prepare the financial statements described in Sections 6.01(a) and 6.01(b).

SECTION 6.10 Inspection Rights. Subject to Section 6.19(h) in respect of Vessels, permit representatives of the Administrative Agent and the Required Lenders to visit and inspect any of their properties (subject to the rights of lessees or sublessees thereof and subject to any restrictions or limitations in the applicable lease, sublease or other written occupancy arrangement pursuant to which any such Subsidiary party), to examine its corporate, financial, and operating records, and make copies thereof or abstracts therefrom and to discuss its affairs, finances and accounts with its directors, officers, and independent public accountants (subject to such accountants' policies and procedures), all at the reasonable expense of the Borrower and at such reasonable times during normal business hours and as often as may be reasonably desired, upon reasonable advance written notice to the Borrower; *provided that*, (a) excluding any such visits and inspections during the continuation of an Event of Default, only the Administrative Agent on behalf of the Lenders may exercise rights under this Section 6.10 and the Administrative Agent shall not exercise such rights more often than two times during any calendar year absent the continuation of an Event of Default and one such time shall be at the Borrower's expense and (b) when an Event of Default is continuing, the Administrative Agent or the Required Lenders (or any of their respective representatives) may do any of the foregoing at the expense of the Borrower at any time during normal business hours and upon reasonable advance written notice. Notwithstanding anything to the contrary in this Section 6.10, none of the Loan Parties or their Restricted Subsidiaries will be required to disclose or permit the inspection or discussion of, any document, information or other matter (i) that constitutes non-financial trade secrets or non-financial proprietary information, (ii) in respect of which disclosure to the Administrative Agent or any Lender (or their respective representatives or contractors) is prohibited by Law or any binding agreement or (iii) that is subject to attorney client or similar privilege or constitutes attorney work product. The Administrative Agent shall give the Borrower the opportunity to participate in any discussions with the Borrower's independent public accountants. For the avoidance of doubt, the foregoing shall be subject to the provisions of Section 11.08.

SECTION 6.11 Covenant to Guarantee Obligations and Give Security. At the Borrower's expense, subject to any applicable limitation in any Loan Document (including Section 6.12), take the following actions:

(a) within forty-five (45) days of the occurrence of any Grant Event (or such longer period as the Administrative Agent may agree in its reasonable discretion),

(i) cause the Restricted Subsidiary subject of the Grant Event to execute and deliver the Guaranty (or a joinder thereto);

(ii) cause the Restricted Subsidiary subject of the Grant Event to execute and deliver the Collateral Agreement (or a supplement thereto, including a Collateral Agreement Supplement);

(iii) cause the Restricted Subsidiary subject of the Grant Event to execute and deliver, to the extent applicable, the Vessel Mortgage;

(iv) [reserved];

(v) cause the Restricted Subsidiary subject of the Grant Event (and any Loan Party of which such Restricted Subsidiary is a direct Subsidiary) to (A) if such Restricted Subsidiary has "opted into" Article 8 of the Uniform Commercial Code, deliver any and all certificates representing its Equity Interests (to the extent certificated) that constitute Collateral and are required to be pledged pursuant to the Collateral Agreement, accompanied by undated stock powers or other appropriate instruments of transfer executed in blank (or any other documents customary under local law), (B) [reserved] and (C) deliver all instruments evidencing Indebtedness held by such Restricted Subsidiary that constitute Collateral and are required to be pledged pursuant to the Collateral Agreement, endorsed in blank, to the Collateral Agent; and

(vi) upon the reasonable request of the Administrative Agent, take and cause the Restricted Subsidiary the subject of the Grant Event and each direct or indirect parent of such Restricted Subsidiary that is required to become a Guarantor pursuant to the Collateral Agreement that holds Equity Interests in such Restricted Subsidiary to take such customary actions as may be necessary in the reasonable opinion of the Administrative Agent to vest in the Collateral Agent (or in any representative of the Collateral Agent designated by it) perfected Liens (subject to Permitted Liens) in the Equity Interests of such Restricted Subsidiary and the personal property of such Restricted Subsidiary to the extent required by the Loan Documents, enforceable against all third parties in accordance with their terms, except as such enforceability may be limited by Debtor Relief Laws and by general principles of equity (regardless of whether enforcement is sought in equity or at law).

(b) [Reserved].

(c) Control Agreements. Subject to Section 6.15 and other than with respect to Excluded Accounts, maintain at all times all cash and Cash Equivalents of the Borrower and any Loan Parties in Deposit Accounts or Securities Accounts with either (i) any financial institution that is a Lender or an Affiliate of a Lender or (ii) any financial institution that has entered into a Control Agreement; *provided, however*, this clause (c) shall not apply with respect to any Deposit Accounts or Securities Accounts of any Loan Party existing as of the Initial Funding Date (or such longer period as the Administrative Agent may consent to in its sole discretion) and, in respect of any other Deposit Account or Securities Account opened or acquired after the Closing Date, for a period of sixty (60) days after the date of opening or acquisition thereof and, in respect of any Deposit Accounts or Securities Account of any Loan Party that cease to be held with a Lender or an Affiliate of a Lender on account of the applicable Lender ceasing to be a Lender, within sixty (60) days after the Borrower receives written notice that such Lender has ceased to be a Lender hereunder (each such bank account, a “**Blocked Account**”).

(d) Vessel Collateral.

(i) Within thirty (30) days of the acquisition (including by way of construction or through a Permitted Asset Swap) (or by such later date as the Administrative Agent may agree to in its sole discretion) by the Borrower or any Restricted Subsidiary of any Vessel (excluding any Excluded Vessel) the Borrower or such Restricted Subsidiary shall mortgage, substantially on terms and conditions set forth in the Vessel Mortgage (or the applicable foreign law equivalent in form and substance reasonably acceptable to the Borrower, the Administrative Agent and Collateral Agent), such Vessel so as to grant to the Collateral Agent, for the ratable benefit of the Secured Parties, Vessel Mortgage Liens (or the foreign equivalent in form and substance reasonably acceptable to the Borrower, the Administrative Agent and Collateral Agent) thereon and first priority (subject to Permitted Liens) security interests (or the foreign equivalent in form and substance reasonably acceptable to the Borrower, the Administrative Agent and Collateral Agent) in all related property; *provided*, that notwithstanding anything to the contrary in Section 6.11(a), if the Restricted Subsidiary that has acquired any such Vessel that is required to become Collateral is not already a Guarantor, such Restricted Subsidiary of the Borrower shall become a Guarantor. No Loan Party shall be required to grant a Lien in any Excluded Vessel to the Collateral Agent for the benefit of the Secured Parties; *provided, however*, any Loan Party or Restricted Subsidiary may elect to grant a Lien in any Excluded Vessel to the Collateral Agent for the benefit of the Secured Parties, including for purposes of including any such Vessel in the calculation of the Collateral Coverage Ratio and the RCF Collateral Coverage Ratio. In the event any Loan Party or Restricted Subsidiary makes such election, such Loan Party or Restricted Subsidiary shall satisfy the requirements of this Section 6.11(d) in respect of such Vessels (assuming, for such purpose, that such Vessel does not constitute an Excluded Vessel).

(ii) [Reserved].

SECTION 6.12 Further Assurances. Subject to Section 6.11 and any applicable limitations in any Loan Document, and in each case at the expense of the Borrower, promptly upon the reasonable request by the Administrative Agent or Collateral Agent (a) correct any material defect or error that may be discovered in the execution, acknowledgment, filing, publication or recordation of any Collateral Document or other document or instrument relating to any Collateral and (b) do, execute, acknowledge, deliver, record, re-record, file, re-file, register, re-register, publish and re-publish any and all such further acts, deeds, certificates, assurances and other instruments as the Administrative Agent or Collateral Agent may reasonably request from time to time in order to carry out more effectively the purposes of the Collateral Documents.

Notwithstanding anything to the contrary in any Loan Document, unless otherwise expressly elected by the Borrower, none of the Borrower nor any Restricted Subsidiary will be required to, nor will the Administrative Agent or the Collateral Agent be authorized,

(a) to perfect security interests in the Collateral other than by,

(i) “all asset” filings pursuant to the Uniform Commercial Code in the office of the secretary of state (or similar central filing office) of the relevant state(s) and filing and filings in the applicable real estate records with respect to any applicable real property pursuant to Section 6.11(b) (as applicable);

(ii) [reserved];

(iii) the Vessel Mortgage in respect of Vessel Collateral; and

(iv) delivery to the Administrative Agent or Collateral Agent to be held in its possession of all Collateral consisting of (A) certificates representing Pledged Equity, and (B) all promissory notes and other instruments constituting Collateral; *provided* that promissory notes and instruments having an aggregate principal amount equal to or less than the greater of 5% of Closing Date Consolidated Net Tangible Assets and 5% of Consolidated Net Tangible Assets determined as of the most recently completed fiscal quarter need not be delivered to the Collateral Agent; in each case, in the manner provided in the Collateral Documents;

(b) to enter into any control agreement, lockbox or similar arrangement with respect to any commodities account or other bank account (other than a Deposit Account or Securities Account to the extent required by Section 6.11(c)), or otherwise take or perfect a security interest with control;

(c) to take any action (i) outside of the United States with respect to any assets located outside of the United States, (ii) in any non-U.S. jurisdiction or (iii) required by the laws of any non-U.S. jurisdiction to create, perfect or maintain any security interest or otherwise (unless, in each case, expressly elected by the Borrower in respect of the Vessel Collateral); or

(d) to take any action with respect to perfecting a Lien with respect to letters of credit, letter of credit rights, commercial tort claims, chattel paper or assets subject to a certificate of title or similar statute (in each case, other than the filing of customary "all asset" UCC-1 financing statements) or to deliver landlord lien waivers, estoppels, bailee letters or collateral access letters, in each case, unless required by the terms of the applicable Collateral Agreement or the relevant Collateral Document.

Further, the Loan Parties shall not be required to perform any periodic collateral reporting, if any, with any frequency greater than once per fiscal year (*provided* that this clause shall not limit the obligation of the Loan Parties to comply with Section 6.02(c) or Section 6.11).

SECTION 6.13 Designation of Subsidiaries. The Borrower may by action of its Board of Directors, at any time designate any Restricted Subsidiary as an Unrestricted Subsidiary or designate (or re-designate, as the case may be) any Unrestricted Subsidiary as a Restricted Subsidiary; *provided* that:

(a) immediately before and after such designation (or re-designation), no Default or Event of Default shall have occurred and be continuing;

(b) the Investment resulting from the designation of such Restricted Subsidiary as an Unrestricted Subsidiary as described above is a Permitted Investment or other Investment permitted hereunder;

(c) if such designation would result in Vessel Collateral being owned by an Unrestricted Subsidiary, immediately before and after such designation determined after giving effect to any concurrent reduction in the Commitments (or the commitments under any Incremental Facilities), the RCF Collateral Release Ratio must be greater than or equal to 5.0:1.0.

The designation of any Subsidiary as an Unrestricted Subsidiary shall constitute an Investment by the Borrower therein at the date of designation in an amount equal to the Fair Market Value of the Borrower's or Restricted Subsidiary's (as applicable) Investment therein. The designation of any Unrestricted Subsidiary as a Restricted Subsidiary shall constitute the incurrence at the time of designation of any Indebtedness and Liens of such Subsidiary existing at such time and a return on any Investment by the Borrower in Unrestricted Subsidiaries pursuant to the preceding sentence in an amount equal to the Fair Market Value at the date of such designation of the Borrower's or Restricted Subsidiary's (as applicable) Investment in such Subsidiary. Except as set forth in this paragraph, no Investment will be deemed to exist or have been made, and no Indebtedness or Liens shall be deemed to have been incurred or exist, by virtue of a Subsidiary becoming an Excluded Subsidiary or an Excluded Subsidiary becoming a Restricted Subsidiary.

SECTION 6.14 Compliance with Anti-Corruption Laws and Sanctions.

(a) No Loan Party shall (and the Borrower shall ensure that no other Relevant Person will) take any action, make any omission or use (directly or knowingly indirectly) any Borrowing or Letter of Credit:

(i) in furtherance of an offer, payment, promise to pay, or authorization of the payment or giving of money, or anything else of value, to any Person in violation of any Anti-Corruption Laws;

(ii) in breach of Sanctions;

(iii) in a manner that causes (or will cause) a breach of Sanctions by any Lender; or

(iv) for the purpose of funding, financing or facilitating any activities, business or transaction of or with any Restricted Party, except to the extent permitted for a Person required to comply with Sanctions.

(b) No Loan Party shall (and the Borrower shall ensure that no other Relevant Person will) take any action or make any omission that results, or is reasonably likely to result, in it or any Lender becoming a Restricted Party.

(c) The Borrower will maintain in effect and enforce policies and procedures designed to ensure compliance by the Borrower, its Subsidiaries and their respective directors, officers, employees and agents with applicable Anti-Corruption Laws and Sanctions.

(d) The requirements set forth in this Section 6.14, as they pertain to compliance by any Foreign Subsidiary with Anti-Corruption Laws and Sanctions are limited by any Law applicable to such Foreign Subsidiary in its relevant local jurisdiction.

SECTION 6.15 Post-Closing Matters.

(a) The Borrower will, and will cause each of the Restricted Subsidiaries to, take each of the actions set forth on Schedule 6.15 within the time period prescribed therefor on such schedule (as such time period may be extended by the Administrative Agent).

(b) By the date that is no later than ninety-one (91) days prior to the maturity date under the existing Second Lien Credit Agreement, Indebtedness under the Second Lien Credit Agreement is to be repaid or otherwise refinanced with the proceeds of or exchanged for Second Lien Credit Agreement Refinancing Indebtedness or the maturity date thereunder otherwise extended such that, after giving effect to such refinancing or extension, the maturity date of any such resulting Indebtedness is no earlier than ninety-one (91) days after the then-latest Maturity Date.

SECTION 6.16 Use of Proceeds.

(a) The proceeds of Revolving Loans will be used for general corporate purposes of the Borrower and the Restricted Subsidiaries, including (a) working capital, (b) acquisitions that are not prohibited by the terms of this Agreement (including Permitted Investments) and (c) standby letters of credit.

(b) Letters of Credit will be used by the Borrower for general corporate purposes of the Borrower and the Restricted Subsidiaries, including supporting transactions not prohibited by the Loan Documents.

(c) The proceeds of Incremental Loans may be used as specified in the applicable Incremental Amendment and otherwise in accordance with Section 2.16(e).

SECTION 6.17 Change in Nature of Business. Engage only in material lines of business that are substantially consistent with those lines of business conducted by the Borrower and the Restricted Subsidiaries on the Closing Date and lines of business that are reasonably similar, corollary, ancillary, incidental, synergistic, complementary or related to, or a reasonable extension, development or expansion of, the businesses conducted or proposed to be conducted by the Borrower and the Restricted Subsidiaries on the Closing Date, in each case as determined by the Borrower in good faith.

SECTION 6.18 Transactions with Affiliates. Conduct all transactions (including the purchase, sale, lease or exchange of any property or the rendering of any service) with any Affiliate of the Borrower (an “**Affiliate Transaction**”) involving aggregate value in excess of \$5.0 million, on terms which taken as a whole are not materially less favorable to the Borrower or such Restricted Subsidiary, as the case may be, than those that could be obtained in a comparable transaction at the time of such transaction or the execution of the agreement providing for such transaction in arm’s length dealings with a Person who is not such an Affiliate or, if in the good faith judgment of the Board of Directors of the Borrower no comparable transaction is available with which to compare such Affiliate Transaction, such Affiliate Transaction is otherwise fair to the Borrower or such Restricted Subsidiary from a financial point of view.

Any Affiliate Transaction shall be deemed to have satisfied the requirements set forth in this Section 6.18 if such Affiliate Transaction is approved by a majority of the Disinterested Directors of the Borrower, if any.

The provisions of the preceding paragraph will not apply to:

- (1) any Restricted Payment or any Permitted Investment;
- (2) any issuance, transfer or sale of (a) Equity Interests, options, other equity-related interests or other securities, or other payments, awards or grants in cash, securities or otherwise to any Parent Entity, Permitted Holder or future, current or former employee, director, officer, manager, contractor, consultant or advisor (or their respective Controlled Investment Affiliates or Immediate Family Members) of the Borrower, any of its Subsidiaries or any of its Parent Entities and (b) directors' qualifying shares and shares issued to foreign nationals as required under applicable law;
- (3) any Management Advances and any waiver or transaction with respect thereto;
- (4) (a) any transaction between or among the Borrower and any Restricted Subsidiary (or entity that becomes a Restricted Subsidiary as a result of such transaction), or between or among Restricted Subsidiaries and (b) any merger, amalgamation or consolidation with any Parent Entity, *provided* that such Parent Entity shall have no material liabilities and no material assets other than cash, Cash Equivalents and the Equity Interests of the Borrower and such merger, amalgamation or consolidation is otherwise permitted under this Agreement;
- (5) the payment of compensation, fees, costs and expenses to, and indemnities (including under insurance policies) and reimbursements, employment and severance arrangements, and employee benefit and pension expenses provided on behalf of, or for the benefit of, future, current or former employees, directors, officers, managers, contractors, consultants, distributors or advisors (or their respective Controlled Investment Affiliates or Immediate Family Members) of the Borrower, any Parent Entity or any Restricted Subsidiary (whether directly or indirectly and including through their Controlled Investment Affiliates or Immediate Family Members);
- (6) the entry into and performance of obligations of the Borrower or any of the Restricted Subsidiaries under the terms of any transaction arising out of, and any payments pursuant to or for purposes of funding, any agreement or instrument in effect as of or on the Closing Date, as these agreements and instruments may be amended, modified, supplemented, extended, renewed or refinanced from time to time in accordance with the other terms of this covenant or to the extent not disadvantageous in any material respect in the reasonable determination of the Borrower to the Lenders when taken as a whole as compared to the applicable agreement as in effect on the Closing Date;

- (7) any transaction effected as part of a Qualified Securitization Financing or Receivables Facility, any disposition or acquisition of Securitization Assets, Receivables Assets or related assets in connection with any Qualified Securitization Financing or Receivables Facility;
- (8) transactions with customers, vendors, clients, joint venture partners, suppliers, contractors, distributors or purchasers or sellers of goods or services, in each case in the ordinary course of business or consistent with past practice, which are fair to the Borrower and the Restricted Subsidiaries, in the reasonable determination of the Borrower, or are on terms, taken as a whole, that are not materially less favorable as might reasonably have been obtained at such time from an unaffiliated party;
- (9) any transaction between or among the Borrower or any Restricted Subsidiary and any Person (other than an Unrestricted Subsidiary) that is an Affiliate of the Borrower or an Associate or similar entity solely because the Borrower or a Restricted Subsidiary or any Affiliate of the Borrower or a Restricted Subsidiary or any Affiliate of any Permitted Holder owns an equity interest in or otherwise controls such Affiliate, Associate or similar entity;
- (10) any issuance, sale or transfer of Equity Interests (other than Disqualified Equity Interests) of the Borrower, any Parent Entity or any of its Restricted Subsidiaries or options, warrants or other rights to acquire such Equity Interests and the granting of registration and other customary rights (and the performance of the related obligations) in connection therewith or any contribution to capital of the Borrower or any Restricted Subsidiary;
- (11) (a) payments by the Borrower or any Restricted Subsidiary (or distributions or dividends by the Borrower in lieu of such payments) to any Permitted Holder (whether directly or indirectly), including to its affiliates or its designees, of management, consulting, monitoring, refinancing, transaction, advisory, indemnities and other fees, costs and expenses (plus any unpaid management, consulting, monitoring, transaction, advisory, indemnities and other fees, costs and expenses accrued in any prior year) and any exit and termination fees (including any such cash lump sum or present value fee upon the consummation of a corporate event, including an initial public offering) pursuant to any management or similar agreements or the management or other relevant provisions in an investor rights agreement, limited partnership agreement, limited liability company agreement or other equityholders' agreement, as the case may be, with terms reasonably consistent with the terms of similar agreements entered into by similar financial sponsors and portfolio companies as reasonably determined by the Borrower or any Parent Entity on behalf of the Borrower at the time such management or similar agreement is entered into by the Sponsors and the Borrower or any Parent Entity and (b) payments by the Borrower or any Restricted Subsidiary to any Permitted Holder (whether directly or indirectly, including through any Parent Entity) for financial advisory, financing, underwriting or placement services or in respect of other investment banking activities, including in connection with acquisitions or divestitures, which payments are approved in the reasonable determination of the Borrower;

- (12) payment to any Permitted Holder of all out of pocket expenses incurred by such Permitted Holder in connection with its direct or indirect investment in the Borrower and its Subsidiaries;
- (13) transactions in which the Borrower or any Restricted Subsidiary, as the case may be, delivers to the Administrative Agent a letter from an Independent Financial Advisor stating that such transaction is fair to the Borrower or such Restricted Subsidiary from a financial point of view or meets the requirements of clause (1) of the preceding paragraph;
- (14) the existence of, or the performance by the Borrower or any Restricted Subsidiary of its obligations under the terms of, any equityholders, investor rights or similar agreement (including any registration rights agreement or purchase agreements related thereto) to which it is party as of the Closing Date and any similar agreement that it (or any Parent Entity) may enter into thereafter; *provided* that the existence of, or the performance by the Borrower or any Restricted Subsidiary (or any Parent Entity) of its obligations under any future amendment to any such existing agreement or under any similar agreement entered into after the Closing Date will only be permitted under this clause to the extent that the terms of any such amendment or new agreement are not otherwise, when taken as a whole, more disadvantageous to the Lenders in any material respect in the reasonable determination of the Borrower than those in effect on the Closing Date;
- (15) any purchases by the Borrower's Affiliates of Indebtedness or Disqualified Equity Interests of the Borrower or any of the Restricted Subsidiaries the majority of which Indebtedness or Disqualified Equity Interests is purchased by Persons who are not the Borrower's Affiliates; *provided* that such purchases by the Borrower's Affiliates are on the same terms as such purchases by such Persons who are not the Borrower's Affiliates;
- (16) (i) investments by Affiliates in securities or loans of the Borrower or any of the Restricted Subsidiaries (and payment of reasonable out-of-pocket expenses incurred by such Affiliates in connection therewith) so long as the investment is being offered by the Borrower or such Restricted Subsidiary generally to other non-affiliated third party investors on the same or more favorable terms and (ii) payments to Affiliates in respect of securities or loans of the Borrower or any of the Restricted Subsidiaries contemplated in the foregoing subclause (i) or that were acquired from Persons other than the Borrower and its Restricted Subsidiaries, in each case, in accordance with the terms of such securities or loans;
- (17) the entering into of any Tax sharing agreement or arrangement and payments made with respect thereto, in each case between or among the Borrower, any Parent Entity or its Subsidiaries; *provided* that, in each case the amount of such payments in any taxable year does not exceed the amount that the Borrower, its Restricted Subsidiaries and its Unrestricted Subsidiaries (to the extent of amounts actually received from the Unrestricted Subsidiaries) would be required to pay in respect of foreign, federal, state and local Taxes for such taxable year were the Borrower, its Restricted Subsidiaries and its Unrestricted Subsidiaries (to the extent of amounts actually received from the Unrestricted Subsidiaries) to pay such Taxes separately from any such Parent Entity;

- (18) payments, Indebtedness and Disqualified Equity Interests (and cancellation of any thereof) of the Borrower and its Restricted Subsidiaries and preferred stock (and cancellation of any thereof) of any Restricted Subsidiary to any future, current or former employee, director, officer, manager, contractor, consultant or advisor (or their respective Controlled Investment Affiliates or Immediate Family Members) of the Borrower, any of its Subsidiaries or any of its Parent Entities pursuant to any management equity plan, stock option plan, phantom equity plan or any other management, employee benefit or other compensatory plan or agreement (and any successor plans or arrangements thereto), employment, termination or severance agreement, or any stock subscription or equityholder agreement with any such employee, director, officer, manager, contractor, consultant or advisor (or their respective Controlled Investment Affiliates or Immediate Family Members) that are, in each case, approved by the Borrower in good faith;
- (19) any management equity plan, stock option plan, phantom equity plan or any other management, employee benefit or other compensatory plan or agreement (and any successor plans or arrangements thereto), employment, termination or severance agreement, or any stock subscription or equityholder agreement between the Borrower or its Restricted Subsidiaries and any distributor, employee, director, officer, manager, contractor, consultant or advisor (or their respective Controlled Investment Affiliates or Immediate Family Members) approved by the reasonable determination of the Borrower;
- (20) any transition services arrangement, supply arrangement or similar arrangement entered into in connection with or in contemplation of the disposition of assets or Equity Interests in any Restricted Subsidiary permitted under Section 7.05 or entered into with any Business Successor, in each case, that the Borrower determines in good faith is either fair to the Borrower or otherwise on customary terms for such type of arrangements in connection with similar transactions;
- (21) any lease entered into between the Borrower or any Restricted Subsidiary, as lessee, and any Affiliate of the Borrower (other than an Unrestricted Subsidiary), as lessor and any operational services or other arrangement entered into between the Borrower or any Restricted Subsidiary and any Affiliate of the Borrower (other than an Unrestricted Subsidiary), in each case, which is approved by the reasonable determination of the Borrower;

- (22) the payment of fees, costs and expenses related to registration rights and indemnities provided to equityholders pursuant to equityholders, investor rights, registration rights or similar agreements; and
- (23) any Reorganization Transaction, Permitted Intercompany Activities, Intercompany License Agreements or related transactions.

In addition, if the Borrower or any of its Restricted Subsidiaries (i) purchases or otherwise acquires assets or properties from a Person which is not an Affiliate, the purchase or acquisition by an Affiliate of the Borrower of an interest in all or a portion of the assets or properties acquired shall not be deemed an Affiliate Transaction (or cause such purchase or acquisition by the Borrower or a Restricted Subsidiary to be deemed an Affiliate Transaction) or (ii) sells or otherwise disposes of assets or other properties to a Person who is not an Affiliate, the sale or other disposition by an Affiliate of the Borrower of an interest in all or a portion of the assets or properties sold shall not be deemed an Affiliate Transaction (or cause such sale or other disposition by the Borrower or a Restricted Subsidiary to be deemed an Affiliate Transaction).

SECTION 6.19 Vessel Collateral Covenants.

Each Shipowner covenants and agrees as follow with respect to any Vessel Collateral owned by it:

(a) Jones Act Compliance. Each Shipowner owning Vessel Collateral consisting of a Jones Act Vessel covenants that it is now, and shall so remain until any Vessel Mortgage granted pursuant to this Agreement is discharged, (i) a citizen of the United States pursuant to Section 2(c) of the Shipping Act of 1916, as amended (46 USC § 50501), and the regulations in effect thereunder from time to time, as amended, and (ii) qualified to own and operate such Vessel for so long as it is documented under the laws of the United States and in the coastwise trade of the United States pursuant to 46 U.S.C. §§ 12102 and 12103, and the regulations in effect thereunder from time to time, as amended.

(b) Operation of Vessels. Except as has not resulted in, or is not reasonably expected, individually or in the aggregate, to result in, a Material Adverse Effect, each Shipowner will not cause or permit its Vessels to be operated in any manner contrary to applicable law, engage in any unlawful trade or operations or violate any applicable law or carry any cargo, in the case of any of the foregoing, that will unreasonably expose such Vessel to penalty, confiscation, forfeiture, capture or condemnation, and will not do, or suffer or permit to be done, anything that can or may injuriously affect the registration of such Vessel under the laws and regulations of the United States of America and will at all times keep each United States-flagged Jones Act Vessel duly documented under Chapter 121 of Title 46 of the United States Code, eligible for registry and the coastwise trade of the United States under Section 2(c) of the Shipping Act of 1916, as amended; *provided*, that the foregoing shall not prohibit, and the Shipowner may enter into, Permitted Reflagging Transactions.

(c) Taxes, fees, etc. Each Shipowner will pay and discharge or cause to be paid and discharged, prior to delinquency, all claims and demands in respect of, and all taxes, assessments, governmental charges, levies, fees, fines and penalties imposed on, its Vessel, cargoes owned by such Shipowner or any income or profits therefrom and all lawful claims which, if unpaid, might become a lien or charge upon such Vessel or any income therefrom not constituting a Permitted Lien; provided that such Shipowner shall not be required to pay any such claim, demand, fee, tax, assessment, charge, fine, levy or penalty (1) which is being contested in good faith by appropriate actions and for which the Shipowner has maintained adequate accruals in accordance with GAAP, and such Vessel shall not have been arrested or detained therefor or (2) to the extent failure to do so could not reasonably be expected to result in a Material Adverse Effect, *provided, further*, that such contest shall not subject such Vessel, or any part thereof, to forfeiture or loss.

(d) Liens. None of the Shipowners, any charterer, the Master of any of the Vessels or any other Person shall have any right, power or authority to, and none of the same shall create, incur or permit to be placed or imposed or continued upon any of the Vessels, its freights, profits or hire, any Lien whatsoever other than for crew wages not overdue, salvage, the lien of any Vessel Mortgage and other Permitted Liens.

(e) Notice of Mortgage. Each Shipowner will place, and at all times and places will retain, a copy of the relevant Vessel Mortgage (however evidenced, whether in physical or electronic form) on board each relevant Vessel with her papers and will cause such copy (however evidenced, whether in physical or electronic form) and each such Vessel's marine document to be exhibited to any and all persons having business therewith which might give rise to any lien thereon other than liens for crew wages and salvage, and to any representative of the Administrative Agent and will place and prominently display in the chart room and in the Master's cabin of each such Vessel a framed printed notice in plain type reading as follows:

“NOTICE OF MORTGAGE

This Vessel is owned by [] (the “Owner”) and is subject to a First Preferred [Fleet / Vessel] Mortgage (the “**Mortgage**”) in favor of WILMINGTON TRUST, NATIONAL ASSOCIATION as Collateral Agent and Mortgagee. Under the terms of said Mortgage, neither the Owner, any charterer, the Master of this Vessel nor any other person has any right, power or authority to create, incur or permit to be imposed upon this Vessel any other lien whatsoever except Permitted Liens (as defined in the Mortgage).”

(f) Libel or Attachment. If a libel or complaint is filed against any of the Vessels *in rem* by virtue of any legal proceeding in any court or by a government or other authority, the relevant Shipowner will promptly notify the Administrative Agent thereof by facsimile as appropriate, confirmed by letter, at its address, as specified in Section 11.02, and within thirty (30) days of any arrest arising out of such libel or complaint, or fifteen (15) days after the request of the Administrative Agent (in each case, or by such later date as the Administrative Agent may agree to in its sole discretion), will cause such Vessel to be released and all Liens thereon (other than Permitted Liens) to be discharged and will promptly notify the Administrative Agent thereof in the manner aforesaid. In the event that the Shipowner does not appear in such action by filing a claim of owner or similar pleading within such thirty (30) day period (or such longer period) or otherwise provide replacement Vessel Collateral acceptable to the Administrative Agent in accordance with this Agreement, the relevant Shipowner does hereby authorize and empower the Administrative Agent, in the name of such Shipowner, or their successors or assigns, to apply for and receive possession of and to take possession of such Vessel (or authorize and empower the Administrative Agent to direct the Collateral Agent to apply for and receive possession of and to take possession of such Vessel) with all the rights and powers that the Shipowner, or their successors or assigns, might have, possess or exercise in any such event; and this power of attorney shall be irrevocable and may be exercised not only by the Administrative Agent (or by the Collateral Agent at the direction of the Administrative Agent) but also by any one such appointee or the appointees of the Administrative Agent, (or the Collateral Agent) with full power of substitution, to the same extent as if the said appointee or appointees had been named as one of the attorneys above named by express designation. The relevant Shipowner will notify the Administrative Agent in writing within three (3) Business Days (or by such later date as the Administrative Agent may agree to in its sole discretion) after it has become known to the chief executive officer, the chief operating officer or the chief financial officer of the relevant Shipowner of any arrest, detention, average or salvage incurred by any of the Vessels.

(g) Maintenance of Vessel.

(i) Except while any Vessel constituting Vessel Collateral is undergoing repairs or maintenance or is a Stacked Vessel, the relevant Shipowner will keep each Vessel, or cause it to be kept in such condition as will entitle it to at least the current classification and rating for each Vessel in the American Bureau of Shipping, or other classification society of like standing, if such certification is applicable, with no overdue conditions or recommendations affecting any such Vessel's classification, except where the failure to do so, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect. Except for any Vessel that is stacked or in lay up, each Shipowner shall furnish annually, upon request by the Administrative Agent, a certificate from the American Bureau of Shipping or other applicable classification society confirming that such classification has been maintained.

(ii) Except where the failure to do so, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect, each Shipowner will make all necessary repairs, renewals, betterments and improvements necessary to keep its Vessels, insofar as due diligence can make them so, well maintained and in seaworthy condition, except while any such Vessel is undergoing repairs, maintenance or is stacked or in lay up.

(iii) Each Vessel which is a U.S. flag Vessel shall, and each relevant Shipowner covenants that it will, at all times comply in all material respects with all applicable laws, and all treaties and covenants to which the United States of America is a party, and rules and regulations issued thereunder, and shall have on board, when required, valid certificates required thereby, except where the failure to do so, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect.

(iv) No Shipowner will make, or permit to be made, any substantial change in the structure, rig or type of any Vessels that would be reasonably likely to materially diminish the value of the Vessel Collateral, as a whole, without first receiving the written consent of the Administrative Agent, which consent shall not be unreasonably similarly, conditioned or delayed; *provided*, that any Shipowner may move or otherwise change the assets and other equipment from any of the Vessels to another Vessel (including to a Vessel owned by another direct or indirect Subsidiary of Borrower and including, for the avoidance of doubt, Excluded Vessels).

(h) Inspection; Attorney in Fact.

(i) Subject to the terms of Section 6.10, each Shipowner will at all reasonable times afford the Administrative Agent or its authorized representatives, in each case, to the extent such Person has agreed to and executed a vessel boarding agreement in form and substance reasonably satisfactory to the Borrower at their risk and expense full and complete access to each Vessel during normal business hours for the purpose of inspecting such Vessel and its papers, and such Shipowner will deliver for inspection copies of such contracts and documents relating to such Vessel, whether on board or not, as the Administrative Agent may request, *provided, however*, that (i) non-public information obtained by the Administrative Agent pursuant to any Loan Document concerning such Shipowner, any Vessel, any other assets of such Shipowner or such Shipowner's financial condition and prospects shall be kept confidential by the Administrative Agent in accordance with Section 11.08 (subject to the exceptions contained therein), and (ii) any inspection of any Vessel and its papers shall be subject to the requirements of any operators of such Vessel and any applicable Governmental Authority.

(ii) Each Shipowner hereby appoints the Administrative Agent as attorney-in-fact of the Shipowner to appear before governmental bodies, classification societies and insurers and to demand and receive to the same extent that such Shipowner itself might, all information and certificates respecting (i) the corporate status of such Shipowner under the laws of its jurisdiction of incorporation or any other jurisdiction in which it may have qualified to do business, (ii) the status of each Vessel under the laws and regulations of its country of registration and its compliance with the requirements thereof, and (iii) the state of the records of each Vessel or of the relevant Shipowner in respect of each Vessel in any classification society with which the Vessel may be classed or of any company, association or club by whom any Vessel or the relevant Shipowner in respect of any Vessel may be insured; and each Shipowner hereby agrees that the Administrative Agent may execute its powers as attorney-in-fact as aforesaid through its agents, representatives and attorneys, provided however, that, it is a condition of this power of attorney that the Administrative Agent may not act on the strength of this power of attorney unless an Event of Default has occurred and is continuing. This power of attorney is coupled with an interest and shall be irrevocable as long as the Obligations remain outstanding.

(i) [Reserved]

(j) Chartering. Except as permitted herein, no Shipowner will charter or similarly dispose of all or any part of any of the Vessels other than pursuant to agreements in the ordinary course of business or pursuant to agreements that would not materially diminish the value of the Vessel Collateral, as a whole.

(k) Insurances.

(i) Types and Coverage. Following the Initial Funding Date, each Shipowner shall maintain required vessel insurances as consistent with past practice and as further described on Schedule 6.19(k).

(ii) [Reserved].

(l) Reimbursement. Each Shipowner will reimburse the Administrative Agent promptly, for any and all expenditures which the Administrative Agent may, from time to time, make, lay out or expend in providing such protection in respect of insurance, discharge or purchase of liens, taxes, dues, assessments, governmental charges, fines and penalties lawfully imposed (other than income, franchise or similar Taxes of the Collateral Agent or its affiliates), repairs, attorneys' fees, translation fees for documents made in a language other than English and other matters as such Shipowner is obligated herein to provide, but fails to provide. Such obligation of such Shipowner to reimburse the Administrative Agent shall be an additional indebtedness due from the Shipowner, secured by the relevant Vessel Mortgage, and shall be payable by such Shipowner promptly upon presentation of documentation in form and detail consistent with the requirements under Section 11.08. The Administrative Agent, though privileged so to do, shall be under no obligation to the relevant Shipowner to make any such expenditures, nor shall the making thereof relieve such Shipowner of any default in that respect.

(m) Further Assurances. In the event that this Agreement or any provision hereof shall be deemed invalidated in whole or in part by reason of any present or future law or any decision of any authoritative court, or if the documents at any time held by the Administrative Agent or Collateral Agent shall be deemed by the Administrative Agent for any reason insufficient to carry out the true intent and spirit of any Vessel Mortgage, then from time to time, the relevant Shipowner will execute, on its own behalf, such other and further assurances and documents as in the reasonable opinion of the Administrative Agent may be required more effectively to subject each relevant Vessel to the payment of the Obligations, as in the Vessel Mortgage provided, and the performance of the terms and provisions of the Vessel Mortgage and this Agreement.

(n) [Reserved].

(o) Amendments relating to Incremental Loans. Each Shipowner agrees, promptly upon entering into any Incremental Loan, to amend the relevant Vessel Mortgage, in form and substance satisfactory to the Administrative Agent, if requested by the Administrative Agent. The reasonable costs associated with such amendment (including reasonable fees of counsel to the Administrative Agent) shall be borne by the relevant Shipowner.

(p) Ship Recycling. In the event that a Restricted Subsidiary undertakes to dismantle a Vessel (or to sell such Vessel with the intention of it being dismantled) to the extent permitted under the Loan Documents, the Restricted Subsidiary must comply with the Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships, 2009 and/or the EU Ship Recycling Regulations, 2013.

ARTICLE VII

Negative Covenants

So long as the Termination Conditions are not satisfied, the Borrower shall not, nor shall the Borrower permit any Restricted Subsidiary to:

SECTION 7.01 Liens. Create, incur, assume or suffer to exist any Lien upon any of its property, assets or revenues, whether now owned or hereafter acquired, that secures Indebtedness other than the following:

(a) Liens securing (i) obligations in respect of Indebtedness incurred pursuant to Section 2.16, Section 2.17, Section 2.18 and Section 7.03(a)(i), including obligations in respect of any Loan, any Incremental Loan, any Refinancing Loan and any Extended Loan, and any other Obligations, Incremental Equivalent Debt and any Refinancing Indebtedness in respect of the foregoing and (ii) Indebtedness incurred pursuant to Section 7.03(a)(ii) and any Refinancing Indebtedness in respect of the foregoing; *provided* that, in the case of this clause (ii), with respect to any such Indebtedness for borrowed money secured by Liens on the Collateral, such Indebtedness must be either First Lien Debt (but not Super-Priority Debt) (and subject to an Equal Priority Intercreditor Agreement and, if the Borrower elects, the Collateral Trust Agreement or in each case a joinder thereto) or Junior Lien Debt (and subject to a Junior Lien Intercreditor Agreement and, if the Borrower elects, a Collateral Trust Agreement or in each case a joinder thereto);

(b) Liens securing obligations under the Second Lien Credit Agreement and any Second Lien Credit Agreement Refinancing Indebtedness thereof;

(c) Liens existing on the Closing Date (other than Liens incurred under Sections 7.01(a) and 7.01(b)) and listed on Schedule 7.01(c) hereto, together with any Liens securing any Refinancing Indebtedness of any Indebtedness secured by such Liens;

(d) pledges, deposits or Liens (a) in connection with workmen's compensation laws, payroll Taxes, unemployment insurance laws, employers' health Tax and other social security laws or similar legislation or other insurance related obligations (including in respect of deductibles, self-insured retention amounts and premiums and adjustments thereto), (b) securing liability, reimbursement or indemnification obligations of (including obligations in respect of letters of credit or bank guarantees or similar instruments) for the benefit of insurance carriers under insurance or self-insurance arrangements or otherwise supporting the payments of items set forth in the foregoing clause (a), or (c) in connection with bids, tenders, completion guarantees, contracts, leases, utilities, licenses, public or statutory obligations, or to secure the performance of bids, trade contracts, government contracts and leases, statutory obligations, surety, stay, indemnity, warranty, release, judgment, customs, appeal, performance bonds, guarantees of government contracts, return of money bonds, bankers' acceptance facilities and obligations of a similar nature (including those to secure health, safety and environmental obligations), and obligations in respect of letters of credit, bank guarantees or similar instruments that have been posted to support the same, or as security for contested Taxes or import or customs duties or for the payment of rent, or other obligations of like nature, in each case incurred in the ordinary course of business or consistent with past practice;

(e) Liens with respect to outstanding motor vehicle fines and Liens imposed by law or regulation, including carriers', warehousemen's, mechanics', landlords', suppliers', materialmen's, repairmen's, architects', construction contractors' or other similar Liens, in each case for amounts not overdue for a period of more than sixty (60) days or, if more than sixty (60) days overdue, are unfiled and no other action has been taken to enforce such Liens or that are being contested in good faith by appropriate proceedings, provided that appropriate reserves required pursuant to GAAP have been made in respect thereof;

(f) Liens for Taxes, assessments or other governmental charges that are not overdue for a period of more than sixty (60) days or not yet payable or subject to penalties for nonpayment or that are being contested in good faith by appropriate proceedings; provided that appropriate reserves required pursuant to GAAP have been made in respect thereof, or for property Taxes on property of the Borrower or one of its Subsidiaries has determined to abandon if the sole recourse for such Tax is to such property;

(g) encumbrances, charges, ground leases, easements (including reciprocal easement agreements), survey exceptions, restrictions, encroachments, protrusions, by-law, regulation, zoning restrictions or reservations of, or rights of others for, licenses, rights of way, servitudes, sewers, electric lines, drains, telegraph, telephone and cable television lines and other similar purposes, or zoning, building codes or other restrictions (including minor defects and irregularities in title and similar encumbrances) as to the use of real properties, exceptions on title policies insuring Liens granted on any mortgaged properties or any other collateral or Liens incidental to the conduct of the business of such Person or to the ownership of its properties, including servicing agreements, development agreements, site plan agreements, subdivision agreements, facilities sharing agreements, cost sharing agreements and other similar agreements, charges or encumbrances, which do not in the aggregate materially interfere with the ordinary course conduct of the business of the Borrower and its Restricted Subsidiaries, taken as a whole;

(h) Liens (i) securing Hedge Agreements, Cash Management Obligations and the costs thereof; (ii) that are rights of set-off, rights of pledge or other bankers' Liens (x) relating to treasury, depository and cash management services or any automated clearing house transfers of funds in the ordinary course of business or consistent with past practice, (y) relating to pooled deposit or sweep accounts to permit satisfaction of overdraft or similar obligations incurred in the ordinary course of business of the Borrower or any Subsidiary or consistent with past practice or (z) relating to purchase orders and other agreements entered into with customers of the Borrower or any Restricted Subsidiary in the ordinary course of business or consistent with past practice; (iii) on cash accounts securing Indebtedness and other Obligations permitted to be incurred under Section 7.03(j) with financial institutions; (iv) encumbering reasonable customary initial deposits and margin deposits and similar Liens attaching to commodity trading accounts or other brokerage accounts incurred in the ordinary course of business or consistent with past practice and not for speculative purposes; and (v)(A) of a collection bank arising under Section 4-210 of the UCC or any comparable or successor provision on items in the course of collection and (B) in favor of a banking or other financial institution or electronic payment service providers arising as a matter of law encumbering deposits (including the right of set-off) arising in the ordinary course of business in connection with the maintenance of such accounts and (C) arising under customary general terms and conditions of the account bank in relation to any bank account maintained with such bank and attaching only to such account and the products and proceeds thereof, which Liens, in any event, do not secure any Indebtedness;

(i) leases, licenses, subleases and sublicenses of assets (including real property, intellectual property, software and other technology rights), in each case entered into in the ordinary course of business, consistent with past practice or, with respect to intellectual property, software and other technology rights, that are not material to the conduct of the business of the Borrower and its Restricted Subsidiaries, taken as a whole;

(j) Liens securing or otherwise arising out of judgments, decrees, attachments, orders or awards not giving rise to an Event of Default under Section 9.01(g);

(k) Liens (a) securing Capitalized Leases, or Purchase Money Obligations, or securing the payment of all or a part of the purchase price of, or securing Indebtedness or other obligations incurred to finance or refinance the acquisition, improvement or construction of, assets or property acquired or constructed in the ordinary course of business; provided that (i) the aggregate principal amount of Indebtedness secured by such Liens is otherwise permitted to be incurred under this Agreement and (ii) any such Liens may not extend to any assets or property of the Borrower or any Restricted Subsidiary other than assets and property affixed or appurtenant thereto and accessions, additions, improvements, proceeds, dividends or distributions thereof, including after-acquired property that is (A) affixed or incorporated into the property or assets covered by such Lien, (B) after-acquired property or assets subject to a Lien securing such Indebtedness, the terms of which Indebtedness require or include a pledge of after-acquired property or assets and (C) the proceeds and products thereof and (b) any interest or title of a lessor, sublessor, franchisor, licensor or sublicensor or secured by a lessor's, sublessor's, franchisor's, licensor's or sublicensor's interest under any Capitalized Lease Obligations or Non-Financing Lease Obligations;

(l) Liens arising from UCC financing statements, including precautionary financing statements (or similar filings) regarding operating leases or consignments entered into by the Borrower and its Restricted Subsidiaries;

(m) Liens on property, other assets or shares of stock of a Person at the time such Person becomes a Subsidiary (or at the time the Borrower or a Subsidiary acquires such property, other assets or shares of stock, including any acquisition by means of a merger, amalgamation, consolidation or other business combination transaction with or into the Borrower or any Restricted Subsidiary); provided, however, that such Liens are not created in anticipation of such other Person becoming a Subsidiary (or such acquisition of such property, other assets or stock); provided, further, that such Liens are limited to all or part of the same property, other assets or stock (plus property and assets affixed or appurtenant thereto and additions, improvements, accessions, proceeds, dividends or distributions thereof, including after-acquired property that is (i) affixed or incorporated into the property or assets covered by such Lien, (ii) after-acquired property or assets subject to a Lien securing such Indebtedness, the terms of which Indebtedness require or include a pledge of after-acquired property or assets and (iii) the proceeds and products thereof) that secured (or, under the written arrangements under which such Liens arose, could secure) the Obligations relating to any Indebtedness or other obligations to which such Liens relate;

(n) Liens securing Obligations relating to any Indebtedness or other obligations of the Borrower or a Restricted Subsidiary owing to the Borrower or another Restricted Subsidiary, or Liens in favor of the Borrower or any Restricted Subsidiary or the Collateral Agent;

(o) Liens securing any Refinancing Indebtedness incurred to refinance Indebtedness that was previously so secured, and permitted to be secured under this Agreement (other than Section 7.01(a)); provided that any such Lien is limited to all or part of the same property or assets (plus property and assets affixed or appurtenant thereto and additions, improvements, accessions, proceeds, dividends or distributions thereof, including after-acquired property that is (i) affixed or incorporated into the property or assets covered by such Lien, (ii) after-acquired property or assets subject to a Lien securing such Indebtedness, the terms of which Indebtedness require or include a pledge of after-acquired property or assets and (iii) the proceeds and products thereof) that secured (or, under the written arrangements under which the original Lien arose, could secure) the Obligations relating to the Indebtedness or other obligations being refinanced or is in respect of property or assets that is or could be the security for or subject to a Permitted Lien hereunder;

(p) (i) mortgages, liens, security interests, restrictions, encumbrances or any other matters of record that have been placed by any government, statutory or regulatory authority, developer, landlord or other third party on property over which the Borrower or any Restricted Subsidiary has easement rights or on any leased property and subordination or similar arrangements relating thereto and (ii) any condemnation or eminent domain proceedings affecting any real property;

(q) any encumbrance or restriction (including put and call arrangements) with respect to Equity Interests of any joint venture securing financing arrangement, joint venture or similar arrangement pursuant to any joint venture securing financing agreement, joint venture or similar agreement;

(r) Liens on property or assets under construction (and related rights) in favor of a contractor or developer or arising from progress or partial payments by a third party relating to such property or assets;

(s) Liens arising out of conditional sale, title retention, hire purchase, consignment or similar arrangements for the sale or purchase of goods entered into in the ordinary course of business or consistent with past practice;

(t) Liens securing Indebtedness and other Obligations permitted under Section 7.03(g) provided that such Liens shall only be permitted if such Liens are limited to all or part of the same property or assets, including Equity Interests (plus property and assets affixed or appurtenant thereto and additions, improvements, accessions, proceeds, dividends or distributions thereof, including after-acquired property that is (i) affixed or incorporated into the property or assets covered by such Lien, (ii) after-acquired property or assets subject to a Lien securing such Indebtedness, the terms of which Indebtedness require or include a pledge of after-acquired property or assets and (iii) the proceeds and products thereof) acquired, or of any Person acquired or merged, consolidated or amalgamated with or into the Borrower or any Restricted Subsidiary, in any transaction to which such Indebtedness or other obligation relates;

(u) Liens on Equity Interests or other securities or assets of any Unrestricted Subsidiary that secure Indebtedness or other obligations of such Unrestricted Subsidiary;

(v) Liens deemed to exist in connection with Investments permitted under clause (e) of the definition of “Cash Equivalents”;

(w) Liens on (i) goods the purchase price of which is financed by a documentary letter of credit issued for the account of the Borrower or any Subsidiary or Liens on bills of lading, drafts or other documents of title arising by operation of law or pursuant to the standard terms of agreements relating to letters of credit, bank guarantees and other similar instruments and (ii) specific items of inventory or other goods and proceeds of any Person securing such Person’s obligations in respect of bankers’ acceptances or documentary letters of credit issued or created for the account of such Person to facilitate the purchase, shipment or storage of such inventory or other goods;

(x) Liens on vehicles or equipment of the Borrower or any Restricted Subsidiary in the ordinary course of business or consistent with past practice;

(y) Liens on assets or securities deemed to arise in connection with and solely as a result of the execution, delivery or performance of contracts to sell such assets or securities if such sale is otherwise not prohibited by this Agreement;

(z) (a) Liens on insurance policies and the proceeds thereof securing the financing of the premiums with respect thereto, and (b) Liens, pledges, deposits made or other security provided to secure liabilities to, or indemnification obligations of (including obligations in respect of letters of credit or bank guarantees for the benefits of), insurance carriers in the ordinary course of business or consistent with past practice;

(aa) Liens solely on any cash earnest money deposits made in connection with any letter of intent or purchase agreement permitted under this Agreement;

(bb) Liens (i) on cash advances or escrow deposits in favor of the seller of any property to be acquired in an Investment permitted under this Agreement to be applied against the purchase price for such Investment or otherwise in connection with any escrow arrangements with respect to any such Investment (including any letter of intent or purchase agreement with respect to such Investment), and (ii) consisting of an agreement to sell, transfer, lease or otherwise dispose of any property in an asset sale, in each case, solely to the extent such Investment or sale, transfer, lease or other disposition, as the case may be, would have been permitted on the date of the creation of such Lien;

(cc) Liens securing Indebtedness and other Obligations in an aggregate principal amount not to exceed at any time outstanding the greater of (a) \$50.0 million and (b) an amount equal to 6.0% of the Borrower's Consolidated Net Tangible Assets determined as of the end of the Borrower's most recently completed fiscal quarter for which internal financial statements are available at the time incurred; *provided* that with respect to any such Indebtedness or obligations secured by Liens on all or substantially all of the Collateral, such Indebtedness must be either Other Pari Lien Obligations (and subject to an Equal-Priority Intercreditor Agreement and, if the Borrower elects, the Collateral Trust Agreement or in each case a joinder thereto) or Junior Lien Debt (and subject to a Junior Lien Intercreditor Agreement and, if the Borrower elects, the Collateral Trust Agreement or in each case a joinder thereto);

(dd) Liens then existing with respect to assets of an Unrestricted Subsidiary on the day such Unrestricted Subsidiary is redesignated as a Restricted Subsidiary pursuant to [Section 6.13](#);

(ee) Liens arising in connection with a Qualified Securitization Financing or a Receivables Facility;

(ff) Settlement Liens;

(gg) rights of recapture of unused real property in favor of the seller of such property set forth in customary purchase agreements and related arrangements with any government, statutory or regulatory authority;

(hh) the rights reserved to or vested in any Person or government, statutory or regulatory authority by the terms of any lease, license, franchise, grant or permit held by the Borrower or any Restricted Subsidiary or by a statutory provision, to terminate any such lease, license, franchise, grant or permit, or to require annual or periodic payments as a condition to the continuance thereof;

(ii) restrictive covenants affecting the use to which real property may be put and Liens or covenants restricting or prohibiting access to or from lands abutting on controlled access highways or covenants affecting the use to which lands may be put; provided that such Liens or covenants do not interfere with the ordinary conduct of the business of the Borrower or any Restricted Subsidiary;

(jj) Liens on property, assets or Permitted Investments used to defease or to satisfy or discharge Indebtedness; *provided* that such defeasance, satisfaction or discharge is not prohibited by this Agreement;

(kk) Liens relating to escrow arrangements securing Indebtedness, including (i) Liens on escrowed proceeds from the issuance of Indebtedness for the benefit of the related holders of debt securities or other Indebtedness (or the underwriters, arrangers, trustee or collateral agent thereof) and (ii) Liens on cash or Cash Equivalents set aside at the time of the incurrence of any Indebtedness, in either case to the extent such cash or Cash Equivalents prefund the payment of interest or premium or discount on such Indebtedness (or any costs related to the issuance of such Indebtedness) and are held in an escrow account or similar arrangement to be applied for such purpose;

(ll) Liens on assets securing any Indebtedness owed to any Captive Insurance Subsidiary by the Borrower or any Restricted Subsidiary;

(mm) Liens for the benefit of Borrower or any Restricted Subsidiary arising in connection with any Permitted Intercompany Activities and related transactions;

(nn) Permitted Maritime Liens; ~~and~~

(oo) Liens on Vessels under or to be under construction or conversion or otherwise not constituting Collateral and assets related thereto (including cash and Cash Equivalents held in one or more Excluded Accounts constituting the proceeds of any financing described under this clause (oo) or that are earmarked to fund such construction or conversion and costs and expenses ancillary thereto, including any downpayments in respect thereof (“**Subsidized Indebtedness Specified Cash**”)) securing government or quasi-government provided, supported, guaranteed or subsidized Indebtedness in an aggregate principal amount not to exceed (i) in the case of Liens on Vessels registered under the laws and flag of the United States, the greater of \$40 million and an amount equal to 5% of the Borrower’s Consolidated Net Tangible Assets as determined as of the end of the Borrower’s most recently completed fiscal quarter for which internal financial statements are available and (ii) in the case of any Vessel not registered under the laws and flag of the United States, an amount equal to 75% of the aggregate cost and expenses associated with or otherwise anticipated by the Borrower to be incurred in connection with such acquisition, construction or conversion; ~~and~~ and

(pp) Liens securing Indebtedness and other Obligations permitted to be incurred under Section 7.03(r).

For purposes of determining compliance with this Section 7.01, in the event that any Lien (or any portion thereof) meets the criteria of more than one of the categories set forth above, the Borrower may, in their sole discretion, at the time of incurrence, divide, classify or reclassify, or at any later time divide, classify or reclassify, such Lien (or any portion thereof) in any manner that complies with this covenant on the date such Lien is incurred or such later time, as applicable. For the avoidance of doubt, a Lien may be reclassified at a time subsequent to the time it was originally incurred, so long as such Lien would have been able to have been incurred at the time of such reclassification pursuant to the provision to which such Lien is being reclassified.

Notwithstanding the foregoing, neither the Borrower nor any Restricted Subsidiary shall permit any Lien to exist on (x) Excluded Foreign Flag Vessels or (y) in the case of a FSHCO, a Foreign Subsidiary or a Restricted Subsidiary of any FSHCO or Foreign Subsidiary (in each case, which is not a Guarantor), any assets or properties thereof, which Liens are securing Indebtedness for Borrowed Money, excluding (i) Liens arising as a matter of law, (ii) Liens securing Purchase Money Obligations or Capitalized Lease Obligations, (iii) Liens ~~securing Acquiring Indebtedness pursuant to Section 7.01(oo) and Section 7.01(pp)~~, (iv) Liens securing Acquired Indebtedness, (v) Liens securing insurance financings in respect of Section 7.03(m)(i), (~~v~~vi) Liens which are not a mortgage Lien which secure Intercompany Indebtedness, and (~~vii~~) any permitted refinancings of each of the foregoing.

Notwithstanding the foregoing, neither the Borrower nor any Restricted Subsidiary shall permit any Liens on the Collateral secured on a senior or otherwise preferred basis with the Liens securing the Obligations to the extent such Liens secure (i) Super-Priority Debt (excluding the Obligations) or other Indebtedness and (ii) any other First Lien Debt for borrowed money (other than to the extent constituting Obligations, Second Lien Credit Agreement Refinancing Indebtedness or Indebtedness permitted under Section 7.03(a) above), in each case, without the prior written consent of all Lenders.

SECTION 7.02 [Reserved].

SECTION 7.03 Indebtedness. Create, incur or assume any Indebtedness (including Acquired Indebtedness); *provided, however*, that the Borrower and any of its Restricted Subsidiaries may incur Indebtedness (including Acquired Indebtedness), if on the date of such incurrence and after giving pro forma effect thereto (including pro forma application of the proceeds thereof), (A) the Fixed Charge Coverage Ratio of the Borrower and its Restricted Subsidiaries is greater than 2.00 to 1.00 and (B) the Borrower is in pro forma compliance with the Financial Covenants (“**Ratio Debt**”), *provided, further*, that the foregoing shall not prohibit the incurrence of the following Indebtedness (collectively, together with Ratio Debt, “**Permitted Debt**”):

(a) Indebtedness incurred (i) under the Loan Documents (including Incremental Loans, Refinancing Loans and Extended Loans) and all other Obligations and any Incremental Equivalent Debt and (ii) Indebtedness incurred by the Borrower or any Guarantor (including any First Lien Debt (other than Super-Priority Debt), Junior Lien Debt and any letters of credit or bankers’ acceptances) and Guarantees in respect thereof, up to an aggregate principal amount at the time of incurrence not exceeding (x) the greater of \$200.0 million and an amount equal to 35% of the Borrower’s Consolidated Net Tangible Assets determined as of the end of the Borrower’s most recently completed fiscal quarter for which internal financial statements are available, plus (y) an unlimited amount if on the date of such incurrence and after giving pro forma effect thereto (including pro forma application of the proceeds thereof) the Secured Net Leverage Ratio of the Borrower and its Restricted Subsidiaries is no greater than 2.25 to 1.00 (or, with respect to an acquisition (by merger, consolidation, amalgamation or otherwise), if the Secured Net Leverage Ratio after giving effect to such acquisition of the Borrower and its Restricted Subsidiaries is no worse than the Secured Net Leverage Ratio of the Borrower and its Restricted Subsidiaries immediately prior to such acquisition) (in each case, with any Indebtedness incurred in reliance upon this clause (ii) being deemed to be Consolidated Secured Net Debt for purposes of calculating the Secured Leverage Ratio, whether or not secured), as long as, in the case of this clause (a), (ii), the Borrower is in pro forma compliance with the Financial Covenants upon giving pro forma effect thereto and, in each case of clauses (i) and (ii), any Refinancing Indebtedness in respect thereof;

(b) [reserved];

(c) Indebtedness existing on the Closing Date (together with guarantee obligations thereunder), including Indebtedness under the Second Lien Credit Agreement, so long all such Indebtedness is repaid, refinanced with the proceeds of or exchanged for Second Lien Credit Agreement Refinancing Indebtedness or the maturity date thereunder is otherwise extended by the date that is no later than ninety-one (91) days prior to the maturity date under the existing Second Lien Credit Agreement and as long as, after giving effect to such refinancing or extension, the maturity date of such resulting Indebtedness is no earlier than ninety-one (91) days after the then-latest Maturity Date and as otherwise listed on Schedule 7.03(c) hereto and any Refinancing Indebtedness thereof (or, in the case of Indebtedness under the Second Lien Credit Agreement, any Second Lien Credit Agreement Refinancing Indebtedness) and any Intercompany Indebtedness outstanding on the Closing Date;

(d) Guarantees by the Borrower or any Restricted Subsidiary of Indebtedness or other obligations of the Borrower or any Restricted Subsidiary so long as the incurrence of such Indebtedness or other obligations guaranteed pursuant hereto was not prohibited by the terms of this Agreement at the time it was incurred and, with respect to non-Guarantor Restricted Subsidiaries, could have been incurred by a non-Guarantor Restricted Subsidiary;

(e) Indebtedness of the Borrower to any Restricted Subsidiary or Indebtedness of a Restricted Subsidiary to the Borrower or to any Restricted Subsidiary; *provided, however*, that:

(i) any subsequent issuance or transfer of Equity Interests or any other event which results in any such Indebtedness being held by a Person other than the Borrower or a Restricted Subsidiary, and

(ii) any sale or other transfer of any such Indebtedness to a Person other than the Borrower or a Restricted Subsidiary, shall be deemed, in each case, to constitute an incurrence of such Indebtedness by the Borrower or such Restricted Subsidiary, as the case may be;

(f) Indebtedness represented (i) by Refinancing Indebtedness incurred in respect of any indebtedness described in clauses (c), (d), (g), (l), (n) or (r) and (ii) by Management Advances;

(g) Indebtedness of (x) the Borrower or any Restricted Subsidiary incurred or issued to finance an acquisition or Investment or (y) Persons that are acquired by the Borrower or any Restricted Subsidiary or merged into, amalgamated or consolidated with the Borrower or a Restricted Subsidiary in accordance with the terms of this Agreement (including designating an Unrestricted Subsidiary as a Restricted Subsidiary); *provided* that at the time of such acquisition, merger, amalgamation or consolidation and after giving pro forma effect to the incurrence of such Indebtedness, either:

(i) the Borrower and its Restricted Subsidiaries would be permitted to incur at least \$1.00 of Ratio Debt; or

(ii) the Fixed Charge Coverage Ratio of the Borrower and its Restricted Subsidiaries would not be lower than it was immediately prior to such acquisition, merger, amalgamation or consolidation;

(h) Obligations in respect of any Hedge Agreements (excluding Hedge Agreements entered into for speculative purposes);

(i) Indebtedness represented by Capitalized Leases or purchase money obligations or Sale Leaseback Transactions in an aggregate outstanding principal amount which, when taken together with the principal amount of all other Indebtedness incurred pursuant to this clause (i) and then outstanding, does not exceed the greater of (x) \$50.0 million and (y) an amount equal to 6.0% of the Borrower's Consolidated Net Tangible Assets determined as of the end of the Borrower's most recently completed fiscal quarter for which internal financial statements are available, and any Refinancing Indebtedness in respect thereof;

(j) Indebtedness in respect of (i) workers' compensation claims, health, disability or other employee benefits, property, casualty or liability insurance, self-insurance obligations, customer guarantees, performance, indemnity, surety, judgment, bid, appeal, advance payment (including progress premiums), customs, value added or other Tax or other guarantees or other similar bonds, instruments or obligations, completion guarantees and warranties or relating to liabilities, obligations or guarantees incurred in the ordinary course of business or consistent with past practice; (ii) the honoring by a bank or other financial institution of a check, draft or similar instrument drawn against insufficient funds in the ordinary course of business or consistent with past practice; (iii) customer deposits and advance payments (including progress premiums) received from customers for goods or services purchased in the ordinary course of business or consistent with past practice; (iv) letters of credit, bankers' acceptances, discounted bills of exchange, discounting or factoring of receivables or payables for credit management purposes, warehouse receipts, guarantees or other similar instruments or obligations issued or entered into, or relating to liabilities or obligations incurred in the ordinary course of business or consistent with past practice; (v) Cash Management Obligations; and (vi) Settlement Indebtedness;

(k) Indebtedness arising from agreements providing for guarantees, indemnification, obligations in respect of earn-outs, deferred purchase price or other adjustments of purchase price or, in each case, similar obligations, in each case, incurred or assumed in connection with the acquisition or disposition of any business, assets, a Person (including any Equity Interests of a Subsidiary) or Investment (other than Guarantees of Indebtedness incurred by any Person acquiring or disposing of such business, assets, Person or Investment for the purpose of financing such acquisition or disposition);

(l) Indebtedness in an aggregate outstanding principal amount which, when taken together with the principal amount of all other Indebtedness incurred pursuant to this clause and then outstanding, will not exceed 100% of the net cash proceeds received by the Borrower or its Restricted Subsidiaries from the issuance or sale (other than to a Restricted Subsidiary) of its Equity Interests or otherwise contributed to the equity (in each case, other than through the issuance of Disqualified Equity Interest) of the Borrower or its Restricted Subsidiaries, in each case, subsequent to the Closing Date, and any Refinancing Indebtedness in respect thereof; *provided, however*, that (i) any such net cash proceeds that are so received or contributed shall not increase the Available Amount to the extent the Borrower and its Restricted Subsidiaries incur Indebtedness pursuant to this clause (l) in reliance thereon and (ii) any net cash proceeds that are so received or contributed shall be excluded for purposes of incurring Indebtedness pursuant to this clause (l) to the extent such net cash proceeds or cash have been applied to make Investments, Permitted Payments and other transactions permitted under Section 7.06;

(m) Indebtedness of the Borrower or any of its Restricted Subsidiaries consisting of (i) the financing of insurance premiums or (ii) take-or-pay obligations contained in supply arrangements, in each case incurred in the ordinary course of business or consistent with past practice;

(n) Indebtedness in an aggregate outstanding principal amount which, when taken together with the principal amount of all other Indebtedness incurred pursuant to this clause and then outstanding, including any Refinancing Indebtedness in respect thereof, will not exceed the greater of (i) \$50.0 million and (ii) an amount equal to 6.0% of the Borrower's Consolidated Net Tangible Assets determined as of the end of the Borrower's most recently completed fiscal quarter for which internal financial statements are available;

(o) any obligation, or guaranty of any obligation, of the Borrower or any Restricted Subsidiary to reimburse or indemnify a Person extending credit to customers of the Borrower or a Restricted Subsidiary incurred in the ordinary course of business or consistent with past practice for all or any portion of the amounts payable by such customers to the Person extending such credit;

(p) Indebtedness to a customer to finance the acquisition of any equipment necessary to perform services for such customer; provided that the terms of such Indebtedness are consistent with those entered into with respect to similar Indebtedness prior to the Closing Date, including, if so consistent, that (1) the repayment of such Indebtedness is conditional upon such customer ordering a specific amount of goods or services and (2) such Indebtedness does not bear interest or provide for scheduled amortization or maturity;

(q) Indebtedness incurred in connection with Restricted Payments pursuant to the Jones Act Warrants (or other warrants issued pursuant thereto) to the extent that such Restricted Payments were made in compliance with Section 7.06 (assuming for such purpose that payment by the Borrower of such Indebtedness as of such date (even if the actual payment occurs as of a later date) constitutes a Restricted Payment for purposes of Section 7.06 herein) ("**Jones Act Notes**");

(r) Indebtedness incurred by Foreign Subsidiaries or non-Guarantor Restricted Subsidiaries in an aggregate outstanding principal amount which, when taken together with the principal amount of all other Indebtedness incurred pursuant to this clause (r) and then outstanding, including any Refinancing Indebtedness in respect thereof, does not exceed the greater of (a) \$10.0 million and (b) an amount equal to 1.25% of the Borrower's Consolidated Net Tangible Assets determined as of the end of the Borrower's most recently completed fiscal quarter for which internal financial statements are available;

(s) Indebtedness incurred on behalf of, or representing Guarantees of Indebtedness of, any joint ventures in an aggregate principal amount at any time outstanding not to exceed the greater of (a) \$25.0 million and (b) an amount equal to 3.0% of the Borrower's Consolidated Net Tangible Assets determined as of the end of the Borrower's most recently completed fiscal quarter for which internal financial statements are available, and any Refinancing Indebtedness in respect thereof;

(t) Indebtedness of the Borrower or any of its Restricted Subsidiaries arising pursuant to any Permitted Intercompany Activities and related transactions; ~~and~~

(u) government or quasi-government provided, supported, guaranteed or subsidized Indebtedness secured by Liens permitted under Section 7.01(oo), subject to the limitations set forth in Section 7.01(oo); and

(v) ~~(tt)~~ all premiums (if any), interest (including post-petition interest), fees, expenses, charges and additional or contingent interest on obligations described in clauses (a) through (v) above.

For purposes of determining compliance with, and the outstanding principal amount of any particular Indebtedness incurred pursuant to and in compliance with, this covenant:

- (1) in the event that all or any portion of any item of Indebtedness meets the criteria of more than one of the types of Permitted Debt, the Borrower, in its sole discretion, will classify, and may from time to time reclassify, such item of Indebtedness (or any portion thereof) and only be required to include the amount and type of such Indebtedness in the applicable Permitted Debt category;
- (2) additionally, all or any portion of any item of Indebtedness may later be reclassified as having been incurred pursuant to any type of Indebtedness described as Permitted Debt so long as such Indebtedness is permitted to be incurred pursuant to such provision and any related Liens are permitted to be incurred at the time of reclassification (it being understood that any Permitted Debt incurred pursuant to one of the clauses of the second proviso of this Section 7.03 shall cease to be deemed incurred or outstanding for purposes of such Section but shall be deemed incurred as Ratio Debt from and after the first date on which the Borrower or its Restricted Subsidiaries could have incurred such Ratio Debt without reliance on such clause);

- (3) all outstanding Obligations shall be incurred under Section 7.03(a)(i) and Super-Priority Debt shall only be permitted to be incurred under Section 7.03(a)(i);
- (4) in the case of any Refinancing Indebtedness and Second Lien Credit Agreement Refinancing Indebtedness, when measuring the outstanding amount of such Indebtedness, such amount shall not include the aggregate amount of accrued and unpaid interest, dividends, premiums (including tender premiums), defeasance costs, underwriting discounts, fees, costs and expenses (including original issue discount, upfront fees or similar fees) in connection with such refinancing;
- (5) Guarantees of, or obligations in respect of letters of credit, bankers' acceptances or other similar instruments relating to, or Liens securing, Indebtedness that is otherwise included in the determination of a particular amount of Indebtedness shall not be included;
- (6) [reserved];
- (7) the principal amount of any Disqualified Equity Interests of the Borrower or a Restricted Subsidiary, or Preferred Stock of any Restricted Subsidiary, will be equal to the greater of the maximum mandatory redemption or repurchase price (not including, in either case, any redemption or repurchase premium) or the liquidation preference thereof;
- (8) Indebtedness permitted by this Section 7.03 need not be permitted solely by reference to one provision permitting such Indebtedness but may be permitted in part by one such provision and in part by one or more other provisions of this Section 7.03 permitting such Indebtedness;
- (9) for purposes of calculating ratio-based baskets and pro forma compliance with the Financial Covenants, as applicable, in connection with the incurrence, issuance or assumption of any Indebtedness pursuant to the Permitted Debt clauses above or the incurrence or creation of any Lien pursuant to Section 7.01, the Borrower may elect, at its option, to treat all or any portion of the committed amount of any Indebtedness (and the issuance and creation of letters of credit and bankers' acceptances thereunder) which is to be incurred (or any commitment in respect thereof) or secured by such Lien, as the case may be (any such committed amount elected until revoked as described below, the "**Reserved Indebtedness Amount**"), as being incurred as of such election date, and, if such ratio-based basket, Financial Covenant or other provision of this Agreement, as applicable, is complied with (or satisfied) with respect thereto on such election date, any subsequent borrowing or reborrowing thereunder (and the issuance and creation of letters of credit and bankers' acceptances thereunder) will be deemed to be permitted under this Section 7.03 or Section 7.01, as applicable, whether or not the ratio-based basket or pro forma compliance with the Financial Covenant, as applicable, at the actual time of any subsequent borrowing or reborrowing (or issuance or creation of letters of credit or bankers' acceptances thereunder) is complied with (or satisfied) for all purposes (including as to the absence of any continuing Default or Event of Default); *provided* that for purposes of subsequent calculations of the applicable ratio-based basket or Financial Covenant (including testing of the Financial Covenants pursuant to Section 8.01), as applicable, the Reserved Indebtedness Amount shall be deemed to be outstanding, whether or not such amount is actually outstanding, for so long as such commitments are outstanding or until the Borrower revokes an election of a Reserved Indebtedness Amount;

- (10) [reserved];
- (11) notwithstanding anything in this covenant to the contrary, in the case of any Indebtedness incurred to refinance Indebtedness initially incurred in reliance on a clause of Permitted Debt (other than Ratio Debt) measured by reference to a percentage of Consolidated Net Tangible Assets at the time of incurrence, if such refinancing would cause the percentage of Consolidated Net Tangible Assets restriction to be exceeded if calculated based on the percentage of Consolidated Net Tangible Assets on the date of such refinancing, such percentage of Consolidated Net Tangible Assets restriction shall not be deemed to be exceeded so long as the principal amount of such refinancing Indebtedness does not exceed the principal amount of such Indebtedness being refinanced, *plus* accrued and unpaid interest, dividends, premiums (including tender premiums), defeasance costs, underwriting discounts, fees, costs and expenses (including original issue discount, upfront fees or similar fees) in connection with such refinancing;
- (12) the amount of Indebtedness issued at a price that is less than the principal amount thereof will be equal to the amount of the liability in respect thereof determined in accordance with GAAP; and
- (13) to the extent the Borrower or a Restricted Subsidiary incurs additional Indebtedness constituting Consolidated First and Second Lien Debt (other than, for the avoidance of doubt, the Obligations and Second Lien Credit Agreement Refinancing Indebtedness), in each case, pursuant to a provision of this Section 7.03 based on a percentage of the Borrower's Consolidated Net Tangible Assets or subject to pro forma compliance with the Secured Net Leverage Ratio, the Borrower shall demonstrate that immediately following the incurrence of such additional Indebtedness, the Collateral Coverage Ratio is not less than 1.50:1.00.

Notwithstanding the foregoing:

(A) subject in all respects to the Inside Maturity Exception, none of the Borrower nor any of its Restricted Subsidiaries may incur Material Indebtedness under this Section 7.03 (or amend, modify or supplement the terms of any such Material Indebtedness) if such Indebtedness has (or, as a result of such amendment, modification or supplement, would have) a final stated maturity date any earlier than ninety-one (91) days after the latest maturity date of the Initial Revolving Loans; provided however that this paragraph shall not apply to (i) Purchase Money Obligations and Capitalized Lease Obligations (in each case, for *bona fide* equipment, vehicle or similar asset-specific financings as determined in good faith by a Responsible Officer), (ii) Acquired Indebtedness ~~or~~ (iii) insurance financings in respect of Section 7.03(m)(i), (iv) Intercompany Indebtedness, (v) government or quasi-government provided, supported, guaranteed or subsidized financings or (vi) Refinancing Indebtedness in respect of any of the foregoing.

(B) no Excluded Subsidiary which is a FSHCO, a Foreign Subsidiary or a Restricted Subsidiary of any FSHCO or Foreign Subsidiary (unless such Subsidiary has become a Guarantor) shall be permitted to incur Indebtedness for Borrowed Money (excluding (i) Purchase Money Obligations and Capitalized Lease Obligations, (ii) Acquired Indebtedness, (iii) insurance financings in respect of Section 7.03(m)(i), (iv) Intercompany Indebtedness, (v) ~~government or quasi-government provided, supported, guaranteed or subsidized financings~~, Indebtedness permitted under Section 7.03(r) or Section 7.03(u), (vi) Indebtedness under the Second Lien Credit Agreement or, to the extent permitted thereunder, constituting Second Lien Credit Agreement Refinancing Indebtedness or (vii) and Refinancing Indebtedness in respect of any of the foregoing), unless such Excluded Subsidiary is or becomes a Guarantor at the time of incurring such Indebtedness and would otherwise be permitted to incur such Indebtedness under this Agreement.

(C) neither the Borrower nor any Restricted Subsidiary shall incur any (i) Super-Priority Debt (excluding the Obligations) or Indebtedness that is secured by a Lien on the Collateral on a senior or otherwise preferred basis with the Liens securing the Obligations and (ii) any Indebtedness for borrowed money secured by a first priority lien on the Collateral (other than to the extent constituting Obligations, Second Lien Credit Agreement Refinancing Indebtedness or Indebtedness permitted under clause (a) above), in each case, without the prior written consent of all Lenders.

For purposes of determining compliance with this Section 7.03, in the event that an item of Indebtedness (or any portion thereof) meets the criteria of more than one of the categories set forth above, the Borrower may, in its sole discretion, at the time of incurrence, divide, classify or reclassify, or at any later time divide, classify or reclassify, such item of Indebtedness (or any portion thereof) in any manner that complies with this covenant on the date such Indebtedness is incurred or such later time, as applicable; *provided* that all Indebtedness created pursuant to the Loan Documents will be deemed to have been incurred in reliance on the exception in clause (a) above and will not be permitted to be reclassified pursuant to this paragraph; *provided, further*, all or any portion of any item of Indebtedness may later be reclassified as having been incurred pursuant to any type of Indebtedness described in clause (a) of this covenant so long as such Indebtedness is permitted to be incurred pursuant to such provision and any related Liens are permitted to be incurred at the time of reclassification. In the case of any Refinancing Indebtedness or Second Lien Credit Agreement Refinancing Indebtedness, when measuring the outstanding amount of such Indebtedness, such amount shall not include the aggregate amount of accrued and unpaid interest, dividends, premiums (including tender premiums), defeasance costs, underwriting discounts, fees, costs and expenses (including original issue discount, upfront fees or similar fees) in connection with such refinancing. If obligations in respect of letters of credit, bankers' acceptances or other similar instruments are incurred pursuant to the Facility and are being treated as incurred pursuant to clause (a) above and the letters of credit, bankers' acceptances or other similar instruments relate to other Indebtedness, then such other Indebtedness shall not be included. The principal amount of any Disqualified Equity Interests of the Borrower or a Restricted Subsidiary, or preferred stock of any Restricted Subsidiary, will be equal to the greater of the maximum mandatory redemption or repurchase price (not including, in either case, any redemption or repurchase premium) or the liquidation preference thereof.

Indebtedness permitted by this covenant need not be permitted solely by reference to one provision permitting such Indebtedness but may be permitted in part by one such provision and in part by one or more other provisions of this covenant permitting such Indebtedness.

For purposes of determining compliance with any Dollar-denominated restriction on the incurrence of Indebtedness, the Dollar equivalent principal amount of Indebtedness denominated in a foreign currency shall be calculated based on the relevant currency exchange rate in effect on the date such Indebtedness was incurred, in the case of term debt, or first committed, in the case of revolving credit debt; provided that if such Indebtedness is incurred to refinance other Indebtedness denominated in a foreign currency, and such refinancing would cause the applicable Dollar-denominated restriction to be exceeded if calculated at the relevant currency exchange rate in effect on the date of such refinancing, such Dollar-denominated restriction shall be deemed not to have been exceeded so long as the principal amount of such refinancing Indebtedness does not exceed (a) the principal amount of such Indebtedness being refinanced *plus* (b) the aggregate amount of accrued and unpaid interest, dividends, premiums (including tender premiums), defeasance costs, underwriting discounts, fees, costs and expenses (including original issue discount, upfront fees or similar fees) in connection with such refinancing.

Notwithstanding any other provision of this covenant, the maximum amount of Indebtedness that the Borrower or a Restricted Subsidiary may incur pursuant to this covenant shall not be deemed to be exceeded solely as a result of fluctuations in the exchange rate of currencies. The principal amount of any Indebtedness incurred to refinance other Indebtedness, if incurred in a different currency from the Indebtedness being refinanced, shall be calculated based on the currency exchange rate applicable to the currencies in which such respective Indebtedness is denominated that is in effect on the date of such refinancing.

The accrual of interest and the accretion of accreted value and the payment of interest in the form of additional Indebtedness shall not be deemed to be an incurrence of Indebtedness for purposes of this Section 7.03. The principal amount of any non-interest bearing Indebtedness or other discount security constituting Indebtedness at any date shall be the principal amount thereof that would be shown on a balance sheet of the Borrower dated such date prepared in accordance with GAAP.

SECTION 7.04 Fundamental Changes.

(a) With respect to the Borrower, consolidate with or merge with or into, or convey, transfer or lease all or substantially all of its assets in one transaction or a series of related transactions, to any Person, unless:

(i) the Borrower is the surviving Person;

(ii) immediately after giving effect to such transaction, no Event of Default shall have occurred and be continuing;

(iii) immediately after giving pro forma effect to such transaction, either (a) the Borrower would be able to incur at least an additional \$1.00 of Ratio Debt or (b) the Fixed Charge Coverage Ratio of the Borrower, as applicable, and its Restricted Subsidiaries would not be lower than it was immediately prior to giving effect to such transaction;

(iv) the Borrower shall have delivered to the Administrative Agent an officer's certificate stating that such consolidation, merger or transfer and such supplemental indenture and other documents or instruments (if any) comply with this Agreement and Collateral Documents; and

(v) to the extent any assets of the Person which is merged or consolidated with or into the Borrower are assets of the type which would constitute Collateral under the Collateral Documents, the Borrower will take such action, if any, as may be reasonably necessary to cause such property and assets to be made subject to the Lien of the applicable Collateral Documents in the manner and to the extent required in this Agreement or the applicable Collateral Documents and shall take all reasonably necessary action so that such Lien is perfected to the extent required by the applicable Collateral Documents.

Notwithstanding any other provision of this covenant, (a) the Borrower may consolidate or otherwise combine with, merge into or transfer all or part of its properties and assets to a Guarantor, (b) the Borrower may consolidate or otherwise combine with or merge into an Affiliate organized or existing under the laws of the United States of America, any State of the United States or the District of Columbia incorporated or organized for the purpose of changing the legal domicile of the Borrower, reincorporating the Borrower in another jurisdiction, or changing the legal form of the Borrower, (c) any Restricted Subsidiary may consolidate or otherwise combine with, merge into or transfer all or part of its properties and assets to the Borrower or a Guarantor, (d) any Restricted Subsidiary may consolidate or otherwise combine with, merge into or transfer all or part of its properties and assets to any other Restricted Subsidiary and (e) the Borrower and its Restricted Subsidiaries may complete any Reorganization Transaction.

Notwithstanding anything herein to the contrary, in the event of any merger, amalgamation, dissolution, liquidation, consolidation, amalgamation or Division of any Loan Party or a Restricted Subsidiary effected in accordance with this Section 7.04, the Borrower shall (x) promptly deliver or cause to be delivered to the Administrative Agent for further distribution by the Administrative Agent to each Lender (1) such information and documentation reasonably requested by the Administrative Agent or any Lender in order to comply with applicable "know your customer" and anti-money laundering rules and regulations, including the USA PATRIOT Act and (2) a Beneficial Ownership Certification and (y) do, execute, acknowledge, deliver, record, re-record, file, re-file, register, re-register, publish and re-publish any and all such further acts, deeds, certificates, assurances and other instruments as the Administrative Agent or Collateral Agent may reasonably request in order to perfect or continue the perfection of the Liens granted or purported to be granted by the Collateral Documents in accordance with Section 6.11 and as promptly as practicable.

(b) With respect to the Guarantors, subject to certain limitations described in this Agreement governing release of a Guarantee upon the sale, disposition or transfer of a Guarantor, consolidate with or merge with or into, or convey, transfer or lease all or substantially all its assets, in one or a series of related transactions, to any Person, unless:

(i) Pursuant to such transaction:

(A) the other Person is the Borrower or any Restricted Subsidiary that is a Guarantor or becomes a Guarantor concurrently with the transaction; or either (x) the Borrower or a Guarantor is the continuing Person or (y) the resulting, surviving or transferee Person (the “**Successor Person**”) expressly assumes all the obligations of the Guarantor under its Guaranty and this Agreement;

(B) immediately after giving effect to the transaction, no Event of Default shall have occurred and be continuing; and

(C) to the extent any assets of the Person which is merged, consolidated or amalgamated with or into such Guarantor are assets of the type which would constitute Collateral under the Collateral Documents, such Guarantor or the Successor Person will take such action, if any, as may be reasonably necessary to cause such property and assets to be made subject to the Lien of the applicable Collateral Documents in the manner and to the extent required in this Agreement or the applicable Collateral Documents and shall take all reasonably necessary action so that such Lien is perfected to the extent required by the applicable Collateral Documents; or

(ii) the transaction constitutes a sale, disposition or transfer of the Guarantor or the conveyance, transfer or lease of all or substantially all of the assets of the Guarantor (in each case other than to the Borrower or a Restricted Subsidiary) otherwise not prohibited by this Agreement.

Notwithstanding any other provision of this covenant, any Guarantor may (a) consolidate or otherwise combine with, merge into or transfer all or part of its properties and assets to another Guarantor or the Borrower, (b) consolidate or otherwise combine with or merge into an Affiliate incorporated or organized for the purpose of changing the legal domicile of the Guarantor, reincorporating the Guarantor in another jurisdiction, or changing the legal form of the Guarantor, (c) convert into a corporation, partnership, limited partnership, limited liability company or trust organized or existing under the laws of the jurisdiction of organization of such Guarantor, (d) liquidate or dissolve or change its legal form if the Borrower determines in good faith that such action is in the best interests of the Borrower and (e) complete any Reorganization Transaction. Notwithstanding anything to the contrary in this covenant, the Borrower may contribute Equity Interests of any or all of its Subsidiaries to any Guarantor.

Any reference herein to a merger, consolidation, amalgamation, assignment, sale, disposition or transfer, or similar term, shall be deemed to apply to a division of or by a limited liability company, limited partnership or trust, or an allocation of assets to a series of a limited liability company, limited partnership or trust (or the unwinding of such a division or allocation), as if it were a merger, consolidation, amalgamation, assignment, sale, disposition or transfer, or similar term, as applicable, to, of or with a separate Person. Any division of a limited liability company, limited partnership or trust shall constitute a separate Person hereunder (and each division of any limited liability company, limited partnership or trust that is a Subsidiary, Restricted Subsidiary, Unrestricted Subsidiary, joint venture or any other like term shall also constitute such a Person or entity).

SECTION 7.05 Dispositions. Make any Disposition, unless:

(a) the Borrower or such Restricted Subsidiary, as the case may be, receives consideration (including by way of relief from, or by any other Person assuming responsibility for, any liabilities, contingent or otherwise) at least equal to the Fair Market Value (such Fair Market Value to be determined on the date of contractually agreeing to such Disposition), as determined in good faith by the Borrower, of the shares and assets subject to such Disposition (including, for the avoidance of doubt, if such Disposition is a Permitted Asset Swap);

(b) in any such Disposition, or series of related Dispositions (except to the extent the Disposition is a Permitted Asset Swap), at least 75% of the consideration from such Disposition, together with all other Dispositions since the Closing Date (on a cumulative basis), (including by way of relief from, or by any other Person assuming responsibility for, any liabilities, contingent or otherwise) received by the Borrower or such Restricted Subsidiary, as the case may be, is in the form of cash or Cash Equivalents; and

(c) with respect to any Disposition of Vessel Collateral, immediately prior to and following such Disposition on a proforma basis giving effect to such Disposition, (x) the Collateral Coverage Ratio shall not be less than 1.50:1.00, and (y) the RCF Collateral Coverage Ratio shall be not less than 5.0:1.0.

For the purposes of clause (b) of this Section 7.05, the following will be deemed to be cash:

- (1) the assumption by the transferee of Indebtedness or other liabilities, contingent or otherwise, of the Borrower or a Restricted Subsidiary (other than any Junior Financing of the Borrower or a Guarantor) or the release of the Borrower or such Restricted Subsidiary from all liability on such Indebtedness or other liability in connection with such Disposition;

- (2) securities, notes or other obligations received by the Borrower or any Restricted Subsidiary from the transferee that are converted by the Borrower or such Restricted Subsidiary into cash or Cash Equivalents, or by their terms are required to be satisfied for cash and Cash Equivalents (to the extent of the cash or Cash Equivalents received), in each case, within 180 days following the closing of such Disposition;
- (3) Indebtedness of any Restricted Subsidiary that is no longer a Restricted Subsidiary as a result of such Disposition, to the extent that the Borrower and each other Restricted Subsidiary are released from any Guarantee of payment of such Indebtedness in connection with such Disposition;
- (4) consideration consisting of Indebtedness of the Borrower or a Restricted Subsidiary (other than any Subordinated Indebtedness) received after the Closing Date from Persons who are not the Borrower or any Restricted Subsidiary; and
- (5) any Designated Non-Cash Consideration received by the Borrower or any Restricted Subsidiary in such Dispositions having an aggregate Fair Market Value, taken together with all other Designated Non-Cash Consideration received pursuant to this clause that is at that time outstanding, not to exceed the greater of (i) \$10.0 million and (ii) an amount equal to 1.25% of the Borrower's Consolidated Net Tangible Assets determined as of the end of the Borrower's most recently completed fiscal quarter for which internal financial statements are available (the "**Applicable Proceeds Threshold Amount**"), with the Fair Market Value of each item of Designated Non-Cash Consideration being measured at the time received and without giving effect to subsequent changes in value.

To the extent any Collateral is Disposed of as expressly permitted by this Section 7.05 or the definition of "Disposition" to any Person other than a Loan Party, such Collateral shall be sold free and clear of the Liens created by the Loan Documents, and, without limiting the provisions of Section 10.11, the Administrative Agent and the Collateral Agent shall be authorized to, and shall, take any actions reasonably requested by the Borrower in order to effect the foregoing (and the Lenders hereby authorize and direct the Administrative Agent and the Collateral Agent to conclusively rely on any such certification by the Borrower in performing its obligations under this sentence).

SECTION 7.06 Restricted Payments.

(a) Declare or pay any dividend or make any distribution on or in respect of the Borrower's or any Restricted Subsidiary's Equity Interests (including any such payment in connection with any merger or consolidation involving the Borrower or any of the Restricted Subsidiaries) except:

(i) dividends, payments or distributions payable to the Borrower or a Restricted Subsidiary (and, in the case of any such Restricted Subsidiary making such dividend or distribution, to holders of its Equity Interests other than the Borrower or another Restricted Subsidiary on no more than a pro rata basis), and;

(ii) dividends, payments or distributions payable in Equity Interests of the Borrower (other than Disqualified Equity Interests) or in options, warrants or other rights to purchase such Equity Interests of the Borrower;

(b) Purchase, repurchase, redeem, retire or otherwise acquire or retire for value any Equity Interests of the Borrower or any Parent Entity held by Persons other than the Borrower or a Restricted Subsidiary;

(c) Make any Junior Debt Repayment (other than a Permitted Junior Debt Repayment); or

(d) Make any Restricted Investment;

any such dividend, distribution, payment, purchase, redemption, repurchase, defeasance, other acquisition, retirement or Restricted Investment referred to in clauses (a) through (d) above are referred to herein as a “**Restricted Payment**”, if at the time the Borrower or such Restricted Subsidiary makes such Restricted Payment:

(i) an Event of Default shall have occurred and be continuing (or would immediately thereafter result therefrom); or

(ii) in the case of a Restricted Payment other than a Restricted Investment, the Borrower is not able to incur an additional \$1.00 of Ratio Debt immediately after giving effect, on a pro forma basis, to such Restricted Payment; or

(iii) the Borrower would not be in pro forma compliance with the Financial Covenants upon giving effect thereto; or

(iv) in the case of Restricted Payments other than dollar-for-dollar refinancings, Restricted Payments used directly to consummate acquisitions of Vessels, the Borrower must have at least 50% of the total Commitments available for drawing under the Facility immediately prior to and following such Restricted Payment; *provided*, that this clause (iv) shall not apply to Restricted Payments made by a Borrower and the Restricted Subsidiaries to consummate a change in the flag jurisdiction of Vessel Collateral permitted hereunder; or

(v) the aggregate amount of such Restricted Payment and all other Restricted Payments made subsequent to the Closing Date (and not returned or rescinded) (including Permitted Payments made pursuant to clauses (1) (without duplication) and (7) of the ~~next succeeding paragraph~~definition thereof, but excluding all other Restricted Payments permitted by the next succeeding paragraph) would exceed the sum of (without duplication) (the “**Available Amount**”):

(A) 50% of Consolidated Net Income for the period (treated as one accounting period) beginning July 1, 2024 to the end of the most recent fiscal quarter ending prior to the date of such Restricted Payment for which consolidated financial statements are available (which may, at the Borrower’s election, be internal financial statements);

(B) 100% of the aggregate amount of cash, and the Fair Market Value of property or assets or marketable securities, received by the Borrower from the issue or sale of its Equity Interests (including, for the avoidance of doubt, any proceeds of an issuance or sale of Equity Interests in connection with or following a public offering of common stock, common equity interests or Jones Act Warrants) or as the result of a merger or consolidation with another Person subsequent to the Closing Date or otherwise contributed to the equity (in each case other than through the issuance of Disqualified Equity Interests) of the Borrower or a Restricted Subsidiary (including the aggregate principal amount of any Indebtedness of the Borrower or a Restricted Subsidiary contributed to the Borrower or a Restricted Subsidiary for cancellation) or that becomes part of the capital of the Borrower or a Restricted Subsidiary through consolidation or merger subsequent to the Closing Date (other than (x) net cash proceeds or property or assets or marketable securities received from an issuance or sale of such Equity Interests to a Restricted Subsidiary or an employee stock ownership plan or trust established by a Parent Entity, the Borrower or any Subsidiary of the Borrower for the benefit of their employees to the extent funded by the Borrower or any Restricted Subsidiary and (y) cash or property or assets or marketable securities to the extent that any Restricted Payment has been made from such proceeds in reliance on clause (6) of the ~~next succeeding paragraph~~definition of “Permitted Payments”);

(C) 100% of the aggregate amount of cash, and the Fair Market Value of property or assets or marketable securities, received by the Borrower or any Restricted Subsidiary from the issuance or sale (other than to the Borrower or a Restricted Subsidiary or an employee stock ownership plan or trust established by a Parent Entity, the Borrower or any Subsidiary of the Borrower for the benefit of their employees to the extent funded by the Borrower or any Restricted Subsidiary) by the Borrower or any Restricted Subsidiary subsequent to the Closing Date of any Indebtedness or Disqualified Equity Interests that has been converted into or exchanged for Equity Interests of the Borrower (other than Disqualified Equity Interests) plus, without duplication, the amount of any cash, and the Fair Market Value of property or assets or marketable securities, received by the Borrower or any Restricted Subsidiary upon such conversion or exchange;

(D) 100% of the aggregate amount received in cash and the Fair Market Value, as determined in good faith by the Borrower, of marketable securities or other property received by means of: (i) the sale or other disposition (other than to the Borrower or a Restricted Subsidiary) of, or other returns on Investment from, Restricted Investments made by the Borrower or the Restricted Subsidiaries and repurchases and redemptions of, or cash distributions or cash interest received in respect of, such Investments from the Borrower or the Restricted Subsidiaries and repayments of loans or advances, and releases of guarantees, which constitute Restricted Investments by the Borrower or the Restricted Subsidiaries, in each case after the Closing Date; or (ii) the sale or other disposition (other than to the Borrower or a Restricted Subsidiary) of the Equity Interests of an Unrestricted Subsidiary or a dividend, payment or distribution from an Unrestricted Subsidiary (other than to the extent of the amount of the Investment that constituted a Permitted Investment or was made under clause (13) of the definition of “Permitted Payments” and will increase the amount available under the applicable clause of the definition of “Permitted Investment” or clause (13) of the definition of “Permitted Payments”, as the case may be) or a dividend from a Person that is not a Restricted Subsidiary after the Closing Date;

(E) in the case of the redesignation of an Unrestricted Subsidiary as a Restricted Subsidiary or the merger, amalgamation or consolidation of an Unrestricted Subsidiary into the Borrower or a Restricted Subsidiary or the transfer of all or substantially all of the assets of an Unrestricted Subsidiary to the Borrower or a Restricted Subsidiary after the Closing Date, the Fair Market Value of the Investment in such Unrestricted Subsidiary (or the assets transferred), as determined in good faith by the Borrower at the time of the redesignation of such Unrestricted Subsidiary as a Restricted Subsidiary or at the time of such merger, amalgamation or consolidation or transfer of assets (after taking into consideration any Indebtedness associated with the Unrestricted Subsidiary so designated or merged, amalgamated or consolidated or Indebtedness associated with the assets so transferred), other than to the extent of the amount of the Investment that constituted a Permitted Investment or was made under clause (13) of the definition of “Permitted Payments” and will increase the amount available under the applicable clause of the definition of “Permitted Investment” or clause (13) of the definition of “Permitted Payments” as the case may be; and

(F) \$50.0 million.

The foregoing provisions shall not prohibit any Permitted Payment.

The amount of any Investments, Permitted Payments, Junior Debt Repayments and other transactions permitted under this Section 7.06 at any time shall be the amount of cash and the Fair Market Value of other property subject to the Investments, Permitted Payments, Junior Debt Repayments or other transaction at the time payment is made. For purposes of determining compliance with this Section 7.06, in the event that any Investments, Permitted Payments, Junior Debt Repayments and other transactions permitted under Section 7.06 (or any portion of such payment made) meets the criteria of more than one of the categories set forth above, the Borrower may, in its sole discretion, at the time such Investments, Permitted Payments, Junior Debt Repayments and other transaction permitted under Section 7.06 is paid, divide, classify or reclassify, or at any later time divide, classify, or reclassify, such payment (or any portion thereof) in any manner that complies with this covenant on the date such payment is made or such later time, as applicable.

For the avoidance of doubt, a Restricted Payment, Investment or Junior Debt Repayment (or portion thereof) may be reclassified at a time subsequent to the time it was originally made, so long as such Restricted Payment, Investment or Junior Debt Repayment (or portion thereof) would have been able to have been made at the time of such reclassification pursuant to the provision to which such Restricted Payment, Investment or Junior Debt Repayment (or portion thereof) is being reclassified.

The amount of all Restricted Payments (other than cash) shall be the Fair Market Value on the date of such Restricted Payment of the asset(s) or securities proposed to be paid, transferred or issued by the Borrower or such Restricted Subsidiary, as the case may be, pursuant to such Restricted Payment. The Fair Market Value of any cash Restricted Payment shall be its face amount, and the Fair Market Value of any non-cash Restricted Payment, property or assets other than cash shall be determined conclusively by the Borrower acting in good faith.

Unrestricted Subsidiaries may use value transferred from the Borrower and its Restricted Subsidiaries in a Permitted Investment to purchase or otherwise acquire Indebtedness or Equity Interests of the Borrower, any Parent Entity or any of the Borrower's Restricted Subsidiaries, and to transfer value to the holders of the Equity Interests of the Borrower or any Restricted Subsidiary or any Parent Entity and to Affiliates thereof, and such purchase, acquisition, or transfer will not be deemed to be a "direct or indirect" action by the Borrower or its Restricted Subsidiaries.

If the Borrower or a Restricted Subsidiary makes a Restricted Payment which at the time of the making of such Restricted Payment would in the good faith determination of the Borrower be permitted under the provisions of this Agreement, such Restricted Payment shall be deemed to have been made in compliance with this Agreement notwithstanding any subsequent adjustments made in good faith to the Borrower's financial statements affecting Consolidated Net Income, Consolidated Adjusted EBITDA or Consolidated Net Tangible Assets of the Borrower for any period.

SECTION 7.07 [Reserved].

SECTION 7.08 Negative Pledge. Create or otherwise cause or permit to exist or become effective any consensual encumbrance or consensual restriction on the ability of any Restricted Subsidiary to:

(a) pay dividends or make any other distributions in cash or otherwise on its Equity Interests or pay any Indebtedness or other obligations owed to the Borrower or any Restricted Subsidiary;

(b) make any loans or advances to the Borrower or any Restricted Subsidiary; or

(c) sell, lease or transfer any of its property or assets to the Borrower or any Restricted Subsidiary; *provided* that (x) the priority of any preferred stock in receiving dividends or liquidating distributions prior to dividends or liquidating distributions being paid on common stock or Jones Act Warrants and (y) the subordination of (including the application of any standstill requirements to) loans or advances made to the Borrower or any Restricted Subsidiary to other Indebtedness incurred by the Borrower or any Restricted Subsidiary shall not be deemed to constitute such an encumbrance or restriction.

provided that this Section 7.08 shall not prohibit:

(i) any encumbrance or restriction pursuant to this Agreement or any other agreement or instrument, in each case, in effect at or entered into on the Closing Date;

(ii) any encumbrance or restriction pursuant to the Loan Documents;

(iii) any encumbrance or restriction pursuant to applicable law, rule, regulation or order;

(iv) any encumbrance or restriction pursuant to an agreement or instrument of a Person or relating to any Equity Interests or Indebtedness of a Person, entered into on or before the date on which such Person was acquired by or merged, consolidated or otherwise combined with or into the Borrower or any Restricted Subsidiary, or was designated as a Restricted Subsidiary or on which such agreement or instrument is assumed by the Borrower or any Restricted Subsidiary in connection with an acquisition of assets (other than Equity Interests or Indebtedness incurred as consideration in, or to provide all or any portion of the funds utilized to consummate, the transaction or series of related transactions pursuant to which such Person became a Restricted Subsidiary or was acquired by the Borrower or a Restricted Subsidiary or was merged, consolidated or otherwise combined with or into the Borrower or any Restricted Subsidiary or entered into in contemplation of or in connection with such transaction) and outstanding on such date;

(v) any encumbrance or restriction:

(A) that restricts in a customary manner the subletting, assignment or transfer of any property or asset that is subject to a lease, license or similar contract or agreement, or the assignment or transfer of any lease, license or other contract or agreement;

(B) contained in mortgages, pledges, charges or other security agreements permitted under this Agreement or securing Indebtedness of the Borrower or a Restricted Subsidiary permitted under this Agreement to the extent such encumbrances or restrictions restrict the transfer or encumbrance of the property or assets subject to such mortgages, pledges, charges or other security agreements;

(C) contained in any trading, netting, operating, construction, service, supply, purchase, sale or other agreement to which the Borrower or any of its Restricted Subsidiaries is a party entered into in the ordinary course of business or consistent with past practice; *provided* that such agreement prohibits the encumbrance of solely the property or assets of the Borrower or such Restricted Subsidiary that are subject to such agreement, the payment rights arising thereunder or the proceeds thereof and does not extend to any other asset or property of the Borrower or such Restricted Subsidiary or the assets or property of another Restricted Subsidiary; or

(D) pursuant to customary provisions restricting dispositions of real property interests set forth in any reciprocal easement agreements of the Borrower or any Restricted Subsidiary;

(vi) any encumbrance or restriction pursuant to Purchase Money Obligations and Capitalized Leases permitted under this Agreement, in each case, that impose encumbrances or restrictions on the property so acquired;

(vii) any encumbrance or restriction imposed pursuant to an agreement entered into for the direct or indirect sale or disposition to a Person of all or substantially all the Equity Interests or assets of the Borrower or any Restricted Subsidiary (or the property or assets that are subject to such restriction) pending the closing of such sale or disposition;

(viii) customary provisions in leases, licenses, equityholder agreements, joint venture agreements, organizational documents and other similar agreements and instruments;

(ix) encumbrances or restrictions arising or existing by reason of applicable law or any applicable rule, regulation or order, or required by any regulatory authority;

(x) any encumbrance or restriction on cash or other deposits or net worth imposed by customers under agreements entered into in the ordinary course of business or consistent with past practice;

(xi) any encumbrance or restriction pursuant to Hedge Agreements;

(xii) other Indebtedness of Foreign Subsidiaries permitted to be incurred or issued subsequent to the Closing Date pursuant to Section 7.03 that impose restrictions solely on the Foreign Subsidiaries party thereto or their Subsidiaries;

(xiii) restrictions created in connection with any Qualified Securitization Financing or Receivables Facility that, in the good faith determination of the Borrower, are necessary or advisable to effect such Securitization Facility or Receivables Facility;

(xiv) any encumbrance or restriction arising pursuant to an agreement or instrument relating to any Indebtedness permitted to be incurred subsequent to the Closing Date pursuant to Section 7.03 if the encumbrances and restrictions contained in any such agreement or instrument (i) taken as a whole, are not materially less favorable to the Lenders than the encumbrances and restrictions contained in this Agreement, together with the other Loan Documents, as in effect on the Closing Date, (ii) at the time of entry into such agreement or instrument, are determined by the Borrower in good faith to not adversely affect, in any material respect, the Borrower's ability to make principal or interest payments on the Loans or (iii) apply only during the continuance of a default in respect of a payment relating to such agreement or instrument;

(xv) any encumbrance or restriction existing by reason of any Lien permitted under Section 7.01; or

(xvi) any encumbrance or restriction pursuant to an agreement or instrument effecting a refinancing of Indebtedness incurred pursuant to, or that otherwise refinances, an agreement or instrument referred to in the clauses above or this clause (an “**Initial Agreement**”) or contained in any amendment, supplement or other modification to an agreement referred to in the clauses above or this clause; *provided, however*, that the encumbrances and restrictions with respect to such Restricted Subsidiary contained in any such agreement or instrument (i) are no less favorable in any material respect to the Lenders taken as a whole than the encumbrances and restrictions contained in the Initial Agreement or Initial Agreements to which such refinancing or amendment, supplement or other modification relates (as determined in good faith by the Borrower) or (ii) are determined by the Borrower in good faith, at the time of entering into such refinancing, amendment, supplement or other modification, will not adversely affect, in any material respect, the Borrower’s ability to make principal or interest payments on the Loans.

SECTION 7.09 Junior Debt Prepayments.

(a) **Prepayments of Junior Financing.** Prepay, repay, redeem, repurchase, defease or otherwise acquire or satisfy prior to the date that is one year before the scheduled maturity thereof any principal amount in respect of a Junior Financing (any such prepayment, repayment, redemption, purchase, defeasance or satisfaction, a “**Junior Debt Repayment**”), except (each of the following, a “**Permitted Junior Debt Repayment**”):

(i) Junior Debt Repayments with the proceeds of, or in exchange for, any (A) Refinancing Indebtedness or, to the extent applicable, Second Lien Credit Agreement Refinancing Indebtedness or (B) other Junior Financing or Junior Lien Debt permitted hereunder;

(ii) Junior Debt Repayments (A) made with Qualified Equity Interests of the Borrower or any Parent Entity, with the proceeds of an issuance of any such Equity Interests or with the proceeds of a contribution to the capital of the Borrower after the Closing Date or (B) consisting of the conversion of any Junior Financing to Equity Interests;

(iii) Junior Debt Repayments of Indebtedness of the Borrower or any Restricted Subsidiary owed to the Borrower or a Restricted Subsidiary;

(iv) Junior Debt Repayments of Indebtedness of any Person that becomes a Restricted Subsidiary after the Closing Date in connection with a transaction not prohibited by the Loan Documents, which Indebtedness was in existence at the time such Person became a Restricted Subsidiary (and not incurred in contemplation of such Person becoming a Restricted Subsidiary);

(v) Junior Debt Repayments within sixty (60) days of giving notice thereof if at the date of such notice, such payment would have been permitted hereunder;

(vi) Junior Debt Repayments made in connection with the Transactions;

(vii) Junior Debt Repayments consisting of the payment of regularly scheduled interest and principal payments, payments of fees, expenses, penalty interest and indemnification obligations when due, other than payments prohibited by any applicable subordination provisions;

(viii) Junior Debt Repayments consisting of a payment to avoid the application of Section 163(e)(5) of the Code;

(ix) Junior Debt Repayments, if the Total Net Leverage Ratio (after giving Pro Forma Effect thereto) for the Test Period immediately preceding the incurrence of such payments shall be less than or equal to the Closing Date Total Net Leverage Ratio less 0.50 to 1.00 and the Borrower shall be in pro forma compliance with the Financial Covenants upon giving effect thereto; *provided* that no Event of Default shall have occurred and be continuing or would result therefrom;

(x) any such purchase, repurchase, redemption, defeasance or other acquisition or retirement in anticipation of satisfying a sinking fund obligation, principal installment or final maturity, in each case, due within one year of the date of purchase, repurchase, redemption, defeasance or other acquisition or retirement;

(xi) any such purchase, repurchase, redemption, defeasance or other acquisition or retirement for value of any Indebtedness owing to the Borrower or a Guarantor incurred pursuant to Section 7.03(e);

(xii) Junior Debt Repayments in connection with any Conversion Settlement;

(xiii) Junior Debt Repayments in an aggregate amount not to exceed the sum of:

(A) the Available Amount at such time; *provided* that no Event of Default shall have occurred and be continuing or would result therefrom; and

(B) the greater of (A) 30% of Closing Date Consolidated Net Tangible Assets and (B) 30% of Consolidated Net Tangible Assets determined as of the most recently ended fiscal quarter on a Pro Forma Basis

provided that the Borrower shall be in pro forma compliance with the Financial Covenants upon giving effect thereto;

(xiv) Junior Debt Repayments of Acquired Indebtedness (other than Indebtedness incurred (A) to provide all or any portion of the funds utilized to consummate the transaction or series of related transactions pursuant to which such Person became a Restricted Subsidiary or was otherwise acquired by the Borrower or a Restricted Subsidiary or (B) otherwise in connection with or contemplation of such acquisition); and

(xv) Junior Debt Repayments of Jones Act Notes;

provided, however, that each of the following shall be permitted: payments of regularly scheduled principal interest (including at the default rate) and fees on Junior Financing, payments of closing and consent fees related to Junior Financing, indemnity and expense reimbursement payments in connection with Junior Financing, and mandatory prepayments, mandatory redemptions and mandatory purchases (and mandatory offers to do any of the foregoing), in each case pursuant to the terms of Junior Financing Documentation.

The amount of any Junior Debt Repayment at any time shall be the amount of cash and the Fair Market Value of other property used to make the Junior Debt Repayment at the time such Junior Debt Repayment is made. For purposes of determining compliance with this Section 7.09(a), in the event that any prepayment, repayment, redemption, purchase, defeasance or satisfaction (or any portion thereof) meets the criteria of more than one of the categories set forth above, the Borrower may, in their sole discretion, at the time of such prepayment, repayment, redemption, purchase, defeasance or satisfaction is made, divide, classify, or reclassify, or at any later time divide, classify or reclassify, such prepayment, repayment, redemption, purchase, defeasance or satisfaction (or any portion thereof) in any manner that complies with this covenant on the date it was made or such later time, as applicable.

(b) [Reserved].

ARTICLE VIII

Financial Covenant

So long as the Termination Conditions have not been satisfied, the Borrower and each of the Restricted Subsidiaries covenant and agree that:

SECTION 8.01 Financial Covenants.

(a) Revolving Credit Facility Net Leverage Ratio. Commencing with the Test Period ending on the last day of the first full fiscal quarter ended after the Closing Date, the Borrower shall not permit the Revolving Credit Facility Net Leverage Ratio on the last day of each Test Period (each such date, a “**Measurement Date**”) to be greater than 1.00 to 1.00 if any Revolving Loans or Letters of Credit are drawn (and, in the case of Letters of Credit, not reimbursed) at such time. Compliance with this Section 8.01(a) shall be tested on the date that the Compliance Certificate for the applicable Test Period is required to be delivered pursuant to Section 6.02(a) and not prior to such date (each such date, the “**Testing Date**”).

(b) Collateral Coverage Ratio. Commencing with the Test Period ending on the last day of the first full fiscal quarter ended after the Closing Date, the Borrower shall not permit the Collateral Coverage Ratio on any Measurement Date to be less than 1.50 to 1.00. To the extent that a portion of the Collateral Value Amount includes cash Collateral which was provided in favor of the Secured Parties, such cash Collateral shall be released after the Borrower demonstrates compliance with this Section 8.01(b) and Section 8.01(c) for two successive Measurement Dates without such cash Collateral. Compliance with this Section 8.01(b) shall be tested on the Measurement Date; *provided*, that to the extent compliance with this Section 8.01(b) is not satisfied as of any applicable Measurement Date, the Borrower shall make a mandatory prepayment in accordance with Section 2.07(b)(ii) and as long as such prepayment is made, no Default or Event of Default shall occur in respect of such breach.

(c) RCF Collateral Coverage Ratio. Commencing with the Test Period ending on the last day of the first full fiscal quarter ended after the Closing Date, the Borrower shall not permit the RCF Collateral Coverage Ratio on any Measurement Date be less than 3.00 to 1.00. To the extent that a portion of the Collateral Value Amount includes cash Collateral that was provided in favor of the Secured Parties, such cash Collateral shall be released after the Borrower demonstrates compliance with this Section 8.01(c) and Section 8.01(b) for two successive Measurement Dates without such cash Collateral. Compliance with this Section 8.01(c) shall be tested on the Measurement Date; *provided*, that to the extent compliance with this Section 8.01(c) is not satisfied as of any applicable Measurement Date, the Borrower shall make a mandatory prepayment in accordance with Section 2.07(b)(ii) and as long as such prepayment is made, no Default or Event of Default shall occur in respect of such breach.

(d) Minimum Liquidity. Commencing with the Test Period ending on the last day of the first full fiscal quarter ended after the Closing Date, the Borrower shall not permit the Liquidity on any Measurement Date to be less than \$25,000,000.

SECTION 8.02 [Reserved].

ARTICLE IX

Events of Default and Remedies

SECTION 9.01 Events of Default. Each of the events referred to in clauses (a) through (j) of this Section 9.01 constitutes an “**Event of Default**”:

(a) Non-Payment. Any Loan Party fails to pay (i) when and as required to be paid pursuant to the terms of this Agreement, any amount of principal of any Loan or any Reimbursement Obligation, or (ii) within five Business Days after the same becomes due, any interest on any Loan or any fee or reimbursement obligation (other than a Reimbursement Obligation) or other amount payable pursuant to the terms of a Loan Document; or

(b) Specific Covenants. The Borrower or any Guarantor fails to perform or observe any covenant contained in:

(i) Section 6.03(a) (solely to the extent and only for so long as such notice has not been delivered), Section 6.05 (solely with respect to the Borrowers), Section 6.15 and Article VII; or

(ii) Section 8.01, *provided* that this Section 9.01(b)(ii) shall not result in a Default or an Event of Default (i) at any time when no Loans are outstanding and shall instead be deemed a “**Financial Covenant Blocking Event**” prohibiting the Borrower from borrowing any Revolving Loans under this Agreement until the condition precedent set forth in Section 4.03(c) is satisfied and (ii) so long as a mandatory prepayment is made in accordance with Section 2.07(b)(ii); or

(c) Other Defaults. A Loan Party fails to perform or observe any other covenant (not specified in Section 9.01(a) or (b) above) contained in any Loan Document on its part to be performed or observed and, (i) with respect to the covenants contained in Section 6.01, Sections 6.02(a) and 6.02(b), such failure continues for fifteen days, and (ii) with respect to any other affirmative covenants hereunder which, when breached, are capable of being cured, such failure continues for thirty (30) days after receipt by the Borrower of written notice thereof from the Administrative Agent (it being acknowledged that a breach of Sections 6.14(a)(iii) and (b) is not capable of being cured); or

(d) Representations and Warranties. Any representation or warranty made or deemed by any Loan Party in any Loan Document, or in any document required to be delivered pursuant to the terms of a Loan Document shall be untrue in any material respect (or, with respect to any representation or warranty qualified by materiality or “Material Adverse Effect,” shall be untrue in any respect) when made or deemed made; and in the case of any representation and warranty made or deemed made after the Closing Date, such representation or warranty shall remain untrue (in any material respect or in any respect, as applicable) for a period of thirty (30) days after written notice thereof from the Administrative Agent to the Borrower; or

(e) Cross-Default. A Loan Party:

(i) fails to make any payment of any principal or interest beyond the applicable grace period, if any, whether by scheduled maturity, required prepayment, acceleration, demand, or otherwise, in respect of its Material Indebtedness; or

(ii) fails to perform or observe any covenant, agreement or condition relating to any Material Indebtedness or any other event or condition occurs, the effect of which failure or event or condition is to cause such Material Indebtedness becoming due prior to its scheduled maturity or to enable or permit (with all applicable grace periods having expired) the holder or holders (with the giving of notice or the lapse of time or both) of such Material Indebtedness or any trustee or any agent on its or their behalf to cause such Material Indebtedness to become due, or to require the prepayment, repurchase, redemption or defeasance thereof, prior to its stated maturity, in each case pursuant to its terms;

provided that clause (e)(ii) shall not apply: (1) to any secured Indebtedness that becomes due as a result of the sale, transfer or other disposition (including as a result of a casualty or condemnation event) of the property or assets securing such Indebtedness or as a result of a “change of control” put right; (2) to the conversion of, or the satisfaction of any condition to the conversion of, any Indebtedness that is convertible or exchangeable for Equity Interests or to any Conversion Settlement; (3) to events of default, termination events or any other similar event under the documents governing Hedge Agreements or (4) to a refinancing of Indebtedness with other Indebtedness permitted by this Agreement; *provided, further*, that at such times during which no Loans are outstanding, the occurrence of an event that would otherwise be a Default or Event of Default under this clause (e) shall not be a Default or an Event of Default and shall instead be deemed a “**Blocking Event**” until such time as waived by the Required Lenders in accordance with this Agreement; or

(f) Insolvency Proceedings, Etc. (i) Any Loan Party (A) institutes or consents to the institution of any proceeding under any Debtor Relief Law, (B) makes an assignment for the benefit of creditors or (C) applies for or consents to the appointment of any receiver, trustee, custodian, conservator, liquidator, rehabilitator, administrator, administrative receiver or similar officer for it or for all or any material part of its property; (ii) any receiver, trustee, custodian, conservator, liquidator, rehabilitator, administrator, administrative receiver or similar officer is appointed for a Loan Party or any material part of its property without the application or consent of such Loan Party and the appointment continues undischarged or unstayed for sixty (60) calendar days; (iii) any proceeding under any Debtor Relief Law relating to a Loan Party or to all or any material part of its property is instituted without the consent of such Loan Party and continues undismissed or unstayed for sixty (60) calendar days; or (iv) an order for relief is entered in any such proceeding; or

(g) Judgments. There is entered against a Loan Party a final, enforceable, and non-appealable judgment by a court of competent jurisdiction for the payment of money in an aggregate amount exceeding the Threshold Amount (to the extent not covered by independent third-party insurance or another indemnity obligation) and such judgment or order is not satisfied, vacated, discharged or stayed or bonded for a period of sixty (60) consecutive days; or

(h) Invalidity of Loan Documents. The material provisions of the Loan Documents, taken as a whole, at any time after their execution and delivery and for any reason cease to be in full force and effect, except (i) as expressly permitted by the Loan Documents (including as a result of a transaction permitted under Section 7.04 or 7.05), (ii) as a result of the satisfaction of the Obligations or (iii) resulting from acts or omissions of a Secured Party or the application of applicable law; or

(i) Collateral Documents and Guarantee. Any:

(i) Collateral Document (or any material provision thereof) with respect to a material portion of the Collateral with a Fair Market Value exceeding the Threshold Amount after its execution and delivery shall for any reason cease to create a valid and perfected or published, as applicable, Lien, except (A) as otherwise permitted by, or as a result of a transaction not prohibited by, the Loan Documents, (B) resulting from the failure of the Administrative Agent or the Collateral Agent or any of their agents or bailees to maintain possession or control of Collateral, (C) resulting from the making of a filing, or the failure to make a filing, under the Uniform Commercial Code or other applicable law, (D) as to Collateral consisting of real property, to the extent that (1) such losses are covered by a lender's title insurance policy (unless the Borrower in good faith reasonably believe that payment thereunder will not be made by the applicable insurer) or (2) a deficiency arose through no fault of a Loan Party and such deficiency is corrected with reasonable diligence upon obtaining actual knowledge thereof or (E) resulting from acts or omissions of a Secured Party or the application of applicable law so long as such deficiency arose through no fault of a Loan Party and such deficiency is corrected with reasonable diligence upon obtaining actual knowledge thereof; or

(ii) Guarantee with respect to a Guarantor (other than an Excluded Subsidiary) shall for any reason cease to be in full force and effect, except (A) as otherwise permitted by, or as a result of a transaction not prohibited by, the Loan Documents, (B) upon the satisfaction in full of the Obligations, (C) upon the release of such Guarantor as provided for under the Loan Document or in accordance with its terms or (D) resulting from acts or omissions of a Secured Party or the application of applicable law; or

(j) Change of Control. There occurs any Change of Control; or

(k) ERISA. (i) an ERISA Event or Foreign Plan Event shall have occurred, (ii) the PBGC shall institute proceedings (including giving notice of intent thereof) to terminate any Plan or Plans, (iii) the Borrower or any Guarantor or any ERISA Affiliate shall have been notified by the sponsor of a Multiemployer Plan that such Multiemployer Plan is being terminated, within the meaning of Title IV of ERISA, or (iv) the Borrower or any Guarantor shall engage in any non-exempt “prohibited transaction” (as defined in Section 406 of ERISA or Section 4975 of the Code) involving any Plan; and in each case in clauses (i) through (iv) above, such event or condition, together with all other such events or conditions, if any, would reasonably be expected to have a Material Adverse Effect.

Notwithstanding anything to the contrary in this Agreement, no Event of Default or breach of any representation or warranty in Article V or any covenant in Article VI or VII shall constitute a Default or Event of Default if such Event of Default or breach of such representation or warranty in Article V or such covenant in Article VI or VII would not have occurred but for a fluctuation (or other adverse change) in Exchange Rates.

Notwithstanding anything to the contrary in this Agreement, the words “exists,” “is continuing” or similar expressions with respect thereto shall mean (x) with respect to a Default, that the Default has not yet been cured in accordance with this Section 9.01 or waived by the Lenders in accordance with Section 11.01, and (y) with respect to an Event of Default, that the Event of Default has not yet been waived by the Lenders in accordance with Section 11.01.

SECTION 9.02 Remedies upon Event of Default.

(a) General. Except as otherwise provided in Section 9.02(b) below, if any Event of Default occurs and is continuing, the Administrative Agent may, and shall at the request of the Required Lenders, take any or all of the following actions:

(i) declare the Commitments of each Lender and the obligation of each Issuing Bank to issue Letters of Credit to be terminated, whereupon such Commitments and obligation shall be terminated;

(ii) declare the unpaid principal amount of all outstanding Loans, all interest and premium accrued and unpaid thereon, and all other amounts owing or payable hereunder or under any other Loan Document to be immediately due and payable, without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived by the Borrower and each Guarantor;

(iii) require that the Borrower Cash Collateralize its Letters of Credit (in an amount equal to 105% of the maximum face amount of all outstanding Letters of Credit); and

(iv) exercise on behalf of itself, the Issuing Banks and the Lenders all rights and remedies available to it, the Issuing Banks and the Lenders under the Loan Documents and/or under applicable Law;

provided that upon the occurrence of an actual or deemed entry of an order for relief with respect to any Loan Party under any Debtor Relief Law, the Commitments of each Lender and the obligations of each Issuing Bank to issue Letters of Credit shall automatically terminate, the unpaid principal amount of all outstanding Loans and all interest and other amounts as aforesaid shall automatically become due and payable and the obligation of the Borrower to Cash Collateralize the Letters of Credit as aforesaid shall automatically become effective, in each case without further act of the Administrative Agent or any Lender.

(b) Limitations on Remedies. Notwithstanding anything to the contrary in any Loan Document,

(i) [Reserved].

(ii) Net Short Representations. Any notice of Default, Event of Default or acceleration provided to the Borrower by the Administrative Agent on behalf of one or more Lenders that have expressly requested that such notice be given to the Borrower must be accompanied by a written Net Short Representation from any such Lender (other than an Unrestricted Lender) delivered to the Borrower (with a copy to the Administrative Agent); *provided* that (A) in the absence of any such written Net Short Representation, each such Lender shall be deemed to have represented and warranted to the Borrower and the Administrative Agent that it is not a Net Short Lender (it being understood and agreed that the Borrower and the Administrative Agent shall be entitled to rely conclusively on each such representation and deemed representation (including, with respect to the Administrative Agent, as provided in Section 11.28(f)(i))) and (B) no Net Short Representation shall be required to be delivered during the pendency of a Default or Event of Default caused by a bankruptcy or similar insolvency proceeding.

SECTION 9.03 Application of Funds. After the exercise of remedies provided for in Section 9.02 (or after the Loans have automatically become immediately due and payable as set forth in the proviso to Section 9.02(a)), all amounts received on account of the Obligations (and proceeds of Collateral), all payments or distributions of any kind or nature and all adequate protection payments or plan distributions in any insolvency or similar proceeding (in each case, whether received from any Loan Party, in connection with an exercise of remedies, a credit bid or otherwise) shall, subject to the Existing Junior Lien Intercreditor Agreement and any other applicable Intercreditor Agreement, be applied by the Administrative Agent in the following order (the “**Priority Waterfall**”):

First, to payment of that portion of the Obligations constituting fees, indemnities, expenses and other amounts (other than principal and interest, but including Attorney Costs payable under Section 11.04 and amounts payable under Article III) payable to the Administrative Agent and the Collateral Agent in their capacities as such;

Second, to payment in full of Unfunded Advances/Participations (the amounts so applied to be distributed between or among, as applicable, the Administrative Agent and the Issuing Banks *pro rata* in accordance with the amounts of Unfunded Advances/Participations owed to them on the date of any such distribution);

Third, to payment of that portion of the Obligations constituting fees, indemnities and other amounts (other than principal, interest, Letter of Credit fees, Obligations under Secured Hedge Agreements and Cash Management Obligations) payable to the Revolving Lenders and the Issuing Banks (including Attorney Costs payable under Section 11.04 and amounts payable under Article III) ratably among them in proportion to the amounts described in this clause Third payable to them;

Fourth, to payment of that portion of the Obligations constituting accrued and unpaid Letter of Credit fees and interest on the Revolving Loans and Letter of Credit Usage, ratably among the Revolving Lenders and the Issuing Banks in proportion to the respective amounts described in this clause Fourth held by them;

Fifth, (a) to payment of that portion of the Obligations constituting unpaid principal of the Revolving Loans, the Letter of Credit Usage and the Obligations under Secured Hedge Agreements with respect to which (x) the Hedge Bank is a Revolving Lender or an Affiliate thereof and (y) such Secured Hedge Agreement is intended to hedge exposure under the Facility, and Cash Management Obligations with respect to which the Cash Management Bank is a Revolving Lender or an Affiliate thereof and (b) to Cash Collateralize Letters of Credit (to the extent not otherwise Cash Collateralized pursuant to the terms of this Agreement) (in an amount equal to 105% of the maximum face amount of all outstanding Letters of Credit) and to further permanently reduce the Commitments by the amount of such Cash Collateralization, ratably among the Secured Parties in proportion to the respective amounts described in this clause Fifth held by them; *provided* that (i) any such amounts applied pursuant to the foregoing subclause (b) shall be paid to the Administrative Agent for the ratable account of the Issuing Banks to Cash Collateralize such Letters of Credit, (ii) subject to Sections 2.04 and 2.19, amounts used to Cash Collateralize the aggregate undrawn amount of Letters of Credit pursuant to this clause Fifth shall be applied to satisfy drawings under such Letters of Credit as they occur and (iii) upon the expiration of any Letter of Credit, the *pro rata* share of Cash Collateral attributable to such expired Letter of Credit shall be applied by the Administrative Agent in accordance with the priority of payments set forth in this Section 9.03; *provided, further*, that Excluded Swap Obligations with respect to any Guarantor shall not be paid with amounts received from such Guarantor or its assets, but appropriate adjustments shall be made with respect to payments from other Loan Parties to preserve the allocation to Obligations otherwise set forth above in this Section;

Sixth, to the payment of all other Obligations that are due and payable to the Revolving Lenders on such date, ratably based upon the respective aggregate amounts of all such Obligations owing to the Revolving Lenders on such date;

Seventh, to payment of that portion of the Obligations under Secured Hedge Agreements with respect to which the Hedge Bank is a Revolving Lender or an Affiliate thereof but such Secured Hedge Agreement does not hedge exposure under the Facility, in proportion to the respective amounts described in this clause Seventh held by them; *provided* that Excluded Swap Obligations with respect to any Guarantor shall not be paid with amounts received from such Guarantor or its assets, but appropriate adjustments shall be made with respect to payments from other Loan Parties to preserve the allocation to Obligations otherwise set forth above in this Section;

Eighth, to payment of that portion of the Obligations under Secured Hedge Agreements with respect to which the Hedge Bank is not a Revolving Lender or an Affiliate thereof and Cash Management Obligations with respect to which the Cash Management Bank is not a Revolving Lender or an Affiliate thereof, ratably among the Secured Parties in proportion to the respective amounts described in this clause Eighth held by them; *provided* that Excluded Swap Obligations with respect to any Guarantor shall not be paid with amounts received from such Guarantor or its assets, but appropriate adjustments shall be made with respect to payments from other Loan Parties to preserve the allocation to Obligations otherwise set forth above in this Section;

Ninth, to the payment of all other Obligations that are due and payable to the Administrative Agent and the other Secured Parties on such date, ratably based upon the respective aggregate amounts of all such Obligations owing to the Administrative Agent and other Secured Parties on such date;

Last, the balance, if any, after all of the Obligations have been paid in full, to the Borrower or as otherwise required by Law.

ARTICLE X
Administrative Agent and Other Agents

SECTION 10.01 Appointment and Authority of the Administrative Agent and Collateral Agent.

(a) Each Lender and each Issuing Bank hereby irrevocably appoints DNB to act on its behalf as the Administrative Agent hereunder and under the other Loan Documents and authorizes the Administrative Agent to take such actions on its behalf and to exercise such powers as are delegated to the Administrative Agent by the terms hereof or thereof, together with such actions and powers as are reasonably incidental thereto. The provisions of this Article X (other than Sections 10.09 and 10.11) are solely for the benefit of the Administrative Agent and the Lenders, and neither the Borrower nor any Loan Party shall have any rights as a third party beneficiary of any such provision. Each Issuing Bank shall act on behalf of the Revolving Lenders with respect to any Letters of Credit issued by it and the documents associated therewith, and each Issuing Bank shall have all of the benefits and immunities (i) provided to the Agents in this Article X with respect to any acts taken or omissions suffered by such Issuing Bank in connection with Letters of Credit issued by it or proposed to be issued by it and the Letter of Credit Documents pertaining to such Letters of Credit as fully as if the term “Agent” as used in this Article X and the definition of “Agent Related Person” included such Issuing Bank with respect to such acts or omissions, and (ii) as additionally provided herein with respect to each Issuing Bank.

(b) Each Lender and each Issuing Bank hereby irrevocably appoints Wilmington Trust, National Association to act on its behalf as the Collateral Agent hereunder and under the other Loan Documents and authorizes the Collateral Agent to take such actions on its behalf and to exercise such powers as are delegated to the Collateral Agent by the terms hereof or thereof, together with such actions and powers as are reasonably incidental thereto. Wilmington Trust, National Association shall also irrevocably act as the “collateral agent” or “collateral trustee” under the Loan Documents, and each of the Lenders (including in its capacities as a potential Hedge Bank and/or Cash Management Bank) and each of the Issuing Banks hereby irrevocably appoints and authorizes the Collateral Agent to act as the agent of (and to hold any security interest created by the Collateral Documents for and on behalf of or in trust for) such Lender and such Issuing Bank for purposes of acquiring, holding and enforcing any and all Liens on Collateral granted by any of the Loan Parties to secure any of the Obligations, together with such powers and discretion as are reasonably incidental thereto. In this connection, the Collateral Agent, as “collateral agent” or “collateral trustee” (and any co-agents, sub-agents and attorneys-in-fact appointed by the Administrative Agent pursuant to Sections 10.05 and 10.12 for purposes of holding or enforcing any Lien on the Collateral (or any portion thereof) granted under the Collateral Documents, or for exercising any rights and remedies thereunder at the direction of the Administrative Agent), shall be entitled to the benefits of all provisions of this Article X (including Section 10.07, as though such co-agents, sub-agents and attorneys-in-fact were the “collateral agent” or “collateral trustee” under the Loan Documents) as if set forth in full herein with respect thereto. Without limiting the generality of the foregoing, the Lenders hereby expressly authorize the Collateral Agent to execute any and all documents (including releases) with respect to the Collateral and the rights of the Secured Parties with respect thereto (including the Existing Junior Lien Intercreditor Agreement), as contemplated by and in accordance with the provisions of this Agreement and the Collateral Documents and acknowledge and agree that any such action by any Agent shall bind the Lenders.

SECTION 10.02 Rights as a Lender. Any Lender that is also serving as an Agent (including as Administrative Agent) hereunder shall have the same rights and powers (and no additional duties or obligations) in its capacity as a Lender as any other Lender and may exercise the same as though it were not an Agent, and the term “Lender” or “Lenders” shall, unless otherwise expressly indicated or unless the context otherwise requires, include each Lender (if any) serving as an Agent hereunder in its individual capacity. Any Person serving as an Agent and its Affiliates may accept deposits from, lend money to, own securities of, act as the financial advisor or in any other advisory capacity for and generally engage in any kind of banking, trust or other business with the Borrower or any Subsidiary or other Affiliate thereof as if such Person were not an Agent hereunder and without any duty to account therefor to the Lenders, and may accept fees and other consideration from the Borrower for services in connection herewith and otherwise without having to account for the same to the Lenders. The Lenders acknowledge that, pursuant to such activities, any Agent or its Affiliates may receive information regarding any Loan Party or any of its Affiliates (including information that may be subject to confidentiality obligations in favor of such Loan Party or such Affiliate) and acknowledge that no Agent shall be under any obligation to provide such information to them.

SECTION 10.03 Exculpatory Provisions. None of the Administrative Agent, the Collateral Agent, any of the other Agents, any of their respective Affiliates, nor any of the officers, partners, directors, employees or agents of the foregoing shall have any duties or obligations except those expressly set forth in the Loan Documents. Without limiting the generality of the foregoing or Section 10.11, an Agent or any of their respective officers, partners, directors, employees or agents:

(a) shall not be subject to any fiduciary or other implied duties, regardless of whether a Default has occurred and is continuing and without limiting the generality of the foregoing, the use of the term “agent” herein and in the other Loan Documents with reference to any Agent is not intended to connote any fiduciary or other implied (or express) obligations arising under any agency doctrine of any applicable Law and instead, such term is used merely as a matter of market custom, and is intended to create or reflect only an administrative relationship between independent contracting parties;

(b) shall not have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated hereby or by the other Loan Documents that such Agent is required to exercise as directed in writing by the Required Lenders (or such other number or percentage of the Lenders as shall be expressly provided for herein or in the other Loan Documents), *provided* that, notwithstanding any direction by the Required Lenders to the contrary, no Agent shall be required to take any action that, in its opinion or the opinion of its counsel, may expose such Agent to liability, risk its own funds or incur any financial liability or that is contrary to any Loan Document or applicable Law, including for the avoidance of doubt refraining from any action that, in its opinion or the opinion of its counsel, may be in violation of the automatic stay under any Debtor Relief Law or that may effect a forfeiture, modification or termination of property of a Defaulting Lender in violation of any Debtor Relief Law;

(c) shall not, except as expressly set forth herein and in the other Loan Documents, have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to the Borrower or any of their Affiliates that is communicated to or obtained by any Person serving as an Agent or any of its Affiliates in any capacity;

(d) shall have no responsibility or liability for any loss which may result from any investment or sale of investment made pursuant to this Agreement;

(e) shall have no obligation to file UCC financing statements or monitor security interests and the perfection thereof; and

(f) shall not be liable to the Lenders for any action taken or omitted to be taken under or in connection with any of the Loan Documents except to the extent caused by such Agent's gross negligence or willful misconduct, as determined by a final, non-appealable judgment of a court of competent jurisdiction.

The Agents shall not be liable for any action taken or not taken by it (i) with the consent or at the request of the Required Lenders (or such other number or percentage of the Lenders as shall be necessary, or as the Agent shall believe in good faith shall be necessary, under the circumstances as provided in Sections 9.02 and 11.01) or (ii) in the absence of its own gross negligence or willful misconduct as determined by a final, non-appealable judgment of a court of competent jurisdiction, in connection with its duties expressly set forth herein. The Agents shall be deemed not to have knowledge of any Default or Event of Default unless and until notice describing such Default or Event of Default is given to the Agents by the Borrower or the Required Lenders in writing. The permissive rights of the Agents set forth in this Agreement shall not be construed as a duty or obligation of the Agents.

No Agent-Related Person shall be responsible for or have any duty to ascertain or inquire into (i) any recital, statement, warranty or representation made in or in connection with any Loan Document, (ii) the contents of any certificate, report, statement or agreement or other document delivered hereunder or thereunder or in connection herewith or therewith or referred to or provided for in, or received by the Administrative Agent under or in connection with any Loan Document, (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth in any Loan Document or the occurrence of any Default, (iv) the validity, enforceability, effectiveness or genuineness of any Loan Document or any other agreement, instrument or document, or the creation, perfection or priority of any Lien purported to be created by the Collateral Documents, (v) the value or the sufficiency of any Collateral, or (vi) the satisfaction of any condition set forth in Article IV or elsewhere herein, other than to confirm receipt of items expressly required to be delivered to the Agents, or to inspect the properties, books or records of any Loan Party or any Affiliate thereof.

SECTION 10.04 Reliance by the Agents. The Agents shall be entitled to rely upon, and shall not incur any liability for relying upon, any notice, request, certificate, consent, statement, instrument, legal order, document or other writing (including any electronic message, Internet or intranet website posting or other distribution) believed by it to be genuine and to have been signed, sent or otherwise authenticated by the proper Person. Each Agent also may rely upon any statement made to it orally or by telephone and believed by it to have been made by the proper Person, and shall not incur any liability for relying thereon. In determining compliance with any condition hereunder to the making of a Loan or the issuance of a Letter of Credit that by its terms must be fulfilled to the satisfaction of a Lender or an Issuing Bank, each Agent may presume that such condition is satisfactory to such Lender or Issuing Bank unless the Agents shall have received notice to the contrary from such Lender or Issuing Bank prior to the making of such Loan or the issuance of such Letter of Credit. Each Agent may consult with legal counsel (who may be counsel for the Borrower), independent accountants and other experts selected by it, and shall not be liable for any action taken or not taken by it in accordance with the advice of any such counsel, accountants or experts.

Each Agent shall be fully justified in failing or refusing to take any action that is not required or explicitly approved by the Lenders under any Loan Document unless it shall first receive such advice or concurrence of the Required Lenders (or other requisite percentage of Lenders) as it deems appropriate and, if it so requests, it shall first be indemnified to its satisfaction by the Lenders against any and all liability and expense which may be incurred by it by reason of taking or continuing to take any such action. The Agents shall in all cases be fully protected in taking any action, or in refraining from taking any action, under any Loan Document in accordance with a request or consent of the Required Lenders (or such greater number of Lenders as may be expressly required hereby in any instance) and such request and any action taken or failure to act pursuant thereto shall be binding upon all the Lenders; *provided* that the Agents shall not be required to take any action that, in their opinion or in the opinion of their counsel, may expose such Agent to liability or that is contrary to any Loan Document or applicable Law. Notwithstanding the foregoing, the Administrative Agent and the Collateral Agent shall not act (or refrain from acting, as applicable) upon any direction from the Required Lenders (or other requisite percentage of Lenders) that would cause the Administrative Agent or the Collateral Agent to be in breach of any express term or provision of this Agreement. The Required Lenders agree not to instruct the Administrative Agent or Collateral Agent to take any action, or refrain from taking any action, that would, in each case, cause it to violate an express duty or obligation under this Agreement.

SECTION 10.05 Delegation of Duties. Each Agent may perform any and all of its duties and exercise its rights and powers hereunder or under any other Loan Documents by or through any one or more sub agents appointed by such Agent. Each Agent and any such sub agent may perform any and all of its duties and exercise its rights and powers by or through their respective Agent-Related Persons. The exculpatory provisions of this Article X shall apply to any such sub agent and to the Agent-Related Persons of the Agents and any such sub agent, and shall apply to their respective activities in connection with the syndication of the credit facilities provided for herein as well as activities as the Agents. Notwithstanding anything herein to the contrary, with respect to each sub agent appointed by an Agent, (i) such sub agent shall be a third party beneficiary under this Agreement with respect to all such rights, benefits and privileges (including exculpatory rights and rights to indemnification) and shall have all of the rights and benefits of a third party beneficiary, including an independent right of action to enforce such rights, benefits and privileges (including exculpatory rights and rights to indemnification) directly, without the consent or joinder of any other Person, against any or all of the Loan Parties and the Lenders, (ii) such rights, benefits and privileges (including exculpatory rights and rights to indemnification) shall not be modified or amended without the consent of such sub agent, and (iii) such sub agent shall only have obligations to the Agent that appointed it as sub agent and not to any Loan Party, Lender or any other Person and no Loan Party, Lender or any other Person shall have any rights, directly or indirectly, as a third party beneficiary or otherwise, against such sub agent. Each Agent shall not be responsible for the negligence or misconduct of any sub-agents except to the extent that a court of competent jurisdiction determines in a final and non-appealable judgment that such Agent acted with gross negligence or willful misconduct in the selection of such sub agents.

(a) Each Lender and each Issuing Bank acknowledges that no Agent-Related Person has made any representation or warranty to it, and that no act by any Agent hereafter taken, including any consent to and acceptance of any assignment or review of the affairs of any Loan Party or any Affiliate thereof, shall be deemed to constitute any representation or warranty by any Agent-Related Person to any Lender as to any matter, including whether Agent-Related Persons have disclosed material information in their possession. Each Lender and each Issuing Bank represents to each Agent that it has, independently and without reliance upon any Agent-Related Person and based on such documents and information as it has deemed appropriate, made its own appraisal of, and investigation into, the business, prospects, operations, property, financial and other condition and creditworthiness of the Loan Parties and their respective Subsidiaries, and all applicable bank or other regulatory Laws relating to the transactions contemplated hereby, and made its own decision to enter into this Agreement and to extend credit to the Borrower and the other Loan Parties hereunder. Each Lender and each Issuing Bank also represents that it will, independently and without reliance upon any Agent, any other Lender or any Agent-Related Person and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit analysis, appraisals and decisions in taking or not taking action under this Agreement and the other Loan Documents, and to make such investigations as it deems necessary to inform itself as to the business, prospects, operations, property, financial and other condition and creditworthiness of the Borrower and the other Loan Parties. Except for notices, reports and other documents expressly required to be furnished to the Lenders by any Agent herein, such Agent shall not have any duty or responsibility to provide any Lender with any credit or other information concerning the business, prospects, operations, property, financial and other condition or creditworthiness of any of the Loan Parties or any of their respective Affiliates which may come into the possession of any Agent-Related Person.

(b) Each Lender, by delivering its signature page to this Agreement or an Assignment and Assumption and funding its Revolving Loans on the Closing Date, shall be deemed to have acknowledged receipt of, and consented to and approved, each Loan Document and each other document required to be approved by any Agent, Required Lenders or Lenders, as applicable on the Closing Date.

(c) Each Lender acknowledges that certain Affiliates of the Loan Parties, including the Sponsors or entities controlled by the Sponsors, are Eligible Assignees hereunder and may purchase Loans and/or Commitments hereunder from the Lenders from time to time, subject to the restrictions set forth in this Agreement.

SECTION 10.07 Indemnification of Agents. Whether or not the transactions contemplated hereby are consummated, the Lenders shall indemnify upon demand each Agent, each Issuing Bank and each other Agent-Related Person (solely to the extent any such Agent-Related Person was performing services on behalf of any Agent or any Issuing Bank, as applicable) (to the extent not reimbursed by or on behalf of any Loan Party and without limiting the obligation of any Loan Party to do so), pro rata, and hold harmless the Administrative Agent, each Agent, each Issuing Bank and each other Agent-Related Person (solely to the extent any such Agent-Related Person was performing services on behalf of any Agent or each Issuing Bank, as applicable) from and against any and all Indemnified Liabilities incurred by it; *provided* that no Lender shall be liable for the payment to any Agent-Related Person of any portion of such Indemnified Liabilities resulting from such Agent-Related Person's own gross negligence or willful misconduct, as determined by a final, non-appealable judgment of a court of competent jurisdiction; *provided* that, to the extent each Issuing Bank is entitled to indemnification under this Section 10.07 solely in its capacity and role as an Issuing Bank, only the Revolving Lenders shall be required to indemnify the applicable Issuing Bank in accordance with this Section 10.07 (determined as of the time that the applicable payment is sought based on each Revolving Lender's Pro Rata Share thereof at such time); *provided, further*, that no action taken in accordance with the terms of a Loan Document or in accordance with the directions of the Required Lenders (or such other number or percentage of the Lenders as shall be required by the Loan Documents) shall be deemed to constitute gross negligence or willful misconduct for purposes of this Section 10.07. If any indemnity furnished to any Agent or any Issuing Bank for any purpose shall, in the opinion of such Agent or such Issuing Bank be insufficient or become impaired, such Agent or such Issuing Bank, as applicable, may call for additional indemnity and cease, or not commence, to do the acts indemnified against until such additional indemnity is furnished; *provided*, in no event shall this sentence require any Lender to indemnify any Agent or any Issuing Bank against any Indemnified Liabilities in excess of such Lender's pro rata share thereof; and *provided further*, this sentence shall not be deemed to require any Lender to indemnify any Agent or any Issuing Bank against any Indemnified Liabilities described in the first proviso in the immediately preceding sentence. In the case of any investigation, litigation or proceeding giving rise to any Indemnified Liabilities, this Section 10.07 applies whether any such investigation, litigation or proceeding is brought by any Lender or any other Person. Without limitation of the foregoing, each Lender shall reimburse each Agent or each Issuing Bank, as applicable, upon demand for its ratable share of any costs or out-of-pocket expenses (including Attorney Costs) incurred by such Agent or such Issuing Bank, as applicable, in connection with the preparation, execution, delivery, administration, modification, amendment or enforcement (whether through negotiations, legal proceedings or otherwise) of, or legal advice in respect of rights or responsibilities under, this Agreement, any other Loan Document, or any document contemplated by or referred to herein, to the extent that such Agent or such Issuing Bank, as applicable, is not reimbursed for such expenses by or on behalf of the Borrower; *provided* that such reimbursement by the Lenders shall not affect the Borrower's continuing reimbursement obligations with respect thereto; *provided, further*, that the failure of any Lender to indemnify or reimburse such Agent or such Issuing Bank, as applicable, shall not relieve any other Lender of its obligation in respect thereof. The undertaking in this Section 10.07 shall survive termination of the Aggregate Commitments, the payment of all other Obligations and the resignation of the Administrative Agent, Collateral Agent, other Agents or any Issuing Bank.

SECTION 10.08 No Other Duties; Other Agents; Lead Arrangers; Etc. The Lead Arrangers are each hereby appointed as Lead Arranger hereunder, and each Lender hereby authorizes such Lead Arrangers to act as Lead Arranger in accordance with the terms hereof and the other Loan Documents.

Each Agent hereby agrees to act in its capacity as such upon the express conditions contained herein and the other Loan Documents, as applicable. Anything herein to the contrary notwithstanding, none of the Lead Arranger or the other Agents listed on the cover page hereof (or any of their respective Affiliates) shall have any powers, duties or responsibilities under this Agreement or any of the other Loan Documents, except (x) in its capacity, as applicable, as the Administrative Agent, the Collateral Agent or a Lender hereunder and (y) as provided in Section 11.01(d) and the last sentence of Section 11.01, and such Persons shall have the benefit of this Article X. Without limiting the foregoing, none of the Lenders or other Persons so identified shall have or be deemed to have any agency or fiduciary or trust relationship with any Lender, the Borrower or any of their respective Subsidiaries. Each Lender acknowledges that it has not relied, and will not rely, on any of the Lenders or other Persons so identified in deciding to enter into this Agreement or in taking or not taking action hereunder. Any Agent may resign from such role at any time, with immediate effect, by giving prior written notice thereof to the Administrative Agent and Borrower.

SECTION 10.09 Resignation of Agent. The Agents may at any time give notice of its resignation to the Lenders and the Borrower. Upon receipt of any such notice of resignation, the Required Lenders shall have the right, subject to the consent of the Borrower (such consent not to be unreasonably withheld, conditioned or delayed), at all times other than during the existence of a Specified Event of Default, to appoint a successor, which shall be a Lender or a bank with an office in the United States, or an Affiliate of any such Lender or bank with an office in the United States. If no such successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within thirty (30) days after the retiring Agent gives notice of its resignation, then the retiring Agent may on behalf of the Lenders, appoint a successor Agent meeting the qualifications set forth above; *provided* that if the retiring Agent shall notify the Borrower and the Lenders that no qualifying Person has accepted such appointment, then such resignation shall nonetheless become effective in accordance with such notice and (a) the retiring Agent shall be discharged from its duties and obligations hereunder and under the other Loan Documents (except that in the case of any collateral security held by the Collateral Agent on behalf of the Lenders under any of the Loan Documents, the retiring Agent shall continue to hold such collateral security until such time as a successor of such Agent is appointed) and (b) except for any indemnity payments or other amounts owed to the retiring or retired Agents, all payments, communications and determinations provided to be made by, to or through the retiring Agent shall instead be made by or to each Lender directly, until such time as the Required Lenders appoint a successor Agent as provided for above in this Section. If neither the Required Lenders nor the retired Agent have appointed a successor Agent, the Required Lenders shall be deemed to have succeeded to and become vested with all the rights, powers, privileges and duties of the retiring Agent (subject to the proviso in the sentence above). Upon the acceptance of a successor's appointment as replacement Agent hereunder and upon the execution and filing or recording of such financing statements, or amendments thereto, and such amendments or supplements to the Vessel Mortgages, and such other instruments or notices, as may be necessary or desirable, or as the Required Lenders may request, in order to perfect or continue the perfection of the Liens granted or purported to be granted by the Collateral Documents, such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring (or retired) Agent (other than any rights to indemnity payments or other amounts owed to the retiring or retired Agent), and the retiring Agent shall be discharged from all of its duties and obligations hereunder or under the other Loan Documents (if not already discharged therefrom as provided above in this Section). The fees payable by the Borrower to a successor Agent shall be the same as those payable to its predecessor unless otherwise agreed between the Borrower and such successor. After the retiring Agent's resignation hereunder and under the other Loan Documents, the provisions of this Article X and Sections 11.04 and 11.05 shall continue in effect for the benefit of such retiring Agent, its sub-agents and their respective Agent-Related Persons in respect of any actions taken or omitted to be taken by any of them while the retiring Agent was acting as Agent.

SECTION 10.10 Administrative Agent May File Proofs of Claim; Credit Bidding. In case of the pendency of any proceeding under any Debtor Relief Law or any other judicial proceeding relative to any Loan Party, the Administrative Agent (irrespective of whether the principal of any Loan or in respect of Letter of Credit Obligations shall then be due and payable as herein expressed or by declaration or otherwise and irrespective of whether the Administrative Agent shall have made any demand on the Borrower) shall be entitled and empowered (but not obligated), by intervention in such proceeding or otherwise:

(a) to file a verified statement pursuant to rule 2019 of the Federal Rules of Bankruptcy Procedure that, in its sole opinion, complies with such rule's disclosure requirements for entities representing more than one creditor;

(b) to file and prove a claim for the whole amount of the principal and interest owing and unpaid in respect of the Loans, Letter of Credit Obligations and all other Obligations that are owing and unpaid and to file such other documents as may be necessary or advisable in order to have the claims of the Lenders, the Issuing Banks and the Administrative Agent (including any claim for the reasonable compensation, expenses, disbursements and advances of the Lenders, the Issuing Banks and the Administrative Agent and their respective agents and counsel and all other amounts due the Lenders, the Issuing Banks and the Administrative Agent under Sections 2.11 and 11.04) allowed in such judicial proceeding; and

(c) to collect and receive any monies or other property payable or deliverable on any such claims and to distribute the same;

and any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Lender and each Issuing Bank to make such payments to the Administrative Agent and, in the event that the Administrative Agent shall consent to the making of such payments directly to the Lenders and the Issuing Banks, to pay to the Administrative Agent any amount due for the reasonable compensation, expenses, disbursements and advances of the Agents and their respective agents and counsel, and any other amounts due the Administrative Agent under Sections 2.11 and 11.04. To the extent that the payment of any such compensation, expenses, disbursements and advances of the Administrative Agent, its agents and counsel, and any other amounts due the Administrative Agent under Sections 2.11 and 11.04 out of the estate in any such proceeding, shall be denied for any reason, payment of the same shall be secured by a Lien on, and shall be paid out of, any and all distributions, dividends, money, securities and other properties that the Lenders or the Issuing Banks may be entitled to receive in such proceeding whether in liquidation or under any plan of reorganization or arrangement or otherwise.

Nothing contained herein shall be deemed to authorize the Administrative Agent to authorize or consent to or accept or adopt on behalf of any Lender or any Issuing Bank any plan of reorganization, arrangement, adjustment or composition affecting the Obligations or the rights of any Lender or any Issuing Bank or to authorize the Administrative Agent to vote in respect of the claim of any Lender or any Issuing Bank in any such proceeding.

The Secured Parties hereby irrevocably authorize the Administrative Agent, at the direction of the Required Lenders, to credit bid all or any portion of the Obligations (including accepting some or all of the Collateral in satisfaction of some or all of the Secured Obligations (as defined in the applicable Collateral Agreement) pursuant to a deed in lieu of foreclosure or otherwise) and in such manner purchase (either directly or through one or more acquisition vehicles) all or any portion of the Collateral (i) at any sale thereof conducted under the provisions of the U.S. Bankruptcy Code, including under Sections 363, 1123 or 1129 of the U.S. Bankruptcy Code, or any similar Laws in any other jurisdictions to which a Loan Party is subject, (ii) at any other sale or foreclosure or acceptance of collateral in lieu of debt conducted by (or with the consent or at the direction of) the Administrative Agent (whether by judicial action or otherwise) in accordance with any applicable Law. In connection with any such credit bid and purchase, the Obligations owed to the Secured Parties shall be entitled to be, and shall be, credit bid on a ratable basis (with Obligations with respect to contingent or unliquidated claims receiving contingent interests in the acquired assets on a ratable basis that would vest upon the liquidation of such claims in an amount proportional to the liquidated portion of the contingent claim amount used in allocating the contingent interests) in the asset or assets so purchased (or in the Equity Interests or debt instruments of the acquisition vehicle or vehicles that are used to consummate such purchase). In connection with any such bid (A) the Administrative Agent shall be authorized to form one or more acquisition vehicles to make a bid, (B) to adopt documents providing for the governance of the acquisition vehicle or vehicles (provided that any actions by the Administrative Agent with respect to such acquisition vehicle or vehicles, including any disposition of the assets or Equity Interests thereof, shall be governed, directly or indirectly, by the vote of the Required Lenders, irrespective of the termination of this Agreement and without giving effect to the limitations on actions by the Required Lenders contained in clauses (a) through (g) of Section 11.01 of this Agreement), (C) the Administrative Agent shall be authorized to assign the relevant Obligations to any such acquisition vehicle pro rata by the Lenders, as a result of which each of the Lenders shall be deemed to have received a pro rata portion of any Equity Interests and/or debt instruments issued by such an acquisition vehicle on account of the assignment of the Obligations to be credit bid, all without the need for any Secured Party or acquisition vehicle to take any further action and (D) to the extent that Obligations that are assigned to an acquisition vehicle are not used to acquire Collateral for any reason (as a result of another bid being higher or better, because the amount of Obligations assigned to the acquisition vehicle exceeds the amount of debt credit bid by the acquisition vehicle or otherwise), such Obligations shall automatically be reassigned to the Lenders pro rata and the Equity Interests and/or debt instruments issued by any acquisition vehicle on account of the Obligations that had been assigned to the acquisition vehicle shall automatically be cancelled, without the need for any Secured Party or any acquisition vehicle to take any further action.

(a) Each Agent, each Lender (including in its capacities as a potential Cash Management Bank and a potential Hedge Bank), each Issuing Bank, and each other Secured Party irrevocably authorizes the Administrative Agent and Collateral Agent to be the agent for and representative of the Lenders with respect to the Guaranty, the Collateral and the Collateral Documents and agrees that, notwithstanding anything to the contrary in any Loan Document:

(i) Liens on any property granted to or held by an Agent or in favor of any Secured Party under any Loan Document will be automatically and immediately released, and each Secured Party irrevocably authorizes and directs the Agents to enter into, and each agrees that it will enter into, the necessary or advisable documents requested by the Borrower and associated therewith, upon the occurrence of any of the following events (each, a “**Lien Release Event**”),

(A) the payment in full in cash of all the Obligations (other than (1) Cash Management Obligations, Swap Obligations and Contingent Obligations in respect of which no claim has been made and (2) obligations in respect of Letters of Credit that have been backstopped or cash collateralized on terms satisfactory to the applicable Issuing Bank);

(B) a transfer of the property subject to such Lien as part of, or in connection with, a transaction that is permitted by the terms of the Loan Documents to any Person that is not a Loan Party;

(C) with respect to property owned by any Guarantor or with respect to which any Guarantor has rights, the release of such Guarantor from its obligations under its Guaranty or hereunder, as applicable, pursuant to clause (iii) below;

(D) the approval, authorization or ratification of the release of such Lien by the Required Lenders, or such percentage as may be required pursuant to Section 11.01;

(E) such property becoming an Excluded Asset, Excluded Vessel (including, for the avoidance of doubt, pursuant to any Permitted Reflagging Transaction), Excluded Equity Interest or an asset owned by an Excluded Subsidiary or with respect to which an Excluded Subsidiary has rights;

(F) as to the assets (other than Vessel Collateral) owned by such Excluded Subsidiary (or with respect to which an Excluded Subsidiary has rights), upon any Person becoming an Excluded Subsidiary, in each case other than any Guarantor or Shipowner;

(G) ~~any such property becoming subject to a Securitization Financing to the extent required by the terms of such Securitization Financing~~[reserved]; and/or

(H) with respect to Vessel Collateral, such Vessel Collateral becoming subject to a reflagging permitted hereunder;

(ii) ~~upon the request of the Borrower (such request, the “Release/Subordination Event”) it will release or subordinate any Lien on any property granted to or held by the Administrative Agent or the Collateral Agent under any Loan Document to the holder of any Lien on such property that is permitted by Sections 7.01(d) and 7.01(n);~~[reserved];

(iii) upon the request of the Borrower (such request, the “Permitted Consent Event”), each Secured Party irrevocably authorizes and directs the Agents to enter into, and each Secured Party and the Agents agrees that the Agents will enter into, the necessary or advisable documents requested by the Borrower in connection with a transaction that is permitted by the terms of the Loan Documents; provided, however, the Agents shall not be required to enter into any documents to release any Collateral or subordinate any Lien on any Collateral except as expressly set forth herein;

(iv) a Guarantor will be automatically and immediately released from its obligations under the Guaranty upon (A) such Guarantor ceasing to be a Subsidiary of the Borrower, (B) such Guarantor becoming an Immaterial Subsidiary, or (C) such Guarantor becoming an Excluded Subsidiary as a result of a transaction permitted hereunder; *provided* that if such Guarantor becomes an Excluded Subsidiary solely as a result of such Guarantor becoming an Excluded Subsidiary of the type described in clause (a) of the definition thereof, such release shall only be permitted if, at the time such Guarantor becomes such an Excluded Subsidiary, (i) no Default or Event of Default has occurred and is continuing or would result therefrom and (ii) such Guarantor so becomes such an Excluded Subsidiary as a result of a joint venture or other strategic transaction permitted hereunder that was not entered into for the primary purpose of releasing the Guaranty of such Guarantor (as determined by the Borrower in good faith) (clauses (A)-(C)), each a “Guaranty Release Event”), and each Secured Party irrevocably authorizes and directs the Agents to enter into, and each Agent agrees it will enter into, the necessary and advisable documents requested by the Borrower to (1) release (or acknowledge the release of) such Guarantor from its obligations under the Guaranty and (2) release (or acknowledge the release of) any Liens granted by such Subsidiary or Liens on the Equity Interests of such Subsidiary;

(v) the Administrative Agent and the Collateral Agent will exclusively exercise the rights and remedies under the Loan Documents, and neither the Lenders nor any other Secured Party will exercise such rights and remedies (other than the Required Lenders through the Administrative Agent); *provided* that the foregoing shall not preclude any Lender from exercising any right of set-off in accordance with the provisions of Section 11.09 or enforcing compliance with the provisions set forth in Section 11.01(b) or from exercising rights and remedies (other than the enforcement of Collateral) with respect to any payment default after the occurrence of the Maturity Date with respect to any Loans made by it or filing proofs of claim or appearing and filing pleadings on its own behalf during the pendency of a proceeding relative to any Loan Party under the U.S. Bankruptcy Code or any other Debtor Relief Law; and

(vi) the Administrative Agent and Collateral Agent shall, and the Lenders and other Secured Parties irrevocably authorize and instruct the Administrative Agent and Collateral Agent to, from time to time on and after the Closing Date, without any further consent of any Lender, Issuing Bank, counterparty to any Cash Management Obligation or Swap Obligation or other Secured Party, enter into any Intercreditor Agreement or other intercreditor agreement with the collateral agent, collateral trustee or other representative of the holders of Indebtedness that is secured by a Lien on Collateral that is expressly permitted under this Agreement.

Each Agent, each Lender and each other Secured Party agrees that it will promptly take such action and execute any such documents as may be reasonably requested by the Borrower (such actions and such execution, the “**Release Actions**”), at the Borrower’s sole cost and expense, in connection with a Lien Release ~~Event, Release/Subordination~~ Event, Permitted Consent Event or Guaranty Release Event and that such actions are not discretionary. Without limitation, the Release Actions may include, as applicable, (a) executing (if required) and delivering to the Loan Parties (or any designee of the Loan Parties) any such lien releases, mortgage releases, discharges of security interests, pledges and guarantees and other similar discharge or release documents, as are reasonably requested by a Loan Party in connection with the release, as of record, of the Liens (and all notices of security interests and Liens previously filed) the subject of a Lien Release Event or ~~Release/Subordination Event~~ or the release of any applicable Guarantee in connection with a Guaranty Release Event and (b) delivering to the Loan Parties (or any designee of the Loan Parties) all instruments evidencing pledged debt and all equity certificates and any other collateral previously delivered in physical form by the Loan Parties to a Secured Party.

In connection with any Lien Release ~~Event, Release/Subordination~~ Event, Permitted Consent Event, Guaranty Release Event or Release Action, each of the Collateral Agent and the Administrative Agent shall be entitled to rely and shall rely exclusively on an officer’s certificate of the Borrower (the “**Release Certificate**”), confirming that (a) such Lien Release ~~Event, Release/Subordination~~ Event, Permitted Consent Event or a Guaranty Release Event, as applicable, has occurred or will upon consummation of one or more identified transactions (an “**Identified Transaction**”) occur, (b) the conditions to any such Lien Release Event, ~~Release/Subordination Event~~, Permitted Consent Event or Guaranty Release Event have occurred or will occur upon consummation of an Identified Transaction, and (c) that any such Identified Transaction is permitted by (or not prohibited by) the Loan Documents. The Collateral Agent and the Administrative Agent will be fully exculpated from any liability and shall be fully protected and shall not have any liability whatsoever to any Secured Party as a result of such reliance or the consummation of any Release Action. A Release Certificate may be delivered in advance of the consummation of any applicable Identified Transaction.

Each Lender and each Secured Party irrevocably authorizes and irrevocably directs the Collateral Agent and the Administrative Agent to take the Release Actions and consents to reliance on the Release Certificate. The Secured Parties agree not to give any Agent any instruction or direction inconsistent with the provisions of this Section 10.11. Neither the Administrative Agent nor the Collateral Agent shall be responsible for, or have a duty to ascertain or inquire into, any statement in a Release Certificate, the compliance of any Identified Transaction with the terms of a Loan Document, any representation or warranty regarding the existence, value or collectability of the Collateral, the existence, priority or perfection of the Collateral Agent's Lien thereon, or contained in any certificate prepared or delivered by any Loan Party in connection with the Collateral or compliance with the terms set forth above or in a Loan Document, nor shall the Administrative Agent or Collateral Agent be responsible or liable to the Lenders for any failure to monitor or maintain any portion of the Collateral.

(b) Anything contained in any of the Loan Documents to the contrary notwithstanding, each Agent, each Lender and each Secured Party hereby agree that:

(i) no Lender or other Secured Party shall have any right individually to realize upon any of the Collateral or to enforce the Guaranty or any other Loan Document, it being understood and agreed that all powers, rights and remedies hereunder and under any of the Loan Documents may be exercised solely by the Administrative Agent or the Collateral Agent, as applicable, for the benefit of the Lenders in accordance with the terms hereof and thereof, and all powers, rights and remedies under the Collateral Documents may be exercised solely by the Collateral Agent for the benefit of the Lenders in accordance with the terms thereof;

(ii) in the event of a foreclosure or similar enforcement action by the Collateral Agent on any of the Collateral pursuant to a public or private sale or other disposition (including, without limitation, pursuant to Section 363(k), Section 1129(b)(2)(a)(ii) or otherwise of the U.S. Bankruptcy Code), only the Collateral Agent (except with respect to a "credit bid" pursuant to Section 363(k), Section 1129(b)(2)(a)(ii) or otherwise of the U.S. Bankruptcy Code) may be the purchaser or licensor of any or all of such Collateral at any such sale or other disposition, and the Collateral Agent, as agent for and representative of Lenders (but not any Lender or Lenders in its or their respective individual capacities), shall be entitled, upon instructions from the Required Lenders, for the purpose of bidding and making settlement or payment of the purchase price for all or any portion of the Collateral sold at any such sale or disposition, to use and apply any of the Obligations as a credit on account of the purchase price for any collateral payable by the Collateral Agent at such sale or other disposition;

(iii) no provision of any Loan Documents shall require the creation, perfection or maintenance of pledges of or security interests or hypothecs in, or the obtaining of title insurance or abstracts with respect to, any Excluded Assets and any other particular assets, if and for so long as, in the reasonable judgment of the Administrative Agent (as so directed to the Collateral Agent), the cost of creating, perfecting or maintaining such pledges or security interests or hypothecs in such other particular assets or obtaining title insurance or abstracts in respect of such other particular assets is excessive in view of the Fair Market Value of such assets or the practical benefit to the Lenders afforded thereby; and

(iv) the Administrative Agent (as so directed to the Collateral Agent) may grant extensions of time for the creation or perfection of security interests or hypothecs in or the obtaining of title insurance and surveys with respect to particular assets (including extensions beyond the Closing Date for the creation or perfection of security interests in the assets of the Loan Parties on such date) where it reasonably determines, in consultation with the Borrower, that creation or perfection cannot be accomplished without undue effort or expense by the time or times at which it would otherwise be required by this Agreement or the Collateral Documents.

SECTION 10.12 Appointment of Supplemental Administrative Agents.

(a) It is the purpose of this Agreement and the other Loan Documents that there shall be no violation of any Law of any jurisdiction denying or restricting the right of banking corporations or associations to transact business as agent or trustee in such jurisdiction. It is recognized that in case of litigation under this Agreement or any of the other Loan Documents, and in particular in case of the enforcement of any of the Loan Documents, or in case the Administrative Agent deems that by reason of any present or future Law of any jurisdiction it may not exercise any of the rights, powers or remedies granted herein or in any of the other Loan Documents or take any other action which may be desirable or necessary in connection therewith, the Administrative Agent is hereby authorized to appoint an additional individual or institution selected by the Administrative Agent in its sole discretion as a separate trustee, co-trustee, administrative agent, collateral agent, collateral trustee, administrative sub-agent or administrative co-agent (any such additional individual or institution being referred to herein individually, as a “**Supplemental Administrative Agent**” and, collectively, as “**Supplemental Administrative Agents**”).

(b) In the event that the Administrative Agent appoints a Supplemental Administrative Agent with respect to any Collateral, (i) each and every right, power, privilege or duty expressed or intended by this Agreement or any of the other Loan Documents to be exercised by or vested in or conveyed to the Administrative Agent with respect to such Collateral shall be exercisable by and vest in such Supplemental Administrative Agent to the extent, and only to the extent, necessary to enable such Supplemental Administrative Agent to exercise such rights, powers and privileges with respect to such Collateral and to perform such duties with respect to such Collateral, and every covenant and obligation contained in the Loan Documents and necessary to the exercise or performance thereof by such Supplemental Administrative Agent shall run to and be enforceable by either the Administrative Agent or such Supplemental Administrative Agent, and (ii) the provisions of this Article X and of Sections 11.04 and 11.05 that refer to the Administrative Agent shall inure to the benefit of such Supplemental Administrative Agent and all references therein to the Administrative Agent shall be deemed to be references to the Administrative Agent and/or such Supplemental Administrative Agent, as the context may require.

(c) Should any instrument in writing from any Loan Party be required by any Supplemental Administrative Agent so appointed by the Administrative Agent for more fully and certainly vesting in and confirming to him or it such rights, powers, privileges and duties, the Borrower shall, or shall cause such Loan Party to, execute, acknowledge and deliver any and all such instruments promptly upon request by the Administrative Agent. In case any Supplemental Administrative Agent, or a successor thereto, shall die, become incapable of acting, resign or be removed, all the rights, powers, privileges and duties of such Supplemental Administrative Agent, to the extent permitted by Law, shall vest in and be exercised by the Administrative Agent until the appointment of a new Supplemental Administrative Agent.

SECTION 10.13 Intercreditor Agreements. Notwithstanding anything to the contrary set forth in any Loan Document, to the extent the Administrative Agent enters into a Junior Lien Intercreditor Agreement (including, for the avoidance of doubt, pursuant to a joinder to the Existing Junior Lien Intercreditor Agreement), an Equal Priority Intercreditor Agreement or any other Intercreditor Agreement in accordance with the terms hereof, this Agreement will be subject to the terms and provisions of such Intercreditor Agreements, as applicable. In the event of any inconsistency between the provisions of this Agreement or any other Loan Document and the Junior Lien Intercreditor Agreement or any other Intercreditor Agreement, the provisions of the Junior Lien Intercreditor Agreement or such other Intercreditor Agreement govern and control. The Lenders acknowledge and agree that each Agent is authorized to, and each Agent agrees that, with respect to any secured Indebtedness, upon request by the Borrower, it shall, enter into a Junior Lien Intercreditor Agreement or an Equal Priority Intercreditor Agreement, as applicable, or any other Intercreditor Agreement with the Collateral Agent or other Debt Representative of the holders of such Indebtedness unless such Indebtedness and any related Liens (including the priority of such Liens) are not permitted by Sections 7.01 and 7.03, respectively, of this Agreement. The Lenders hereby authorize and instruct the Administrative Agent to (a) enter into any such Junior Lien Intercreditor Agreement, Equal Priority Intercreditor Agreement or any such other Intercreditor Agreement, (b) bind the Lenders on the terms set forth in such Junior Lien Intercreditor Agreement, Equal Priority Intercreditor Agreement or any such other Intercreditor Agreement and (c) perform and observe its obligations under such Junior Lien Intercreditor Agreement, Equal Priority Intercreditor Agreement or any such other Intercreditor Agreement. The Agents and each Secured Party agree that the Agents shall be entitled to rely and shall rely exclusively on an officer's certificate of the Borrower in determining whether it is permitted to enter into an Intercreditor Agreement pursuant to this Section. Each Secured Party covenants and agrees not to give the Collateral Agent or Administrative Agent any instruction that is not consistent with the provisions of this Section 10.13.

SECTION 10.14 Cash Management Agreements and Hedge Agreements. Except as otherwise expressly set forth herein or in any Guaranty or any Collateral Document, no Cash Management Bank or Hedge Bank that obtains the benefits of Section 9.03, any Guaranty or any Collateral by virtue of the provisions hereof or of any Guaranty or any Collateral Document shall have any right to notice of any action or to consent to, direct or object to any action hereunder or under any other Loan Document or otherwise in respect of the Collateral or any Guaranty (including the release or impairment of any Collateral or Guaranty) other than in its capacity as a Lender and, in such case, only to the extent expressly provided in the Loan Documents. Notwithstanding any other provision of this Article X to the contrary, the Administrative Agent shall not be required to verify the payment of, or that other satisfactory arrangements have been made with respect to, Cash Management Obligations or Obligations arising under Secured Hedge Agreements unless the Administrative Agent has received written notice of such Cash Management Obligations or such Obligations arising under Secured Hedge Agreements, together with such supporting documentation as the Administrative Agent may request, from the applicable Cash Management Bank or Hedge Bank, as the case may be.

SECTION 10.15 Withholding Taxes. To the extent required by any applicable Law, the Administrative Agent may withhold from any payment to any Lender an amount equivalent to any applicable withholding Tax. If any Governmental Authority asserts a claim that the Administrative Agent did not properly withhold Tax from amounts paid to or for the account of any Lender because the appropriate form was not delivered or was not properly executed or because such Lender failed to notify the Administrative Agent of a change in circumstance which rendered the exemption from, or reduction of, withholding tax ineffective or for any other reason, or if the Administrative Agent reasonably determines that a payment was made to a Lender pursuant to this Agreement without deduction of applicable withholding Tax from such payment, such Lender shall indemnify the Administrative Agent fully for all amounts paid, directly or indirectly, by the Administrative Agent as Tax or otherwise, including any penalties or interest and together with all expenses (including legal expenses, allocated internal costs and out-of-pocket expenses) incurred.

SECTION 10.16 Certain ERISA Matters.

(a) Each Lender (1) represents and warrants, as of the date such Person became a Lender party hereto, to, and (2) covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of the Administrative Agent and each other Lead Arranger and their respective Affiliates and not, for the avoidance of doubt, to or for the benefit of any of the Loan Parties, that at least one of the following is and will be true:

(i) such Lender is not using “plan assets” (within the meaning of Section 3(42) of ERISA or otherwise for purposes of Title I of ERISA or Section 4975 of the Code) of one or more Benefit Plans in connection with the Loans, the Letters of Credit, the Commitments or this Agreement;

(ii) the prohibited transaction exemption set forth in one or more PTEs, such as PTE 84-14 (a class exemption for certain transactions determined by independent qualified professional asset managers), PTE 95-60 (a class exemption for certain transactions involving insurance company general accounts), PTE 90-1 (a class exemption for certain transactions involving insurance company pooled separate accounts), PTE 91-38 (a class exemption for certain transactions involving bank collective investment funds) or PTE 96-23 (a class exemption for certain transactions determined by in-house asset managers), is applicable so as to exempt from the prohibitions of Section 406 of ERISA and Section 4975 of the Code such Lender’s entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement;

(iii) (A) such Lender is an investment fund managed by a “Qualified Professional Asset Manager” (within the meaning of Part VI of PTE 84-14), (B) such Qualified Professional Asset Manager made the investment decision on behalf of such Lender to enter into, participate in, administer and perform the Loans, the Letters of Credit, the Commitments and this Agreement, (C) the entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement satisfies the requirements of sub-Sections (b) through (g) of Part I of PTE 84-14 and (D) the requirements of subsection (a) of Part I of PTE 84-14 are satisfied with respect to such Lender’s entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement; or

(iv) such other representation, warranty and covenant as may be agreed in writing between the Administrative Agent and each other Lead Arranger, on the one hand, in their sole discretion, and such Lender.

(b) In addition, unless either (1) sub-clause (i) in the immediately preceding clause (a) is true with respect to a Lender or (2) a Lender has provided another representation, warranty and covenant in accordance with sub-clause (iv) in the immediately preceding clause (a), such Lender further (1) represents and warrants, as of the date such Person became a Lender party hereto, to and (2) covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of, the Administrative Agent and each other Lead Arranger and their respective Affiliates, and not, for the avoidance of doubt, to or for the benefit of the Borrower or any other Loan Party, that none of the Administrative Agent or any other Lead Arranger or any of their respective Affiliates is a fiduciary with respect to the assets of such Lender involved in the Loans, the Letters of Credit, the Commitments and this Agreement (including in connection with the reservation or exercise of any rights by the Administrative Agent under this Agreement, any Loan Document or any documents related hereto or thereto).

SECTION 10.17 Erroneous Payments.

(a) If the Administrative Agent notifies a Lender, Issuing Bank or Secured Party, or any Person who has received funds on behalf of a Lender, Issuing Bank or Secured Party (any such Lender, Issuing Bank, Secured Party or other recipient, a “**Payment Recipient**”) that the Administrative Agent has determined in its sole discretion (whether or not after receipt of any notice under immediately succeeding clause (b)) that any funds received by such Payment Recipient from the Administrative Agent or any of its Affiliates were erroneously transmitted to, or otherwise erroneously or mistakenly received by, such Payment Recipient (whether or not known to such Lender, Issuing Bank, Secured Party or other Payment Recipient on its behalf) (any such funds, whether received as a payment, prepayment or repayment of principal, interest, fees, distribution or otherwise, individually and collectively, an “**Erroneous Payment**”) and demands the return of such Erroneous Payment (or a portion thereof), such Erroneous Payment shall at all times remain the property of the Administrative Agent and shall be segregated by the Payment Recipient and held in trust for the benefit of the Administrative Agent, and such Lender, Issuing Bank or Secured Party shall (or, with respect to any Payment Recipient who received such funds on its behalf, shall cause such Payment Recipient to) promptly, but in no event later than two Business Days thereafter, return to the Administrative Agent the amount of any such Erroneous Payment (or portion thereof) as to which such a demand was made, in same day funds (in the currency so received), together with interest thereon in respect of each day from and including the date such Erroneous Payment (or portion thereof) was received by such Payment Recipient to the date such amount is repaid to the Administrative Agent in same day funds at the Overnight Rate. A notice of the Administrative Agent to any Payment Recipient under this clause (a) shall be conclusive, absent manifest error.

(b) Without limiting immediately preceding clause (a), each Lender, Issuing Bank or Secured Party, or any Person who has received funds on behalf of a Lender, Issuing Bank or Secured Party, hereby further agrees that if it receives a payment, prepayment or repayment (whether received as a payment, prepayment or repayment of principal, interest, fees, distribution or otherwise) from the Administrative Agent (or any of its Affiliates) (x) that is in a different amount than, or on a different date from, that specified in a notice of payment, prepayment or repayment sent by the Administrative Agent (or any of its Affiliates) with respect to such payment, prepayment or repayment, (y) that was not preceded or accompanied by a notice of payment, prepayment or repayment sent by the Administrative Agent (or any of its Affiliates), or (z) that such Lender, Issuing Bank or Secured Party, or other such recipient, otherwise becomes aware was transmitted, or received, in error or by mistake (in whole or in part) in each case:

(i) (A) in the case of immediately preceding clauses (x) or (y), an error shall be presumed to have been made (absent written confirmation from the Administrative Agent to the contrary) or (B) an error has been made (in the case of immediately preceding clause (z)), in each case, with respect to such payment, prepayment or repayment; and

(ii) such Lender, Issuing Bank or Secured Party shall (and shall cause any other recipient that receives funds on its respective behalf to) promptly (and, in all events, within one Business Day of its knowledge of such error) notify the Administrative Agent of its receipt of such payment, prepayment or repayment, the details thereof (in reasonable detail) and that it is so notifying the Administrative Agent pursuant to this Section 10.17(b).

(c) Each Lender, Issuing Bank or Secured Party hereby authorizes the Administrative Agent to set off, net and apply any and all amounts at any time owing to such Lender, Issuing Bank or Secured Party under any Loan Document against any amount due to the Administrative Agent under immediately preceding clause (a) or under the indemnification provisions of this Agreement.

(d) In the event that an Erroneous Payment (or portion thereof) is not recovered by the Administrative Agent for any reason, after demand therefor by the Administrative Agent in accordance with immediately preceding clause (a), from any Lender or Issuing Bank that has received such Erroneous Payment (or portion thereof) (and/or from any Payment Recipient who received such Erroneous Payment (or portion thereof) on its respective behalf) (such unrecovered amount, an “**Erroneous Payment Return Deficiency**”), upon the Administrative Agent’s notice to such Lender or Issuing Bank at any time, (i) such Lender or Issuing Bank shall be deemed to have assigned its Loans (but not its Commitments) of the relevant Class with respect to which such Erroneous Payment was made (the “**Erroneous Payment Impacted Class**”) in an amount equal to the Erroneous Payment Return Deficiency (or such lesser amount as the Administrative Agent may specify) (such assignment of the Loans (but not Commitments) of the Erroneous Payment Impacted Class, the “**Erroneous Payment Deficiency Assignment**”) at par plus any accrued and unpaid interest (with the assignment fee to be waived by the Administrative Agent in such instance), and is hereby (together with the Borrower) deemed to execute and deliver an Assignment and Assumption (or, to the extent applicable, an agreement incorporating an Assignment and Assumption by reference pursuant to the Platform as to which the Administrative Agent and such parties are participants) with respect to such Erroneous Payment Deficiency Assignment, and such Lender or Issuing Bank shall deliver any Revolving Loan Notes evidencing such Loans to the Borrower or the Administrative Agent, (ii) the Administrative Agent as the assignee Lender shall be deemed to acquire the Erroneous Payment Deficiency Assignment, (iii) upon such deemed acquisition, the Administrative Agent as the assignee Lender shall become a Lender or Issuing Bank, as applicable, hereunder with respect to such Erroneous Payment Deficiency Assignment and the assigning Lender or assigning Issuing Bank shall cease to be a Lender or Issuing Bank, as applicable, hereunder with respect to such Erroneous Payment Deficiency Assignment, excluding, for the avoidance of doubt, its obligations under the indemnification provisions of this Agreement and its applicable Commitments which shall survive as to such assigning Lender or assigning Issuing Bank and (iv) the Administrative Agent may reflect in the Register its ownership interest in the Loans subject to the Erroneous Payment Deficiency Assignment. The Administrative Agent may, in its discretion, sell any Loans acquired pursuant to an Erroneous Payment Deficiency Assignment and upon receipt of the proceeds of such sale, the Erroneous Payment Return Deficiency owing by the applicable Lender or Issuing Bank shall be reduced by the net proceeds of the sale of such Loan (or portion thereof), and the Administrative Agent shall retain all other rights, remedies and claims against such Lender or Issuing Bank (and/or against any recipient that receives funds on its respective behalf). For the avoidance of doubt, no Erroneous Payment Deficiency Assignment will reduce the Commitments of any Lender or Issuing Bank and such Commitments shall remain available in accordance with the terms of this Agreement. In addition, each party hereto agrees that, except to the extent that the Administrative Agent has sold a Loan (or portion thereof) acquired pursuant to an Erroneous Payment Deficiency Assignment, and irrespective of whether the Administrative Agent may be equitably subrogated, the Administrative Agent shall be contractually subrogated to all the rights and interests of the applicable Lender, Issuing Bank or Secured Party under the Loan Documents with respect to each Erroneous Payment Return Deficiency (the “**Erroneous Payment Subrogation Rights**”).

(e) The parties hereto agree that an Erroneous Payment shall not pay, prepay, repay, discharge or otherwise satisfy any Obligations owed by the Borrower or any other Loan Party, except, in each case, to the extent such Erroneous Payment is, and solely with respect to the amount of such Erroneous Payment that is, comprised of funds received by the Administrative Agent from the Borrower or any other Loan Party for the purpose of making such Erroneous Payment.

(f) To the extent permitted by applicable law, no Payment Recipient shall assert any right or claim to an Erroneous Payment, and hereby waives, and is deemed to waive, any claim, counterclaim, defense or right of set-off or recoupment with respect to any demand, claim or counterclaim by the Administrative Agent for the return of any Erroneous Payment received, including without limitation waiver of any defense based on “discharge for value” or any similar doctrine

(g) Each party’s obligations, agreements and waivers under this Section 10.17 shall survive the resignation or replacement of the Administrative Agent, any transfer of rights or obligations by, or the replacement of, a Lender or Issuing Bank, the termination of the Commitments and/or the repayment, satisfaction or discharge of all Obligations (or any portion thereof) under any Loan Document.

ARTICLE XI

Miscellaneous

SECTION 11.01 Amendments, Waivers, Etc.

(a) General Rule. Except as otherwise set forth in this Agreement, no amendment or waiver of any provision of this Agreement or any other Loan Document, and no consent to any departure by the Borrower or any other Loan Party therefrom, shall be effective unless in writing signed by the Required Lenders and the Borrower or the applicable Loan Party, as the case may be, and acknowledged by the Administrative Agent and each such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given. Any amendment or waiver of this Agreement or any other Loan Document that affects the Collateral Agent’s rights, protections, immunities, indemnities, duties or obligations, shall not be effective unless consented to by the Collateral Agent.

(b) Specific Lender Approvals. Notwithstanding the provisions of Section 11.01(a), no such amendment, waiver or consent shall:

(i) extend or increase the Commitment of any Lender, increase the Total Utilization of Commitments (or otherwise waive any excess of Total Utilization of Commitments above the Commitments then in effect) or extend the final expiration date of any Letter of Credit beyond the Letter of Credit Expiration Date without the written consent of each Lender directly and adversely affected thereby, it being understood that a waiver of any condition precedent set forth in Section 4.03 or the waiver of any Default, mandatory prepayment or mandatory reduction of the Commitments shall not constitute an extension or increase of any Commitment of any Lender;

(ii) postpone any date scheduled for, or reduce the amount of, any payment of principal or interest with respect to any Loan or Letter of Credit or with respect to any fees payable under Section 2.11(b) without the written consent of each Lender directly and adversely affected thereby, it being understood that a waiver of any mandatory prepayment set forth in Section 2.07(b) (other than Section 2.07(b)(i)) or the waiver of any Default (other than a Default under Section 9.01(a)) shall not constitute a postponement of any date scheduled for, or a reduction in the amount of, any payment of interest or any payment of fees;

(iii) reduce the principal of, or the rate of interest specified herein on, any Loan or Letter of Credit or any fees or other amounts payable hereunder or under any other Loan Document (except interest due at the Default Rate or as expressly set forth in clause (h) of this Section 11.01) (including by modifying the “Grid” set forth in the definition of “Applicable Rate”) without the written consent of each Lender, it being understood that any change to the definitions of Total Net Leverage Ratio or in the component definitions thereof shall not constitute a reduction in the rate of interest as long as the intent of such change is not to cause a reduced interest rate;

(iv) change any provision of this Section 11.01 or the definition of “Required Lenders” or “Pro Rata Share” or any other provision specifying the number of Lenders or portion of the Loans or Commitments required to take any action under the Loan Documents, without the written consent of each Lender;

(v) other than in connection with a transfer or other transaction permitted under the Loan Documents (including, for the avoidance of doubt, Permitted Reflagging Transactions), (i) release all or substantially all of the Collateral in any transaction or series of related transactions, without the written consent of each Lender or (ii) release any Vessel Collateral representing in the aggregate for all such released Vessel Collateral a Vessel Collateral Value Amount in excess of the greater of \$180,400,000 or 10% of the aggregate Vessel Collateral Value Amount as determined on or about the applicable release date or date of entry into a binding commitment to release (but, in any case, no earlier than thirty (30) days prior to the applicable release date or entry date, as applicable);

(vi) other than in connection with a transfer or other transaction permitted under the Loan Documents, release all or substantially all of the aggregate value of the Guaranty or all or substantially all of the Guarantors or the Borrower, without the written consent of each Lender;

(vii) modify Section 2.15 or 9.03 without the written consent of each Lender directly and adversely affected thereby;

(viii) modify Section 2.16(b), Section 4.01, Section 4.02 or Section 4.03 without the written consent of each Lender; or

(ix) prior to an Event of Default under Section 9.01(f), amend or modify any term or provision of any Loan Document to permit the issuance or incurrence of any Indebtedness for Borrowed Money (excluding Indebtedness that is expressly permitted by this Agreement as in effect on the Closing Date to be senior to the applicable Class of Obligations and/or to be secured by a Lien that is senior to the Lien securing such Class of Obligations) with respect to which (x) the Liens on the Collateral securing the Obligations of any Class would be subordinated or (y) all or any portion of the Obligations of any Class would be subordinated in right of payment (any such other Indebtedness to which such Liens securing any of the Obligations or such Obligations, as applicable, are subordinated, “**Senior Indebtedness**”), in each case without the written consent of each Lender of such Class directly and adversely affected thereby, unless each adversely affected Lender (A) has been offered a bona fide opportunity to fund or otherwise provide its pro rata share (based on the amount of Obligations that are adversely affected thereby held by each Lender) of the Senior Indebtedness on the same terms (other than bona fide backstop fees and reimbursement of counsel fees and other expenses in connection with the negotiation of the terms of such transaction; such fees and expenses, “**Ancillary Fees**”) as offered to all other providers (or their Affiliates) of the Senior Indebtedness, and (B) decides to participate in the Senior Indebtedness and receives its pro rata share of the fees and any other similar benefit (other than Ancillary Fees) of the Senior Indebtedness afforded to the providers of the Senior Indebtedness (or any of their Affiliates) in connection with providing the Senior Indebtedness; or

(x) modify any provision of this Agreement to permit the Borrower or Restricted Subsidiaries to incur Indebtedness for Borrowed Money that is senior in payment or Lien priority or pari passu in payment priority with the Obligations (excluding any Incremental Facility, which may for the avoidance of doubt be pari passu in payment priority with the Obligations), or otherwise subordinate the Obligations to any other Indebtedness for Borrowed Money, in each case, without the written consent of each Lender of such Class directly and adversely affected thereby.

(c) Other Specific Approvals. Notwithstanding the provisions of Section 11.01(a) or Section 11.01(b),

(i) no amendment, waiver or consent shall, unless in writing and signed by an Issuing Bank in addition to the Lenders required above, affect the rights or duties of, or any fees or other amounts payable to, such Issuing Bank under this Agreement, any Issuance Notice or any other Loan Document relating to any Letter of Credit issued or to be issued by it,

(ii) no amendment, waiver or consent shall, unless in writing and signed by the Administrative Agent in addition to the Lenders required above, affect the rights or duties of, or any fees or other amounts payable to, the Administrative Agent under this Agreement or any other Loan Document,

(iii) no amendment, waiver or consent shall, unless in writing and signed by the Collateral Agent in addition to the Lenders required above, affect the rights or duties of, or any fees or other amounts payable to, the Collateral Agent under this Agreement or any other Loan Document,

(iv) Section 11.07(g) may not be amended, waived or otherwise modified without the consent of each Granting Lender all or any part of whose Loans are being funded by an SPC at the time of such amendment, waiver or other modification, and

(v) ~~any amendments or modifications to the Loan Documents to reflect a Collateral Trust Agreement structure (including replacing references to the Collateral Agent with references to the Collateral Trustee and modifying the Collateral Documents so that such Collateral Documents secure all Indebtedness subject to the Collateral Trust Agreement) shall be effected by an amendment in writing signed by the Borrower, the applicable Loan Parties and the Administrative Agent (such consent to the amendment not to be unreasonably withheld, conditioned or delayed);~~[reserved].

(d) Intercreditor Agreements. No Lender or Issuing Bank consent is required to effect any amendment or supplement to the Intercreditor Agreements or any other intercreditor agreement that is, (i) for the purpose of adding the holders of Pari Passu Lien Debt, Junior Lien Debt, Incremental Equivalent Debt, Permitted Pari Passu Secured Refinancing Debt or Permitted Junior Secured Refinancing Debt (or a Debt Representative with respect to any Indebtedness with respect to which it is a representative or agent) as parties thereto, as expressly contemplated by the terms of such intercreditor agreement (it being understood that any such amendment or supplement may make such other changes to the applicable intercreditor agreement as, in the good faith determination of the Administrative Agent, are required to effectuate the foregoing), or (ii) expressly contemplated by the Intercreditor Agreements or any other intercreditor agreement expressly permitted to be entered into hereunder, *provided* that such amendment or supplement in either case shall not effectuate an amendment prohibited by Section 11.01(b)(ix) or (x) without the written consent of each directly and adversely effected Lender.

(e) [Reserved].

(f) [Reserved].

(g) [Reserved].

(h) Certain Amendments to Loan Documents. The Guaranty, the Collateral Documents and related documents executed by the Borrower and/or the Restricted Subsidiaries in connection with this Agreement and the other Loan Documents may be in a form reasonably determined by the Administrative Agent and may be, together with this Agreement, amended and waived with the consent of the Administrative Agent at the request of the Borrower without the need to obtain the consent of any other Lender if such amendment or waiver is delivered in order (i) to comply with local Law or advice of local counsel, (ii) to cure ambiguities, errors or defects (as reasonably determined by the Administrative Agent and the Borrower with such determination being conclusive and binding), (iii) to cause such Guaranty, Collateral Document or other document to be consistent with this Agreement and the other Loan Documents or (iv) for administrative clarity (as conclusively determined by the Administrative Agent and the Borrower in good faith).

(i) Defaulting Lenders, Disqualified Lenders and Net Short Lenders.

(i) Defaulting Lenders and Disqualified Lenders. No Defaulting Lender or Disqualified Lender shall have any right to approve or disapprove any amendment, waiver or consent hereunder (and any amendment, waiver or consent which by its terms requires the consent of all Lenders, the Required Lenders or each affected Lender may be effected with the consent of the applicable Lenders other than Defaulting Lenders or Disqualified Lender), except that (A) the Commitment of any Defaulting Lender or Disqualified Lender may not be increased or extended without the consent of such Defaulting Lender or such Disqualified Lender and (B) any waiver, amendment or modification requiring the consent of all Lenders or each affected Lender that by its terms affects any Defaulting Lender or Disqualified Lender (other than any Disqualified Lender described in clause (d) of the definition thereof) more adversely than other affected Lenders shall require the consent of such Defaulting Lender or Disqualified Lender, as applicable.

(ii) Net Short Lenders. Net Short Lenders shall have the right to approve or disapprove any amendment, waiver or consent only to the extent set forth in Section 11.28.

SECTION 11.02 Notices and Other Communications; Facsimile Copies.

(a) General. Except in the case of notices and other communications expressly permitted to be given by telephone (and except as provided in subsection (b) below), all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by e-mail as follows, and all notices and other communications expressly permitted hereunder to be given by telephone shall be made to the applicable telephone number, as follows:

(i) if to the Borrower, the Issuing Banks, the Collateral Agent or the Administrative Agent, to the address, electronic mail address or telephone number specified for such Person on Schedule 11.02; and

(ii) if to any other Lender, to the address, electronic mail addresses or telephone number specified in its Administrative Questionnaire.

Notices and other communications sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received; and notices deposited in the United States mail with postage prepaid and properly addressed shall be deemed to have been given within three Business Days of such deposit; *provided* that no notice to any Agent shall be effective until received by such Agent. Notices and other communications delivered through electronic communications to the extent provided in subsection (b) below shall be effective as provided in such subsection (b).

(b) Electronic Communication. Notices and other communications to any Agent, the Lenders and the Issuing Banks hereunder may be delivered or furnished by electronic communication (including e-mail and Internet or intranet websites, including the Platform) pursuant to procedures approved by the Administrative Agent, *provided* that the foregoing shall not apply to notices to any Agent, Lender or the Issuing Banks pursuant to Article II if such Person, as applicable, has notified the Administrative Agent that it is incapable of receiving notices under such Article by electronic communication. The Administrative Agent or the Borrower may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it, *provided* that approval of such procedures may be limited to particular notices or communications.

(c) Receipt. Unless the Administrative Agent otherwise prescribes, (i) notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgement), *provided* that if such notice or other communication is not sent during the normal business hours of the recipient, such notice or communication shall be deemed to have been sent at the opening of business on the next Business Day for the recipient, and (ii) notices or communications posted to an Internet or intranet website shall be deemed received upon the deemed receipt by the intended recipient at its e-mail address as described in the foregoing clause (i) of notification that such notice or communication is available and identifying the website address therefor.

(d) Risks of Electronic Communications. Each Loan Party understands that the distribution of materials through an electronic medium is not necessarily secure and that there are confidentiality and other risks associated with such distribution and agrees and assumes the risks associated with such electronic distribution, except to the extent caused by the willful misconduct or gross negligence of the Administrative Agent, any Lender or any Issuing Bank as determined by a final, non-appealable judgment of a court of competent jurisdiction.

(e) The Platform. THE PLATFORM IS PROVIDED "AS IS" AND "AS AVAILABLE." THE AGENT PARTIES (AS DEFINED BELOW) DO NOT WARRANT THE ACCURACY OR COMPLETENESS OF THE BORROWER MATERIALS OR THE ADEQUACY OF THE PLATFORM, AND EXPRESSLY DISCLAIM LIABILITY FOR ERRORS IN OR OMISSIONS FROM THE BORROWER MATERIALS OR IN THE PLATFORM. NO WARRANTY OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OF THIRD PARTY RIGHTS OR FREEDOM FROM VIRUSES OR OTHER CODE DEFECTS, IS MADE BY ANY AGENT PARTY IN CONNECTION WITH THE BORROWER MATERIALS OR THE PLATFORM. In no event shall the Administrative Agent or any of its Agent-Related Persons or any Lead Arranger (collectively, the "**Agent Parties**") have any liability to the Borrower, any Lender, any Issuing Bank or any other Person for losses, claims, damages, liabilities or expenses of any kind (whether in tort, contract or otherwise) arising out of the Borrower's or the Administrative Agent's transmission of Borrower Materials through the Internet, except to the extent that such losses, claims, damages, liabilities or expenses are determined by a court of competent jurisdiction by a final and non-appealable judgment to have resulted from the gross negligence or willful misconduct of such Agent Party; *provided, however*, that in no event shall any Agent Party have any liability to the Borrower, any Lender, any Issuing Bank or any other Person for indirect, special, incidental, consequential or punitive damages (as opposed to direct or actual damages). Each Loan Party, each Lender, each Issuing Bank and each Agent agrees that the Administrative Agent may, but shall not be obligated to, store any Borrower Materials on the Platform in accordance with the Administrative Agent's customary document retention procedures and policies.

(f) Change of Address. Each of the Borrower, the Administrative Agent and the Issuing Banks may change its address, electronic mail address or telephone number for notices and other communications hereunder by notice to the other parties hereto. Each other Lender may change its address, electronic mail address or telephone number for notices and other communications hereunder by notice to the Borrower, the Administrative Agent, the Collateral Agent and the Issuing Banks. In addition, each Lender agrees to notify the Administrative Agent from time to time to ensure that the Administrative Agent has on record (i) an effective address, contact name, telephone number and electronic mail address to which notices and other communications may be sent and (ii) accurate wire instructions for such Lender.

(g) Reliance by the Agents, the Issuing Banks and the Lenders. The Agents, the Issuing Banks and the Lenders shall be entitled to rely and act upon any notices (including Committed Loan Notices and Issuance Notices) purportedly given by or on behalf of the Borrower even if (i) such notices were not made in a manner specified herein, were incomplete or were not preceded or followed by any other form of notice specified herein, or (ii) the terms thereof, as understood by the recipient, varied from any confirmation thereof. All telephonic notices to and other telephonic communications with any Agent may be recorded by the Administrative Agent, and each of the parties hereto hereby consents to such recording. The Borrower shall indemnify the Agents, the Issuing Banks and the Lenders and each Agent-Related Person from all losses, costs, expenses and liabilities resulting from the reliance by such Person on each notice purportedly given by or on behalf of the Borrower in the absence of gross negligence or willful misconduct as determined in a final and non-appealable judgment by a court of competent jurisdiction.

(h) Private-Side Information Contacts. Each Public Lender agrees to cause at least one individual at or on behalf of such Public Lender to at all times have selected the "Private-Side Information" or similar designation on the content declaration screen of the Platform in order to enable such Public Lender or its delegate, in accordance with such Public Lender's compliance procedures and applicable Law, including United States federal and state securities Laws, to make reference to information that is not made available through the "Public-Side Information" portion of the Platform and that may contain Private-Side Information with respect to the Borrower, its Subsidiaries or their respective securities for purposes of United States federal or state securities laws. In the event that any Public Lender has determined for itself to not access any information disclosed through the Platform or otherwise, such Public Lender acknowledges that (i) other Lenders may have availed themselves of such information and (ii) neither the Borrower nor the Administrative Agent has (A) any responsibility for such Public Lender's decision to limit the scope of the information it has obtained in connection with this Agreement and the other Loan Documents and (B) any duty to disclose such information to such Public Lender or to use such information on behalf of such Public Lender, and shall not be liable for the failure to so disclose or use, such information.

SECTION 11.03 No Waiver; Cumulative Remedies. No forbearance, failure or delay by any Lender or any Agent to exercise, and no delay by any such Person in exercising, any right, remedy, power or privilege hereunder or under any other Loan Document shall impair such right, remedy, power or privilege or operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges herein provided, and provided under each other Loan Document, are cumulative and independent of any rights, remedies, powers and privileges provided by Law.

Notwithstanding anything to the contrary contained herein or in any other Loan Document, the authority to enforce rights and remedies hereunder and under the other Loan Documents against the Borrower shall be vested exclusively in, and all actions and proceedings at law in connection with such enforcement shall be instituted and maintained exclusively by, the Administrative Agent in accordance with Article X for the benefit of all the Lenders and the Issuing Banks; *provided* that the foregoing shall not prohibit (i) the Administrative Agent from exercising on its own behalf the rights and remedies that inure to its benefit (solely in its capacity as Administrative Agent) hereunder and under the other Loan Documents, (ii) any Issuing Bank from exercising on its own behalf the rights and remedies that inure to its benefit (solely in its capacity as an Issuing Bank) hereunder and under the other Loan Documents, (iii) any Lender from exercising setoff rights in accordance with Section 11.09 (subject to the terms of Section 2.15) or (iv) any Lender from filing proofs of claim or appearing and filing pleadings on its own behalf during the pendency of a proceeding relative to the Borrower under any Debtor Relief Law; *provided, further*, that if at any time there is no Person acting as Administrative Agent hereunder and under the other Loan Documents, then (A) the Required Lenders shall have the rights otherwise provided to the Administrative Agent pursuant to Article X and (B) in addition to the matters set forth in clauses (ii), (iii) and (iv) of the preceding proviso and subject to Section 2.15, any Lender may, with the consent of the Required Lenders, enforce any rights or remedies available to it and as authorized by the Required Lenders.

SECTION 11.04 Attorney Costs and Expenses. The Borrower agrees (a) to pay or reimburse the Administrative Agent, the Collateral Agent, the Lead Arranger, the Supplemental Administrative Agents, the Revolving Lenders and the Issuing Banks for all reasonable and documented in reasonable detail out-of-pocket expenses in connection with the preparation, execution, delivery and administration of this Agreement and the other Loan Documents and any amendment, waiver, consent or other modification of the provisions hereof and thereof (whether or not the transactions contemplated thereby are consummated) including all Attorney Costs, and (b) to pay or reimburse the Administrative Agent, the Collateral Agent, the Lead Arranger, the Supplemental Administrative Agents, the Issuing Banks and the Lenders for all out-of-pocket costs and expenses incurred in connection with the enforcement or protection of any rights or remedies under this Agreement or the other Loan Documents (including all such costs and expenses incurred during any legal proceeding, including any proceeding under any Debtor Relief Law, and including all Attorney Costs (and, if reasonably necessary, local counsel in any relevant material jurisdiction (which may be a single local counsel acting in multiple material jurisdictions) and, solely in the event of an actual or perceived conflict of interest between the Administrative Agent, the Collateral Agent, the Lead Arranger, the Supplemental Administrative Agents, the Issuing Banks and the Lenders, where the Person or Persons affected by such conflict of interest inform the Borrower in writing of such conflict of interest, one additional counsel in each relevant material jurisdiction to each affected Persons)). The agreements in this Section 11.04 shall survive the termination of the Aggregate Commitments and repayment of all other Obligations. All amounts due under this Section 11.04 shall be paid promptly following receipt by the Borrower of an invoice relating thereto setting forth such expenses in reasonable detail, and in any event within thirty (30) days of receipt of such invoice. If any Loan Party fails to pay when due any costs, expenses or other amounts payable by it hereunder or under any Loan Document, such amount may be paid on behalf of such Loan Party by the Administrative Agent in its sole discretion. Expenses shall be deemed to be documented in accordance with this Section 11.04 only if they provide the detail required to enable the Borrower, acting in good faith, to determine that such expenses relate to the activities with respect to which reimbursement is required hereunder. The Borrower and each other Loan Party hereby acknowledge that the Administrative Agent and/or any Lender may receive a benefit, including a discount, credit or other accommodation, from any of such counsel based on the fees such counsel may receive on account of their relationship with the Administrative Agent and/or such Lender, including fees paid pursuant to this Agreement or any other Loan Document.

SECTION 11.05 Indemnification by the Borrower. The Borrower shall indemnify and hold harmless the Administrative Agent, any Supplemental Administrative Agent, the Collateral Agent, the Issuing Banks, each Lender, each Lead Arranger, each Bookrunner and their respective Affiliates, directors, officers, directors, employees, agents, advisors, partners, shareholders, trustees, controlling persons, and other representatives (collectively, the “**Indemnitees**”) from and against any and all liabilities, obligations, losses, damages, penalties, claims, demands, actions, judgments, suits, costs, expenses and disbursements (including Attorney Costs) of any kind or nature whatsoever which may at any time be imposed on, incurred by or asserted against any such Indemnitee in any way relating to or arising out of or in connection with (but limited, in the case of legal fees and expenses, to the Attorney Costs for each Indemnitee and, if reasonably necessary, a single local counsel for each Indemnitee in each relevant jurisdiction that is material to the interest of such Indemnitees (which may be a single local counsel acting in multiple material jurisdictions), and solely in the case of an actual or perceived conflict of interest between Indemnitees (where the Indemnitee affected by such conflict of interest informs the Borrower in writing of such conflict of interest), one additional counsel in each relevant jurisdiction to each affected Indemnitee),

(a) the execution, delivery, enforcement, performance or administration of any Loan Document or any other agreement, letter or instrument delivered in connection with the transactions contemplated thereby or the consummation of the transactions contemplated thereby (including the reliance in good faith by any Indemnitee on any notice purportedly given by or on behalf of the Borrower or any Loan Party),

(b) the Transaction,

(c) any Commitment, Loan, Letter of Credit or the use or proposed use of the proceeds therefrom (including any refusal by any Issuing Bank to honor a demand for payment under a Letter of Credit if the documents presented in connection with such demand do not strictly comply with the terms of such Letter of Credit),

(d) any actual or alleged release of, or exposure to, any Hazardous Materials on or from any property currently or formerly owned or operated by the Borrower or any other Loan Party, or any Environmental Claim or Environmental Liability of the Borrower or any other Loan Party, or

(e) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory (including any investigation of, preparation for, or defense of any pending or threatened claim, investigation, litigation or proceeding) and regardless of whether any Indemnitee is a party thereto (all the foregoing, collectively, the “**Indemnified Liabilities**”);

provided that such indemnity shall not, as to any Indemnitee, be available to the extent that a court of competent jurisdiction determines in a final, non-appealable judgment that any such liabilities, obligations, losses, damages, penalties, claims, demands, actions, judgments, suits, costs, expenses or disbursements resulted from (i) the gross negligence or willful misconduct of such Indemnitee or of any Related Indemnified Person of such Indemnitee or (ii) any dispute solely among Indemnitees or of any Related Indemnified Person of such Indemnitee other than any claims against an Indemnitee in its capacity or in fulfilling its role as the Administrative Agent, the Collateral Agent, an Issuing Bank or a Lead Arranger (or other Agent role) under the Facility and other than any claims arising out of any act or omission of the Borrower or any of their Affiliates. To the extent that the undertakings to indemnify and hold harmless set forth in this Section 11.05 may be unenforceable in whole or in part because they are violative of any applicable law or public policy, the Borrower shall contribute the maximum portion that they are permitted to pay and satisfy under applicable law to the payment and satisfaction of all Indemnified Liabilities incurred by the Indemnitees or any of them. No Indemnitee shall be liable for any damages arising from the use by others of any information or other materials obtained through Syndtrak or other similar information transmission systems in connection with this Agreement, except to the extent resulting from the willful misconduct or gross negligence of such Indemnitee or any Related Indemnified Person (as determined by a final and non-appealable judgment of a court of competent jurisdiction), nor shall any Indemnitee or any Loan Party have any liability for any special, punitive, indirect or consequential damages relating to this Agreement or any other Loan Document or arising out of its activities in connection herewith or therewith (whether before or after the Closing Date) (other than, in the case of any Loan Party, in respect of any such damages incurred or paid by an Indemnitee to a third party). In the case of an investigation, litigation or other proceeding to which the indemnity in this Section 11.05 applies, such indemnity shall be effective whether or not such investigation, litigation or proceeding is brought by any Loan Party, its directors, stockholders or creditors or an Indemnitee or any other Person, whether or not any Indemnitee is otherwise a party thereto and whether or not any of the transactions contemplated hereunder or under any of the other Loan Documents is consummated. All amounts due under this Section 11.05 (after the determination of a court of competent jurisdiction, if required pursuant to the terms of this Section 11.05) shall be paid within ten (10) Business Days after written demand therefor. The agreements in this Section 11.05 shall survive the resignation of the Administrative Agent, the Collateral Agent or any Issuing Bank, replacement of any Lender, the termination of the Aggregate Commitments and the repayment, satisfaction or discharge of all the other Obligations. This Section 11.05 shall not apply to Taxes, except it shall apply to any Taxes that represent losses, claims, damages, etc. arising from a non-Tax claim.

SECTION 11.06 Marshaling; Payments Set Aside. None of the Administrative Agent, any Lender, the Collateral Agent or any Issuing Bank shall be under any obligation to marshal any assets in favor of the Loan Parties or any other Person or against or in payment of any or all of the Obligations. To the extent that any payment by or on behalf of the Borrower is made to any Agent, any Lender or any Issuing Bank (or to the Administrative Agent, on behalf of any Lender or any Issuing Bank), or any Agent or any Lender enforces any security interests or exercises its right of setoff, and such payments or the proceeds of such enforcement or setoff or any part thereof are subsequently invalidated, declared to be fraudulent or preferential, set aside and/or required (including pursuant to any settlement entered into by such Agent or such Lender in its discretion) to be repaid to a trustee, receiver or any other party, in connection with any proceeding under any Debtor Relief Law or otherwise, then (a) to the extent of such recovery, the obligation or part thereof originally intended to be satisfied and all Liens, rights and remedies therefor or related thereto, shall be revived and continued in full force and effect as if such payment or payments had not been made or such enforcement or setoff had not occurred and (b) each Lender and each Issuing Bank severally agrees to pay to the Administrative Agent upon demand its applicable share (without duplication) of any amount so recovered from or repaid by the Administrative Agent, *plus* interest thereon from the date of such demand to the date such payment is made at a rate *per annum* equal to the Federal Funds Rate from time to time in effect. The obligations of the Lenders under clause (b) of the preceding sentence shall survive the payment in full of the Obligations and the termination of this Agreement.

SECTION 11.07 Successors and Assigns.

(a) The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, except that none of the Borrower may, except as permitted by Section 7.04, assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of the Administrative Agent, the Collateral Agent and each Lender and no Lender may assign or otherwise transfer any of its rights or obligations hereunder except,

- (i) to an assignee in accordance with the provisions of subsection (b) of this Section,
- (ii) by way of participation in accordance with the provisions of subsection (d) of this Section,
- (iii) by way of pledge or assignment of a security interest subject to the restrictions of subsection (f) of this Section, or

(iv) to an SPC in accordance with the provisions of subsection (g) of this Section (and any other attempted assignment or transfer by any party hereto shall be null and void).

Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby, Participants to the extent provided in subsection (d) of this Section and, to the extent expressly contemplated hereby, the Agent-Related Persons of each of the Administrative Agent, the Collateral Agent, the Issuing Banks and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) Assignments by Lenders. Any Lender may at any time assign to one or more assignees all or a portion of its rights and obligations under this Agreement, including all or a portion of its Commitment and the Loans (including, for purposes of this Section 11.07(b), participations in Letters of Credit) at the time owing to it; *provided* that any such assignment shall be subject to the following conditions:

(i) Minimum Amounts.

(A) in the case of an assignment of the entire remaining amount of the assigning Lender's Commitment and Revolving Loans at the time held by it or in the case of an assignment to a Lender, an Affiliate of a Lender or an Approved Fund, no minimum amount need be assigned; and

(B) with respect to any assignment not described in subsection (b)(i)(A) of this Section, such assignment shall be in an aggregate amount of not less than \$5,000,000, unless each of the Administrative Agent, and so long as no Specified Event of Default has occurred and is continuing at the time of such assignment, the Borrower otherwise consent (such consent not to be unreasonably withheld or delayed).

(ii) Proportionate Amounts. Each partial assignment of Commitments and/or Revolving Loans shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement with respect to the Commitments and/or Revolving Loans being assigned, except that this clause (ii) shall not prohibit any Lender from assigning all or a portion of its rights and obligations among separate Facilities on a non-pro rata basis.

(iii) Required Consents. No consent shall be required for any assignment except to the extent required by Section 11.07(b)(i)(B) and the following:

(A) the consent of the Borrower upon not less than ten (10) Business Days' prior written notice from the assigning Lender to the Borrower of the proposed assignment, the amount of such assigning Lender's Commitment and Revolving Loans that will be so assigned and the Person that is proposed to receive such assignment (such consent not to be unreasonably withheld or delayed) shall be required unless (1) a Specified Event of Default has occurred and is continuing at the time of such assignment, (2) any other Event of Default has occurred and is continuing that has not been cured to the satisfaction of the Lenders or waived within thirty (30) days of occurrence; (3) such assignment is made to an existing Lender or an Affiliate of the assigning Lender, or (4) such assignment is made to an Pre-Approved Lender; *provided*, that if the Borrower does not reject such assignment or otherwise respond within such ten (10) Business Day period, the Borrower shall be deemed to have consented to such assignment;

(B) the consent of the Administrative Agent (such consent not to be unreasonably withheld or delayed, it being acknowledged that a failure of any new lender to clear the Administrative Agent's KYC process shall be deemed reasonable) shall be required if such assignment is to a Person that is not a Lender, an Affiliate of such Lender or an Approved Fund; and

(C) with respect to assignments of Revolving Loans and/or Commitments, each Issuing Bank (such consent not to be unreasonably withheld, conditioned or delayed).

(iv) Assignment and Assumption. The parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Assumption, together with a processing and recordation fee of \$3,500; *provided* that (A) the Administrative Agent may, in its sole discretion, elect to waive such processing and recordation fee in the case of any assignment and (B) no processing and recordation fee shall be payable in connection with an assignments by or to a Lead Arranger or its Affiliates. The Eligible Assignee, if it is not a Lender, shall deliver to the Administrative Agent an Administrative Questionnaire and any KYC documentation including any tax forms required under Sections 3.01(b), (c), (d) and (e), as applicable. Upon receipt of the processing and recordation fee and any written consent to assignment required by Section 11.07(b)(iii), the Administrative Agent shall promptly accept such Assignment and Assumption and record the information contained therein in the Register.

(v) No Assignments to Certain Persons. No such assignment shall be made,

(A) to the Borrower or any of the Subsidiaries of the Borrower,

(B) any of the Borrower's Affiliates,

(C) to any Defaulting Lender or any of its Subsidiaries, or any Person who, upon becoming a Lender hereunder, would constitute any of the foregoing persons described in this clause,

(D) to a natural person, or

(E) to any Person described in the proviso to the definition of "Eligible Assignee".

A Lender shall be entitled to rely conclusively on any Net Short Representation made (or deemed made) to it in any Assignment and Assumption and shall have no duty to inquire as to or investigate the accuracy of any Net Short Representation.

(vi) Defaulting Lenders Assignments. In connection with any assignment of rights and obligations of any Defaulting Lender hereunder, no such assignment shall be effective unless and until, in addition to the other conditions thereto set forth herein, the parties to the assignment shall make such additional payments to the Administrative Agent in an aggregate amount sufficient, upon distribution thereof as appropriate (which may be outright payment, purchases by the assignee of participations or sub-participations, or other compensating actions, including funding, with the consent of the Borrower and the Administrative Agent, the applicable Pro Rata Share of Loans previously requested but not funded by the Defaulting Lender, to each of which the applicable assignee and assignor hereby irrevocably consent), to (A) pay and satisfy in full all payment liabilities then owed by such Defaulting Lender to the Administrative Agent, the Issuing Banks and each other Lender hereunder (and interest accrued thereon), and (B) acquire (and fund as appropriate) its full Pro Rata Share of all Loans and participations in Letters of Credit. Notwithstanding the foregoing, in the event that any assignment of rights and obligations of any Defaulting Lender hereunder shall become effective under applicable Law without compliance with the provisions of this paragraph, then the assignee of such interest shall be deemed to be a Defaulting Lender for all purposes of this Agreement until such compliance occurs.

Subject to acceptance and recording thereof by the Administrative Agent pursuant to clause (c) of this Section 11.07, from and after the effective date specified in each Assignment and Assumption, the assignee thereunder shall be a party to this Agreement (except in the case of an assignment to or purchase by the Borrower or any of the Borrower's Subsidiaries) and, to the extent of the interest assigned by such Assignment and Assumption and as permitted by this Section 11.07, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto but shall continue to be entitled to the benefits of Sections 3.01, 3.04, 3.05, 11.04 and 11.05 with respect to facts and circumstances occurring prior to the effective date of such assignment); *provided* that anything contained in any of the Loan Documents to the contrary notwithstanding, each Issuing Bank shall continue to have all rights and obligations with respect to any Letters of Credit issued by it until the cancellation or expiration of such Letters of Credit and the reimbursement of any amounts drawn thereunder. Upon request, and the surrender by the assigning Lender of its applicable Revolving Loan Notes under this Agreement, the Borrower (at their expense) shall execute and deliver a Revolving Loan Note to the assignee Lender. Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this subsection shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with subsection (d) of this Section.

(c) Register. The Administrative Agent, acting solely for this purpose as a non-fiduciary agent of the Borrower (and such agency being solely for Tax purposes), shall maintain at one of the Administrative Agent's Offices a copy of each Assignment and Assumption delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Commitments of, and principal amounts and stated interest of the Loans and Letter of Credit Obligations (specifying the Reimbursement Obligations), Letter of Credit Borrowings and other amounts due under Section 2.04 owing to each Lender pursuant to the terms hereof from time to time (the "**Register**"). The entries in the Register shall be conclusive absent manifest error, and the Borrower, the Agents and the Lenders shall treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. The Register shall be available for inspection by the Borrower, the Collateral Agent or any Lender (but only, in the case of a Lender at the Administrative Agent's Office and with respect to any entry relating to such Lender's Commitments, Loans, Letter of Credit Obligations and other Obligations), at any reasonable time and from time to time upon reasonable prior written notice. This Section 11.07(c) and Section 2.13 shall be construed so that all Loans are at all times maintained in "registered form" within the meaning of Sections 163(f), 871(h)(2) and 881(c)(2) of the Code and any related Treasury regulations (or any other relevant or successor provisions of the Code or of such Treasury regulations).

(d) Participations. Any Lender may at any time, without the consent of, or notice to, the Borrower, the Administrative Agent, the Issuing Banks or any other Person sell participations to any Person (other than to (1) a natural person, (2) the Borrower or any of the Borrower's Affiliates or Subsidiaries, (3) any Disqualified Lender or (4) any Person described in the proviso to the definition of "Eligible Assignee") (each, a "**Participant**") in all or a portion of such Lender's rights and/or obligations under this Agreement (including all or a portion of its Commitment and/or the Loans (including such Lender's participations in Letters of Credit) owing to it); *provided* that (i) such Lender's obligations under this Agreement shall remain unchanged, (ii) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (iii) the Borrower, the Agents and the other Lenders shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement. Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and the other Loan Documents and to approve any amendment, modification or waiver of any provision of this Agreement or any other Loan Document; *provided* that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, waiver or other modification described in Section 11.01(b) (other than clause (iv) thereof) that directly and adversely affects such Participant. Subject to subsection (e) of this Section, the Borrower agrees that each Participant shall be entitled to the benefits of Sections 3.01 (subject to the requirements of Sections 3.01(b), (c), (d) and (e), as applicable (it being understood that the documentation required under such Sections shall be delivered to the participating Lender)), 3.04 and 3.05 (through the applicable Lender) to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to subsection (b) of this Section 11.07. To the extent permitted by applicable Law, each Participant also shall be entitled to the benefits of Section 11.09 as though it were a Lender; *provided* that such Participant agrees to be subject to Section 2.15 as though it were a Lender. To the extent that any participation is purported to be made to a Disqualified Lender (other than a Net Short Lender) or to any Person that was (at the time of such participation) a Net Short Lender on a pro forma basis for such participation, such transaction shall be subject to the applicable provisions of Section 11.28(a) (and the Borrower shall be entitled to seek specific performance in any applicable court of law or equity to enforce this sentence); *provided* that a Lender shall be entitled to rely conclusively on any Net Short Representation made (or deemed made) to it in any agreement or instrument documenting or otherwise evidencing such participation and shall have no duty to inquire as to or investigate the accuracy of any Net Short Representation therein or provided in connection with such participation.

(e) Limitations upon Participant Rights. A Participant shall not be entitled to receive any greater payment under Section 3.01, 3.04 or 3.05 than the applicable Lender would have been entitled to receive with respect to the participation sold to such Participant, unless the sale of the participation to such Participant is made with the Borrower's prior written consent, such consent not to be unreasonably withheld or delayed, or such entitlement to a greater payment results from a change in law that occurs after the Participant acquired the participation. Each Lender that sells a participation or has a loan funded by an SPC shall (acting solely for this purpose as a non-fiduciary agent of the Borrower) maintain a register complying with the requirements of Sections 163(f), 871(h) and 881(c)(2) of the Code and the Treasury regulations (or any other relevant or successor provisions of the Code or of such Treasury regulations) issued thereunder relating to the exemption from withholding for portfolio interest on which is entered the name and address of each Participant or SPC and the principal amounts (and stated interest) of each Participant's or SPC's interest in the Loans or other obligations under this Agreement (the "**Participant Register**"). A Lender shall not be obligated to disclose the Participant Register to any Person except to the extent such disclosure is necessary to establish that any Loan or other obligation is in registered form under Section 5f.103-1(c) or proposed Section 1.163-5(b) of the United States Treasury regulations (or any amended or successor version). The entries in the Participant Register shall be conclusive absent manifest error, and such Lender shall treat each person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary.

(f) Liens on Loans. Any Lender may, at any time without the consent of the Borrower or the Administrative Agent, pledge or assign a security interest in all or any portion of its rights under this Agreement (including under its Revolving Loan Notes, if any) to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank or any other central bank; *provided* that no such pledge or assignment shall release such Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

(g) Special Purpose Funding Vehicles. Notwithstanding anything to the contrary contained herein, any Lender (a “**Granting Lender**”) may grant to a special purpose funding vehicle identified as such in writing from time to time by the Granting Lender to the Administrative Agent and the Borrower (an “**SPC**”) the option to provide all or any part of any Loan that such Granting Lender would otherwise be obligated to make pursuant to this Agreement; *provided* that (i) nothing herein shall constitute a commitment by any SPC to fund any Loan, and (ii) if an SPC elects not to exercise such option or otherwise fails to make all or any part of such Loan, the Granting Lender shall be obligated to make such Loan pursuant to the terms hereof. Each party hereto hereby agrees that (A) neither the grant to any SPC nor the exercise by any SPC of such option shall increase the costs or expenses or otherwise increase or change the obligations of the Borrower under this Agreement (including their obligations under Sections 3.01, 3.04 and 3.05), (B) no SPC shall be liable for any indemnity or similar payment obligation under this Agreement for which a Lender would be liable, and (C) the Granting Lender shall for all purposes, including the approval of any amendment, waiver or other modification of any provision of any Loan Document, remain the lender of record hereunder. The making of a Loan by an SPC hereunder shall utilize the Commitment of the Granting Lender to the same extent, and as if, such Loan were made by such Granting Lender. In furtherance of the foregoing, each party hereto hereby agrees (which agreement shall survive the termination of this Agreement) that, prior to the date that is one year and one day after the payment in full of all outstanding commercial paper or other senior debt of any SPC, it will not institute against, or join any other Person in instituting against, such SPC any bankruptcy, reorganization, arrangement, insolvency, or liquidation proceeding under the laws of the United States or any State thereof. Notwithstanding anything to the contrary contained herein, any SPC may (1) with notice to, but without prior consent of the Borrower and the Administrative Agent and with the payment of a processing fee of \$3,500 (which processing fee may be waived by the Administrative Agent in its sole discretion), assign all or any portion of its right to receive payment with respect to any Loan to the Granting Lender and (2) disclose on a confidential basis any non-public information relating to its funding of Loans to any rating agency, commercial paper dealer or provider of any surety or Guarantee or credit or liquidity enhancement to such SPC.

(h) [Reserved].

(i) [Reserved].

(j) [Reserved].

(k) Resignation of Issuing Bank. Notwithstanding anything to the contrary contained herein, any Issuing Bank may, upon thirty (30) days’ notice to the Borrower and the Revolving Lenders, resign as an Issuing Bank; *provided* that on or prior to the expiration of such 30-day period with respect to such resignation, the relevant Issuing Bank shall have identified a successor Issuing Bank reasonably acceptable to the Borrower willing to accept its appointment as successor Issuing Bank hereunder. In the event of any such resignation of an Issuing Bank, the Borrower shall be entitled to appoint from among the Lenders willing to accept such appointment a successor Issuing Bank hereunder; *provided* that no failure by the Borrower to appoint any such successor shall affect the resignation of the relevant Issuing Bank, except as expressly provided above. If an Issuing Bank resigns as an Issuing Bank, it shall retain all the rights and obligations of an Issuing Bank hereunder with respect to all Letters of Credit outstanding as of the effective date of its resignation as an Issuing Bank and all Letter of Credit Obligations with respect thereto (including the right to require the Lenders to make Base Rate Loans or fund risk participations in Letters of Credit pursuant to Section 2.04(c)). Upon the appointment by the Borrower of a successor Issuing Bank hereunder (which successor shall in all cases be a Lender other than a Defaulting Lender), (i) such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring Issuing Bank, (ii) the retiring Issuing Bank shall be discharged from all of their respective duties and obligations hereunder or under the other Loan Documents, and (iii) the successor Issuing Bank shall issue letters of credit in substitution for the Letters of Credit, if any, outstanding at the time of such succession or make other arrangements satisfactory to the retiring Issuing Bank to effectively assume the obligations of the retiring Issuing Bank with respect to such Letters of Credit.

(l) [Reserved].

(m) [Reserved].

SECTION 11.08 Confidentiality. Each of the Administrative Agent, the Collateral Agent, the Lead Arranger, the Issuing Banks and the Lenders agrees to maintain the confidentiality of the Information in accordance with its customary procedures (as set forth below), except that Information may be disclosed,

(a) to its Affiliates and to its and its Affiliates' respective partners, directors, officers, employees, agents, trustees, advisors and representatives (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to keep such Information confidential and in no event shall such disclosure be made to any Disqualified Lender (other than a Net Short Lender (x) that provides a Net Short Representation at the time of such disclosure or (y) as to which the disclosing party does not have actual knowledge that such Person is a Net Short Lender) pursuant to this clause (a) but only to the extent that a list of such Disqualified Lenders is available to all Lenders upon request),

(b) to the extent requested by any regulatory authority purporting to have jurisdiction over it (including the Federal Reserve Bank or any other central bank or any self-regulatory authority, such as the National Association of Insurance Commissioners),

(c) to the extent required by applicable laws or regulations or by any subpoena or similar legal process, *provided* that the Administrative Agent, the Collateral Agent, such Lead Arranger or such Lender or Issuing Bank, as applicable, agrees that it will notify the Borrower as soon as practicable in the event of any such disclosure by such Person (other than at the request of a regulatory authority) unless such notification is prohibited by law, rule or regulation,

(d) to any other party hereto (it being understood that in no event shall such disclosure be made to any Disqualified Lender (other than a Net Short Lender (x) that provides a Net Short Representation at the time of such disclosure or (y) as to which the disclosing party does not have actual knowledge that such Person is a Net Short Lender) pursuant to this clause (d) but only to the extent the list of such Disqualified Lenders is available to all Lenders upon request),

(e) in connection with the exercise of any remedies hereunder or under any other Loan Document or any action or proceeding relating to this Agreement or any other Loan Document or the enforcement of rights hereunder or thereunder,

(f) subject to an agreement containing provisions at least as restrictive as those of this Section 11.08 (it being understood that in no event shall such disclosure be made to any Disqualified Lender (other than a Net Short Lender (x) that provides a Net Short Representation at the time of such disclosure or (y) as to which the disclosing party does not have actual knowledge that such Person is a Net Short Lender) pursuant to this clause (f), but only to the extent that a list of such Disqualified Lenders is available to all Lenders upon request), to (i) any *bona fide* assignee of or Participant in, or any prospective assignee of or Participant in, any of its rights or obligations under this Agreement or any Eligible Assignee invited to be an Additional Lender or (ii) any actual or prospective direct or indirect counterparty (or its advisors) to any swap or derivative transaction relating to the Borrower or any of their Subsidiaries or any of their respective obligations,

(g) with the prior written consent of the Borrower,

(h) to any rating agency when required by it (it being understood that, prior to any such disclosure, such rating agency shall undertake to preserve the confidentiality of any Information relating to the Loan Parties received by it from such Lender),

(i) to any credit insurance providers of the Lenders; *provided* that prior to the disclosure of any proprietary or non-public information relating to the Company, other than any Loan Document, in connection with this clause (i), the credit insurance provider shall enter into an agreement containing confidentiality obligations to the disclosing Lender on terms similar to this Agreement, or

(j) to the extent such Information (i) becomes publicly available other than as a result of a breach of this Section 11.08 or (ii) becomes available to the Administrative Agent, the Collateral Agent, any Lead Arranger, any Lender, any Issuing Bank or any of their respective Affiliates on a non-confidential basis from a source other than the Borrower or any Subsidiary thereof, and which source is not known by such Person to be subject to a confidentiality restriction in respect thereof in favor of the Borrower or any Affiliate of the Borrower.

In addition, each of the Administrative Agent, the Collateral Agent, the Lead Arranger, the Issuing Bank and the Lenders may disclose the existence of this Agreement and the information about this Agreement to the CUSIP Service Bureau or any similar agency in connection with the issuance and monitoring of CUSIP numbers with respect to the Loans, market data collectors, similar service providers to the lending industry, and service providers to the Administrative Agent, the Collateral Agent, the Lead Arranger, the Issuing Banks and the Lenders in connection with the administration and management of this Agreement and the other Loan Documents.

For purposes of this Section 11.08, “**Information**” means all information received from or on behalf of any Loan Party or any Subsidiary thereof relating to any Loan Party or any Subsidiary thereof or their respective businesses, other than any such information that is available to the Administrative Agent, the Collateral Agent or any Lender on a non-confidential basis prior to disclosure by any Loan Party or any Subsidiary thereof; it being understood that all information received from the Borrower or any Subsidiary after the date hereof shall be deemed confidential unless such information is clearly identified at the time of delivery as not being confidential. Any Person required to maintain the confidentiality of Information as provided in this Section 11.08 shall be considered to have complied with its obligation to do so in accordance with its customary procedures if such Person has exercised the same degree of care to maintain the confidentiality of such Information as such Person would accord to its own confidential information.

Each of the Administrative Agent, the Collateral Agent, the Lead Arranger and the Lenders acknowledges that (A) the Information may include Private-Side Information concerning the Borrower or a Subsidiary, as the case may be, (B) it has developed compliance procedures regarding the use of Private-Side Information and (C) it will handle such Private-Side Information in accordance with applicable Law, including United States federal and state securities laws.

Notwithstanding anything to the contrary therein, nothing in any Loan Document shall require the Borrower or any of its subsidiaries to provide information (i) that constitutes non-financial trade secrets or non-financial proprietary information, (ii) in respect of which disclosure is prohibited by applicable Law, (iii) that is subject to attorney client or similar privilege or constitutes attorney work product or (iv) the disclosure of which is restricted by binding agreements not entered into primarily for the purpose of qualifying for the exclusion in this clause (iv).

SECTION 11.09 Set-off. If an Event of Default shall have occurred and be continuing, each Lender and each Issuing Bank and each of their respective Affiliates is hereby authorized at any time and from time to time, without prior notice to the Administrative Agent, any Loan Party or to any other Person, any such notice being hereby expressly waived, to the fullest extent permitted by applicable law, to set off and apply any and all deposits (general or special, time or demand, provisional or final, in whatever currency) at any time held and other obligations (in whatever currency) at any time owing by such Lender or such Issuing Bank or any such Affiliate to or for the credit or the account of the Borrower or any other Loan Party against any and all of the obligations of such Borrower or such Loan Party now or hereafter existing under this Agreement or any other Loan Document to such Lender or such Issuing Bank, the Letters of Credit and participations therein, irrespective of whether or not (a) such Lender or such Issuing Bank shall have made any demand under this Agreement or any other Loan Document and (b) the principal of or the interest on the Loans or any amounts in respect of the Letters of Credit or any other amounts due hereunder shall have become due and payable pursuant to Article II and although such obligations of such Borrower or such Loan Party may be contingent or unmatured or are owed to a branch or office of such Lender or such Issuing Bank different from the branch or office holding such deposit or obligated on such indebtedness; *provided* that in the event that any Defaulting Lender shall exercise any such right of setoff, (i) all amounts so set off shall be paid over immediately to the Administrative Agent for further application in accordance with the provisions of Sections 2.15 and 2.19 and, pending such payment, shall be segregated by such Defaulting Lender from its other funds and deemed held in trust for the benefit of the Administrative Agent, the Issuing Banks, and the Lenders, and (ii) the Defaulting Lender shall provide promptly to the Administrative Agent a statement describing in reasonable detail the Obligations owing to such Defaulting Lender as to which it exercised such right of setoff. The rights of each Lender and each Issuing Bank and their respective Affiliates under this Section are in addition to other rights and remedies (including other rights of set-off) that such Lender or such Issuing Bank or Affiliates may have. Each Lender agrees to notify the Borrower and the Administrative Agent promptly after any such set-off and application, provided that the failure to give such notice shall not affect the validity of such set-off and application.

SECTION 11.10 Interest Rate Limitation. Notwithstanding anything to the contrary contained in any Loan Document, the interest paid or agreed to be paid under the Loan Documents with respect to any of the Obligations shall not exceed the maximum rate of non-usurious interest permitted by applicable Law (the “**Maximum Rate**”). If any Agent or any Lender shall receive interest in an amount that exceeds the Maximum Rate, the excess interest shall be applied to the principal of the Loans or, if it exceeds such unpaid principal, refunded to the Borrower. In determining whether the interest contracted for, charged, or received by an Agent or a Lender exceeds the Maximum Rate, such Person may, to the extent permitted by applicable Law, (a) characterize any payment that is not principal as an expense, fee, or premium rather than interest, (b) exclude voluntary prepayments and the effects thereof, and (c) amortize, prorate, allocate, and spread in equal or unequal parts the total amount of interest throughout the contemplated term of the Obligations hereunder. If the rate of interest under this Agreement at any time exceeds the Maximum Rate, the outstanding amount of the Loans made hereunder shall bear interest at the Maximum Rate until the total amount of interest due hereunder equals the amount of interest which would have been due hereunder if the stated rates of interest set forth in this Agreement had at all times been in effect. In addition, if when the Loans made hereunder are repaid in full the total interest due hereunder (taking into account the increase provided for above) is less than the total amount of interest which would have been due hereunder if the stated rates of interest set forth in this Agreement had at all times been in effect, then to the extent permitted by law, the Borrower shall pay to the Administrative Agent an amount equal to the difference between the amount of interest paid and the amount of interest which would have been paid if the Maximum Rate had at all times been in effect. Notwithstanding the foregoing, it is the intention of the Lenders and the Borrower to conform strictly to any applicable usury laws.

SECTION 11.11 Counterparts; Integration; Effectiveness.

This Agreement may be executed in counterparts (and by different parties hereto in different counterparts), each of which when so executed shall be deemed to be an original and all of which when taken together shall constitute one and the same instrument. Any signature to this Agreement may be delivered by facsimile, electronic mail (including pdf) or any electronic signature complying with the U.S. federal ESIGN Act of 2000 or the New York Electronic Signature and Records Act or other transmission method and any counterpart so delivered shall be deemed to have been duly and validly delivered and be valid and effective for all purposes to the fullest extent permitted by applicable Law. For the avoidance of doubt, the foregoing also applies to any amendment, extension or renewal of this Agreement. This Agreement and the other Loan Documents constitute the entire contract among the parties relating to the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof.

Each party hereto represents and warrants to the other parties hereto that it has the corporate capacity and authority to execute this Agreement through electronic means and there are no restrictions for doing so in such party's constitutive documents.

SECTION 11.12 Electronic Execution of Assignments and Certain Other Documents. The words "execution," "signed," "signature," and words of like import in this Agreement, any Assignment and Assumption, in or related to any document to be signed in connection with this Agreement and the transactions contemplated hereby or in any amendment or other modification hereof (including waivers and consents) shall be deemed to include electronic signatures or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, as the case may be, relating to the electronic execution of agreements; *provided* that notwithstanding anything contained herein to the contrary, the Administrative Agent is under no obligation to agree to accept electronic signatures in any form or any format unless expressly agreed to by the Administrative Agent pursuant to procedures approved by it.

SECTION 11.13 Survival. All representations and warranties made hereunder and in any other Loan Document or other document delivered pursuant hereto or thereto or in connection herewith or therewith shall survive the execution and delivery hereof and thereof. Such representations and warranties have been or will be relied upon by the Administrative Agent, each Issuing Bank and each Lender, regardless of any investigation made by the Administrative Agent, any Issuing Bank or any Lender or on their behalf and notwithstanding that the Administrative Agent, any Issuing Bank or any Lender may have had notice or knowledge of any Default at the time of any Borrowing or issuance of a Letter of Credit, and shall continue in full force and effect as long as any Loan or any other Obligation hereunder shall remain unpaid or unsatisfied or any Letter of Credit remain outstanding. Notwithstanding anything herein or implied by law to the contrary, the agreements of each Loan Party set forth in Sections 3.01, 3.04, 3.05, 11.04, 11.05 and 11.09 and the agreements of the Lenders set forth in Sections 2.15, 10.03 and 10.07 shall survive the satisfaction of the Termination Conditions, and the termination hereof.

SECTION 11.14 Severability. If any provision of this Agreement or the other Loan Documents is held to be illegal, invalid or unenforceable in any jurisdiction, (a) the legality, validity and enforceability of the remaining provisions or obligations, or of such provision or obligation in any other jurisdiction, of this Agreement and the other Loan Documents shall not be affected or impaired thereby and (b) the parties shall endeavor in good faith negotiations to replace the illegal, invalid or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the illegal, invalid or unenforceable provisions. The invalidity of a provision in a particular jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. Without limiting the foregoing provisions of this Section 11.14, if and to the extent that the enforceability of any provisions in this Agreement relating to Defaulting Lenders shall be limited by Debtor Relief Laws, as determined in good faith by the Administrative Agent or any Issuing Bank, as applicable, then such provisions shall be deemed to be in effect only to the extent not so limited.

(a) THIS AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER (INCLUDING ANY CLAIMS SOUNDING IN CONTRACT LAW OR TORT LAW ARISING OUT OF THE SUBJECT MATTER HEREOF AND ANY DETERMINATIONS WITH RESPECT TO POST-JUDGMENT INTEREST) AND EACH OTHER LOAN DOCUMENT SHALL BE GOVERNED BY, AND SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK.

(b) BY EXECUTING AND DELIVERING THIS AGREEMENT, EACH PARTY HERETO (AND BY ITS ACCEPTANCE OF ITS APPOINTMENT IN SUCH CAPACITY, EACH LEAD ARRANGER) IRREVOCABLY AND UNCONDITIONALLY SUBMITS, FOR ITSELF AND ITS PROPERTY, TO THE EXCLUSIVE JURISDICTION AND VENUE OF THE COURTS OF THE STATE OF NEW YORK SITTING IN NEW YORK CITY IN THE BOROUGH OF MANHATTAN AND OF ANY UNITED STATES FEDERAL COURT SITTING IN THE BOROUGH OF MANHATTAN, AND ANY APPELLATE COURT FROM ANY THEREOF, IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT (OTHER THAN WITH RESPECT TO ACTIONS BY ANY AGENT IN RESPECT OF RIGHTS UNDER ANY COLLATERAL DOCUMENT GOVERNED BY A LAW OTHER THAN THE LAWS OF THE STATE OF NEW YORK (INCLUDING ANY VESSEL MORTGAGE) OR WITH RESPECT TO ANY COLLATERAL SUBJECT THERETO), OR FOR RECOGNITION OR ENFORCEMENT OF ANY JUDGMENT, AND EACH OF THE PARTIES HERETO (AND BY ITS ACCEPTANCE OF ITS APPOINTMENT IN SUCH CAPACITY, EACH LEAD ARRANGER) IRREVOCABLY AND UNCONDITIONALLY AGREES THAT ALL CLAIMS IN RESPECT OF ANY SUCH ACTION OR PROCEEDING MAY BE HEARD AND DETERMINED IN SUCH NEW YORK STATE COURT OR, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, IN SUCH FEDERAL COURT. EACH OF THE PARTIES HERETO (AND BY ITS ACCEPTANCE OF ITS APPOINTMENT IN SUCH CAPACITY, EACH LEAD ARRANGER) AGREES THAT A FINAL JUDGMENT IN ANY SUCH ACTION OR PROCEEDING SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN OTHER JURISDICTIONS BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY LAW. EACH PARTY HERETO (AND BY ITS ACCEPTANCE OF ITS APPOINTMENT IN SUCH CAPACITY, EACH LEAD ARRANGER) AGREES THAT THE AGENTS AND LENDERS RETAIN THE RIGHT TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY LAW OR TO BRING PROCEEDINGS AGAINST ANY LOAN PARTY IN THE COURTS OF ANY OTHER JURISDICTION IN CONNECTION WITH THE EXERCISE OF ANY RIGHTS UNDER ANY COLLATERAL DOCUMENT OR THE ENFORCEMENT OF ANY JUDGMENT.

(c) EACH LOAN PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY OBJECTION THAT IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT IN ANY COURT REFERRED TO IN PARAGRAPH (b) OF THIS SECTION 11.15. EACH OF THE PARTIES HERETO (AND BY ITS ACCEPTANCE OF ITS APPOINTMENT IN SUCH CAPACITY, EACH LEAD ARRANGER) HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF SUCH ACTION OR PROCEEDING IN ANY SUCH COURT.

SECTION 11.16 WAIVER OF RIGHT TO TRIAL BY JURY. EACH PARTY HERETO (AND BY ITS ACCEPTANCE OF ITS APPOINTMENT IN SUCH CAPACITY, EACH LEAD ARRANGER) HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). THE SCOPE OF THIS WAIVER IS INTENDED TO BE ALL-ENCOMPASSING OF ANY AND ALL DISPUTES THAT MAY BE FILED IN ANY COURT AND THAT RELATE TO THE SUBJECT MATTER OF THIS TRANSACTION, INCLUDING CONTRACT CLAIMS, TORT CLAIMS, BREACH OF DUTY CLAIMS AND ALL OTHER COMMON LAW AND STATUTORY CLAIMS. EACH PARTY HERETO (AND BY ITS ACCEPTANCE OF ITS APPOINTMENT IN SUCH CAPACITY, EACH LEAD ARRANGER) (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PERSON HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 11.16, THAT EACH HAS ALREADY RELIED ON THIS WAIVER IN ENTERING INTO THIS AGREEMENT, AND THAT EACH WILL CONTINUE TO RELY ON THIS WAIVER IN ITS RELATED FUTURE DEALINGS. EACH PARTY HERETO (AND BY ITS ACCEPTANCE OF ITS APPOINTMENT IN SUCH CAPACITY, EACH LEAD ARRANGER) FURTHER WARRANTS AND REPRESENTS THAT IT HAS REVIEWED THIS WAIVER WITH ITS LEGAL COUNSEL AND THAT IT KNOWINGLY AND VOLUNTARILY WAIVES ITS JURY TRIAL RIGHTS FOLLOWING CONSULTATION WITH LEGAL COUNSEL. THIS WAIVER IS IRREVOCABLE, MEANING THAT IT MAY NOT BE MODIFIED EITHER ORALLY OR IN WRITING (OTHER THAN BY A MUTUAL WRITTEN WAIVER SPECIFICALLY REFERRING TO THIS SECTION 11.16 AND EXECUTED BY EACH OF THE PARTIES HERETO AND THE LEAD ARRANGER), AND THIS WAIVER SHALL APPLY TO ANY SUBSEQUENT AMENDMENTS, RENEWALS, SUPPLEMENTS OR MODIFICATIONS HERETO OR ANY OF THE OTHER LOAN DOCUMENTS OR TO ANY OTHER DOCUMENTS OR AGREEMENTS RELATING TO THE LOANS MADE HEREUNDER. IN THE EVENT OF LITIGATION, THIS AGREEMENT MAY BE FILED AS A WRITTEN CONSENT TO A TRIAL BY THE COURT.

SECTION 11.17 Limitation of Liability. The Loan Parties agree that no Indemnitee shall have any liability (whether in contract, tort or otherwise) to any Loan Party or any of their respective Subsidiaries or any of their respective equity holders or creditors for or in connection with the transactions contemplated hereby and in the other Loan Documents, except to the extent such liability is determined in a final, non-appealable judgment by a court of competent jurisdiction to have resulted from such Indemnitee's gross negligence or willful misconduct by such Indemnitee of its obligations under this Agreement. In no event, shall any party hereto, any Loan Party or any Indemnitee be liable on any theory of liability for any special, indirect, consequential or punitive damages (including any loss of profits, business or anticipated savings) (other than, in the case of the Borrower, in respect of any such damages incurred or paid by an Indemnitee to a third party).

SECTION 11.18 Use of Name, Logo, Etc. Each Loan Party consents to the publication in the ordinary course by the Administrative Agent or any Lead Arranger of customary advertising material relating to the financing transactions contemplated by this Agreement using such Loan Party's name, product photographs, logo or trademark; *provided* that any such trademarks or logos are used solely in a manner that is not intended to or reasonably likely to harm or disparage the Borrower or any of their Subsidiaries or the reputation or goodwill of any of them. Such consent shall remain effective until revoked by such Loan Party in writing to the Administrative Agent and such Lead Arranger, as applicable.

SECTION 11.19 USA PATRIOT Act Notice. Each Lender that is subject to the USA PATRIOT Act and the Agents (for itself and not on behalf of any Lender) hereby notifies each Loan Party that pursuant to the requirements of the USA PATRIOT Act, it is required to obtain, verify and record information that identifies each Loan Party, which information includes the name and address of each Loan Party and other information that will allow such Lender or the Agents, as applicable, to identify each Loan Party in accordance with the USA PATRIOT Act. Each Loan Party shall, promptly following a request by the Agents or any Lender, provide all documentation and other information that the Agents or such Lender requests in order to comply with its ongoing obligations under applicable "know your customer" and anti-money laundering rules and regulations, including the USA PATRIOT Act.

SECTION 11.20 Force Majeure. The Collateral Agent shall in no event be responsible or liable for any failure or delay in the performance of its obligations hereunder arising out of or caused by, directly or indirectly, forces beyond its control, including, without limitation, strikes, work stoppages, accidents, acts of war or terrorism, pandemics, epidemics, civil or military disturbances, nuclear or natural catastrophes or acts of God, and interruptions, loss or malfunctions of utilities, communications or computer (software and hardware) services or the unavailability of the Federal Reserve Bank wire or telex or other wire or communication facility.

SECTION 11.21 Collateral Agent Merger. Any organization or entity into which the Collateral Agent may be converted or merged, or with which it may be consolidated, or to which it may sell or transfer all or substantially all of its corporate trust business and assets as a whole or substantially as a whole, or any organization or entity resulting from any such conversion, sale, merger, consolidation or transfer to which the Collateral Agent is a party, will be and become the successor to the Collateral Agent under this Agreement and will have and succeed to the rights, powers, duties, immunities and privileges as its predecessor, without the execution or filing of any instrument or paper or the performance of any further act.

SECTION 11.22 Service of Process. EACH PARTY HERETO (AND BY ITS ACCEPTANCE OF ITS APPOINTMENT IN SUCH CAPACITY, EACH LEAD ARRANGER) IRREVOCABLY CONSENTS TO SERVICE OF PROCESS IN THE MANNER PROVIDED FOR NOTICES IN SECTION 11.02. NOTHING IN THIS AGREEMENT WILL AFFECT THE RIGHT OF ANY PARTY HERETO TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY APPLICABLE LAW.

SECTION 11.23 No Advisory or Fiduciary Responsibility. In connection with all aspects of each transaction contemplated hereby (including in connection with any amendment, waiver or other modification hereof or of any other Loan Document), each Loan Party acknowledges and agrees, and acknowledges its Affiliates' understanding that: (a) (i) the transactions contemplated by the Loan Documents (including the exercise of rights and remedies hereunder and thereunder) are arm's-length commercial transactions between the Agents, the Lenders, the Issuing Banks and the Lead Arranger on the one hand, and the Loan Parties and their Affiliates, on the other hand, (ii) each of the Loan Parties has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate, and (iii) each of the Loan Parties is capable of evaluating, and understands and accepts, the terms, risks and conditions of the transactions contemplated hereby and by the other Loan Documents; (b) (i) the Agents, the Issuing Banks and the Lead Arranger are and have been, and each Lender is and has been, acting solely as a principal and, except as expressly agreed in writing by the relevant parties, have or has not been, are or is not, and will not be acting as an advisor, agent or fiduciary for the Loan Parties, its stockholders or its Affiliates (irrespective of whether any Lender has advised, is currently advising or will advise any Loan Party, its stockholders or its Affiliates on other matters), or any other Person and (ii) none of the Agents, the Issuing Banks, the Lead Arranger nor any Lender has any obligation to the Borrower or any of its Affiliates with respect to the transactions contemplated hereby except those obligations expressly set forth herein and in the other Loan Documents; and (c) the Agents, the Issuing Banks, the Lead Arranger, the Lenders and their respective Affiliates may be engaged in a broad range of transactions that involve economic interests that conflict with those of the Loan Parties, their stockholders and/or their affiliates, and none of the Agents, the Issuing Banks, the Lead Arranger nor any Lender has any obligation to disclose any of such interests to the Borrower or any of its respective Affiliates. Each Loan Party agrees that nothing in the Loan Documents or otherwise will be deemed to create an advisory, fiduciary or agency relationship or fiduciary or other implied duty between any Lender, on the one hand, and such Loan Party, its stockholders or its affiliates, on the other. To the fullest extent permitted by law, each Loan Party hereby waives and releases any claims that it may have against the Agents, the Issuing Banks, the Lead Arranger or any Lender with respect to any breach or alleged breach of agency or fiduciary duty in connection with any aspect of any transaction contemplated hereby.

SECTION 11.24 Binding Effect. This Agreement shall become effective when it shall have been executed by the Borrower and the Administrative Agent and the Administrative Agent shall have been notified by each Lender and each Issuing Bank that each such Lender or each such Issuing Bank has executed it and thereafter shall be binding upon and inure to the benefit of the Borrower, each Agent, each Lender and each Issuing Bank and their respective successors and assigns.

SECTION 11.25 Obligations Several; Independent Nature of Lender's Rights. The obligations of the Lenders hereunder are several and not joint and no Lender shall be responsible for the obligations or - Commitments of any other Lender hereunder. Nothing contained herein or in any other Loan Document, and no action taken by the Lenders pursuant hereto or thereto, shall be deemed to constitute the Lenders as a partnership, an association, a joint venture or any other kind of entity. The amounts payable at any time hereunder to each Lender shall be a separate and independent debt, and each Lender shall be entitled to protect and enforce its rights arising out hereof and it shall not be necessary for any other Lender to be joined as an additional party in any proceeding for such purpose.

SECTION 11.26 Headings. Section headings herein are included herein for convenience of reference only and shall not constitute a part hereof for any other purpose or be given any substantive effect.

SECTION 11.27 Acknowledgement and Consent to Bail-In of Affected Financial Institutions.

Notwithstanding anything to the contrary in any Loan Document or in any other agreement, arrangement or understanding among any such parties, each party hereto acknowledges that any liability of any Lender that is an Affected Financial Institution arising under any Loan Document, to the extent such liability is unsecured, may be subject to the Write-Down and Conversion Powers of the applicable Resolution Authority and agrees and consents to, and acknowledges and agrees to be bound by:

(a) the application of any Write-Down and Conversion Powers by the applicable Resolution Authority to any such liabilities arising hereunder which may be payable to it by any party hereto that is an Affected Financial Institution; and

(b) the effects of any Bail-In Action on any such liability, including, if applicable:

(i) a reduction in full or in part or cancellation of any such liability;

(ii) a conversion of all, or a portion of, such liability into shares or other instruments of ownership in such Affected Financial Institution, its parent entity, or a bridge institution that may be issued to it or otherwise conferred on it, and that such shares or other instruments of ownership will be accepted by it in lieu of any rights with respect to any such liability under this Agreement or any other Loan Document; or

(iii) the variation of the terms of such liability in connection with the exercise of the Write-Down and Conversion Powers of the applicable Resolution Authority.

The provisions of this Section 11.25 are intended to comply with, and shall be interpreted in light of, Article 55 of Directive 2014/59/EU of the European Parliament and of the Council of the European Union.

SECTION 11.28 Acknowledgment Regarding Any Supported QFCs. (a) To the extent that the Loan Documents provide support, through a guarantee or otherwise (including the Guaranty), for any Hedge Agreement or any other agreement or instrument that is a QFC (such support, “**QFC Credit Support**”, and each such QFC, a “**Supported QFC**”), the parties acknowledge and agree as follows with respect to the resolution power of the Federal Deposit Insurance Corporation under the Federal Deposit Insurance Act and Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act (together with the regulations promulgated thereunder, the “**U.S. Special Resolution Regimes**”) in respect of such Supported QFC and QFC Credit Support (with the provisions below applicable notwithstanding that the Loan Documents and any Supported QFC may in fact be stated to be governed by the laws of the State of New York and/or of the United States or any other state of the United States):

In the event a Covered Entity that is party to a Supported QFC (each, a “**Covered Party**”) becomes subject to a proceeding under a U.S. Special Resolution Regime, the transfer of such Supported QFC and the benefit of such QFC Credit Support (and any interest and obligation in or under such Supported QFC and such QFC Credit Support, and any rights in property securing such Supported QFC or such QFC Credit Support) from such Covered Party will be effective to the same extent as the transfer would be effective under the U.S. Special Resolution Regime if the Supported QFC and such QFC Credit Support (and any such interest, obligation and rights in property) were governed by the laws of the United States or a state of the United States. In the event a Covered Party or a BHC Act Affiliate of a Covered Party becomes subject to a proceeding under a U.S. Special Resolution Regime, Default Rights under the Loan Documents that might otherwise apply to such Supported QFC or any QFC Credit Support that may be exercised against such Covered Party are permitted to be exercised to no greater extent than such Default Rights could be exercised under the U.S. Special Resolution Regime if the Supported QFC and the Loan Documents were governed by the laws of the United States or a state of the United States. Without limitation of the foregoing, it is understood and agreed that rights and remedies of the parties with respect to a Defaulting Lender shall in no event affect the rights of any Covered Party with respect to a Supported QFC or any QFC Credit Support.

SECTION 11.29 [Reserved].

SECTION 11.30 Disqualified Lenders and Net Short Positions.

(a) Replacement of Disqualified Lenders.

(i) To the extent that any assignment or participation is made or purported to be made to a Disqualified Lender described in clause (a) or clause (d) of the definition thereof (notwithstanding the other restrictions in this Agreement with respect to Disqualified Lenders), or if any Lender or Participant becomes a Disqualified Lender described in clause (a) or clause (d) of the definition thereof, in each case, without limiting any other provision of the Loan Documents,

(A) upon the request of the Borrower, such Disqualified Lender shall be required immediately (and in any event within five Business Days) to assign all or any portion of the Loans and Commitments then owned by such Disqualified Lender (or held as a participation) to another Lender (other than a Defaulting Lender or another Disqualified Lender), Eligible Assignee or the Borrower, and

(B) the Borrower shall have the right to prepay all or any portion of the Loans and Commitments then owned by such Disqualified Lender (or held as a participation), and if applicable, terminate the Commitments of such Disqualified Lender, in whole or in part.

(ii) Any such assignment or prepayment shall be made in exchange for an amount equal to the lesser of (A) the face principal amount of the Loans so assigned and (B) the amount that such Disqualified Lender paid to acquire such Commitments and/or Loans, in each case without interest thereon (it being understood that if the effective date of any such assignment is not an Interest Payment Date, such assignee shall be entitled to receive on the next succeeding Interest Payment Date interest on the principal amount of the Loans so assigned that has accrued and is unpaid from the Interest Payment Date last preceding such effective date (except as may be otherwise agreed between such assignee and the Borrower)).

(iii) The Borrower shall be entitled to seek specific performance in any applicable court of law or equity to enforce this Section 11.28. In addition, in connection with any such assignment, (A) if such Disqualified Lender does not execute and deliver to the Administrative Agent a duly completed Assignment and Assumption and/or any other documentation necessary or appropriate (in the good faith determination of the Administrative Agent or the Borrower, which determination shall be conclusive) to reflect such replacement by the later of (1) the date on which the replacement Lender executes and delivers such Assignment and Assumption and/or such other documentation and (2) the date as of which such Disqualified Lender shall be paid by the assignee Lender (or, at its option, the Borrower) the amount required pursuant to this Section 11.28, then such Disqualified Lender shall be deemed to have executed and delivered such Assignment and Assumption and/or such other documentation as of such date and the Borrower shall be entitled (but not obligated) to execute and deliver such Assignment and Assumption and/or such other documentation on behalf of such Disqualified Lender, and the Administrative Agent shall record such assignment in the Register, (B) each Lender (whether or not then a party hereto) agrees to disclose to the Borrower the amount that the applicable Disqualified Lender paid to acquire Commitments and/or Loans from such Lender and (C) each Lender that is a Disqualified Lender agrees to disclose to the Borrower the amount it paid to acquire the Commitments and/or Loans held by it.

(b) Amendments, Consents and Waivers under the Loan Documents. No Net Short Lender shall have the right to approve or disapprove any amendment, waiver or consent pursuant to Section 11.01 or under any Loan Document. In connection with any determination as to whether the requisite Lenders (including whether the Required Lenders) have provided any amendment, waiver or consent pursuant to Section 11.01 or under any other Loan Document:

(i) Net Short Lenders shall not be considered, and

(ii) Net Short Lenders shall be deemed to have consented to any such amendment, waiver or consent with respect to its interest as a Lender in the same proportion as the allocation of voting with respect to such matter by Lenders who are not Net Short Lenders.

Each Lender that is not an Unrestricted Lender that delivers a written consent to any amendment, waiver or consent pursuant to Section 11.01 or under any other Loan Document shall concurrently deliver (or in the absence of any written Net Short Representation will be deemed to have delivered, concurrently with providing such consent) to the Borrower (with a copy to the Administrative Agent) a Net Short Representation.

(c) Limitation on Rights and Privileges of Disqualified Lenders. Except as otherwise provided in Section 11.01(i) or in Section 11.28(b)(ii), no Disqualified Lenders shall have the right to, and each such Person covenants and agrees not to, instruct the Administrative Agent, Collateral Agent or any other Person in writing in respect of the exercise of remedies with respect to the Loans or other Obligations. Further, no Disqualified Lender that purports to be a Lender or Participant (notwithstanding any provisions of this Agreement that may have prohibited such Disqualified Lender from becoming Lender or Participant) shall be entitled to any of the rights or privileges enjoyed by the other Lenders with respect to voting (other than to the extent provided in Section 11.01(i) and Section 11.28(b)(ii)), Information and Lender meetings and shall be deemed for all purposes to be, at most, a Defaulting Lender until such time as such Disqualified Lender no longer owns any Loans or Commitments.

(d) [Reserved].

(e) Survival. The provisions of this Section 11.28 shall apply and survive with respect to each Lender and Participant notwithstanding that any such Person may have ceased to be a Lender or Participant (or any purported participation to any such Lender shall be void) hereunder or this Agreement may have been terminated.

(f) Administrative Agent.

(i) Reliance. The Administrative Agent shall be entitled to rely conclusively on any Net Short Representation delivered, provided or made (or deemed delivered, provided or made) to it in accordance with this Agreement, shall have no duty to inquire as to or investigate the accuracy of any Net Short Representation, verify any statements in any officer's certificate delivered to it, or otherwise make any calculations, investigations or determinations with respect to any Derivative Instruments or Net Short Positions or any Person. The Administrative Agent shall have no liability to the Borrower, any Lender or any other Person in acting in good faith on any notice of Default or acceleration.

(ii) Disqualified Lender Lists. The Administrative Agent shall have no responsibility or liability for monitoring or enforcing the list of Disqualified Lenders or for any assignment or participation to a Disqualified Lender.

(iii) Liability Limitations. The Administrative Agent shall not be responsible or have any liability for, or have any duty to ascertain, inquire into, monitor or enforce, compliance with the provisions hereof relating to Disqualified Lenders. Without limiting the generality of the foregoing, the Administrative Agent shall not (A) be obligated to ascertain, monitor or inquire as to whether any Lender or Participant or prospective Lender or Participant is a Disqualified Lender or (B) have any liability with respect to or arising out of any assignment or participation of Loans, or disclosure of confidential information (including Information), to any Disqualified Lender.

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EXHIBIT B

First Amendment Collateral Trust Agreement

EXHIBIT C

First Amendment Collateral Agreement

EXHIBIT D

First Amendment Junior Lien Intercreditor Agreement

EXHIBIT E

First Amendment A&R Vessel Mortgages

SECOND LIEN TERM LOAN CREDIT AGREEMENT

dated as of December 27, 2024

by and among

HORNBECK OFFSHORE SERVICES, INC.,
as Borrower**STONEBRIAR COMMERCIAL FINANCE LLC,**
as Administrative Agent,**WILMINGTON TRUST, NATIONAL ASSOCIATION,**

as Collateral Trustee

and

THE LENDERS PARTY HERETO

NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, THE LIENS AND SECURITY INTERESTS GRANTED PURSUANT TO THIS AGREEMENT, AND THE EXERCISE OF ANY RIGHT OR REMEDY BY WILMINGTON TRUST, NATIONAL ASSOCIATION, AS COLLATERAL TRUSTEE (AS DEFINED HEREIN) HEREUNDER, ARE SUBJECT TO THE LIMITATIONS, SUBORDINATION PROVISIONS AND OTHER TERMS OF THE JUNIOR LIEN INTERCREDITOR AGREEMENT, DATED AS OF DECEMBER 27, 2024 (AS AMENDED, RESTATED, AMENDED AND RESTATED, SUPPLEMENTED OR OTHERWISE MODIFIED FROM TIME TO TIME, THE “ORIGINAL JUNIOR LIEN INTERCREDITOR AGREEMENT”) BY AND AMONG, INTER ALIOS, DNB BANK ASA, NEW YORK BRANCH, AS FIRST LIEN CREDIT AGREEMENT REPRESENTATIVE (AS DEFINED THEREIN), STONEBRIAR COMMERCIAL FINANCE LLC, AS SECOND LIEN TERM LOAN CREDIT AGREEMENT REPRESENTATIVE (AS DEFINED THEREIN), THE COLLATERAL TRUSTEE AND EACH ADDITIONAL SENIOR PRIORITY REPRESENTATIVE AND SECOND PRIORITY REPRESENTATIVE (EACH SUCH TERM AS DEFINED THEREIN) FROM TIME TO TIME PARTY THERETO. SUCH SECOND LIEN TERM LOAN CREDIT AGREEMENT REPRESENTATIVE (A) ACKNOWLEDGES THAT IT HAS RECEIVED AND REVIEWED A COPY OF THE ORIGINAL JUNIOR LIEN INTERCREDITOR AGREEMENT AND (B) CONSENTS, ON BEHALF OF THE SECOND PRIORITY SECURED PARTIES THAT IT REPRESENTS, TO THE SUBORDINATION OF LIENS AND THE OTHER LIMITATIONS AND PROVISIONS PROVIDED FOR (OR SET FORTH) IN THE ORIGINAL JUNIOR LIEN INTERCREDITOR AGREEMENT. IN THE EVENT OF ANY CONFLICT BETWEEN THE TERMS OF THE ORIGINAL JUNIOR LIEN INTERCREDITOR AGREEMENT AND THE TERMS OF THIS AGREEMENT, THE TERMS OF THE ORIGINAL JUNIOR LIEN INTERCREDITOR AGREEMENT SHALL GOVERN AND CONTROL.

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SECOND LIEN TERM LOAN CREDIT AGREEMENT

This SECOND LIEN TERM LOAN CREDIT AGREEMENT is entered into as of December 27, 2024, by and among HORNBECK OFFSHORE SERVICES, INC., a Delaware corporation (the “**Borrower**”), STONEBRIAR COMMERCIAL FINANCE LLC, as administrative agent (in such capacity, including any successor thereto, the “**Administrative Agent**”), WILMINGTON TRUST, NATIONAL ASSOCIATION, as collateral trustee (in such capacity, including any successor thereto, the “**Collateral Trustee**”), and each lender from time to time party hereto (collectively, the “**Lenders**” and, individually, a “**Lender**”).

PRELIMINARY STATEMENTS

The Borrower has requested that simultaneously with the satisfaction of the conditions precedent set forth in Article IV below the Lenders make available to the Borrower the Loans in an aggregate amount equal to the Commitments on the Closing Date as a second lien secured term loan facility (the “**Term Loan Facility**”) pursuant to the terms of this Agreement.

The proceeds of the Loans will be used to (a) repay the indebtedness of the Borrower and Hornbeck Offshore Services, LLC (“**HOS LLC**”), as co-borrowers, under that certain Second Term Loan Credit Agreement dated as of September 4, 2020, by and among the Borrower, HOS LLC, Wilmington Trust, National Association as administrative agent, Wilmington Trust, National Association, as collateral agent and the lenders party thereto (as in effect on the date hereof, the “**Existing Second Lien Term Loan Agreement**”), (b) repurchase certain warrants, common equity or other equity instruments of Borrower and (c) pay all costs, fees and expenses in connection with the foregoing.

The Lenders have agreed to make available their respective shares of the Commitments and extend their respective Loans, in each case on the terms and subject to the conditions set forth herein.

In consideration of the mutual covenants and agreements herein contained, the parties hereto covenant and agree as follows:

ARTICLE I DEFINITIONS AND ACCOUNTING TERMS

Section 1.01 Defined Terms. As used in this Agreement, the following terms have the meanings set forth below:

“**2024 Newbuild Vessels**” has the meaning specified in the definition of Excluded Vessel.

“**Accounting Change**” has the meaning specified in the definition of “GAAP.”

“**Acquired Indebtedness**” means with respect to any Person (x) Indebtedness of any other Person or any of its Subsidiaries existing at the time such other Person becomes a Restricted Subsidiary or merges or amalgamates with or into or consolidates or otherwise combines with the Borrower or any Restricted Subsidiary and (y) Indebtedness secured by a Lien encumbering any asset acquired by such Person. Acquired Indebtedness shall be deemed to have been incurred, with respect to clause (x) of the preceding sentence, on the date such Person becomes a Restricted Subsidiary or on the date of the relevant merger, amalgamation, consolidation, acquisition or other combination.

“**Administrative Agent**” has the meaning specified in the introductory paragraph to this Agreement.

“**Administrative Agent’s Office**” means the Administrative Agent’s address and, as appropriate, account as set forth on Schedule 11.02, or such other address or account as the Administrative Agent may from time to time notify the Borrower and the Lenders.

“**Administrative Questionnaire**” means an Administrative Questionnaire in a form supplied by the Administrative Agent.

“**Affected Financial Institution**” means (a) any EEA Financial Institution or (b) any UK Financial Institution.

“**Affiliate**” means, with respect to any Person, another Person that directly, or indirectly through one or more intermediaries, Controls or is Controlled by or is under common Control with the Person specified. “**Control**” means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise. “**Controlled**” has the meaning correlative thereto. For the avoidance of doubt, none of the Agents or their respective lending affiliates shall be deemed to be an Affiliate of the Borrower or any of its Subsidiaries.

“**Affiliate Transaction**” has the meaning specified Section 6.18.

“**Agent Parties**” has the meaning specified in Section 11.02(e).

“**Agent-Related Persons**” means the Agents, together with their respective Affiliates, and the officers, directors, shareholders, employees, agents, attorney-in-fact, partners, trustees, advisors and other representatives of such Persons and of such Persons’ Affiliates.

“**Agents**” means, collectively, the Administrative Agent, the Collateral Trustee, and the Supplemental Administrative Agents (if any).

“**Aggregate Commitments**” means the Commitments of all the Lenders.

“**Agreement**” means this Second Lien Term Loan Credit Agreement, as amended, restated, amended and restated, modified or supplemented from time to time in accordance with the terms hereof.

“**Agreement Currency**” has the meaning specified in Section 2.12(b).

“**Allocated Dollar Values**” means, as to any Vessel, the dollar value assigned to such Vessel as set forth in Schedule 1.01(a) hereto, as such Schedule 1.01(a), may be amended, supplemented or modified from time to time in accordance with Section 6.11(d)(ii).

“**Ancillary Fees**” has the meaning specified in Section 11.01(b)(ix).

“**Anti-Corruption Laws**” means all laws, rules, and regulations of any jurisdiction applicable to the Borrower or any of its Subsidiaries from time to time concerning or relating to bribery, or corruption, including, but not limited to, the U.S. Foreign Corrupt Practices Act of 1977, as amended, and the UK Bribery Act 2010.

“**Applicable Creditor**” has the meaning specified in Section 2.12(b).

“**applicable decimal place**” has the meaning specified in Section 1.04.

“**Applicable Indebtedness**” has the meaning specified in the definition of “Weighted Average Life to Maturity.”

“**Applicable Jurisdiction**” means the United States and any other jurisdiction approved by the Required Lenders and the Administrative Agent, in each case, acting reasonably and in good faith.

“**Applicable Proceeds Threshold Amount**” has the meaning specified in Section 7.05(c).

“**Approved Flag Jurisdiction**” means (x) the United States of America, Mexico, Brazil, Vanuatu, Marshall Islands, Guyana, Colombia, and (y) any other flag state constituting an internationally recognized open ship registry used by U.S. shipping companies (as determined in good faith by the Borrower) or other flag state instituting a cabotage regime, which in the Borrower’s or any Restricted Subsidiary’s good faith judgment is necessary or desirable in order to pursue customer opportunities in such non-U.S. jurisdictions, in each case under this clause (y), subject to the approval of the Administrative Agent, such approval not to be unreasonably withheld, conditioned or delayed.

“**Approved Fund**” means, with respect to any Lender, any Fund that is administered, advised or managed by (a) such Lender, (b) an Affiliate of such Lender or (c) an entity or an Affiliate of an entity that administers, advises or manages such Lender.

“**Assignment and Assumption**” means an Assignment and Assumption substantially in the form of Exhibit D or any other form (including electronic documentation generated by an electronic platform) approved by the Administrative Agent.

“**Associate**” means (i) any Person engaged in a Similar Business of which the Borrower or its Restricted Subsidiaries are the legal and beneficial owners of between 20% and 50% of all outstanding Voting Stock and (ii) any joint venture entered into by the Borrower or any Restricted Subsidiary.

“**Attorney Costs**” means all reasonable (so long as no Event of Default has occurred and is continuing) and documented in reasonable detail fees, expenses, charges and disbursements of any law firm or other external legal counsel.

“**Available Amount**” has the meaning specified in Section 7.06(d)(v).

“**Bail-In Action**” means the exercise of any Write-Down and Conversion Powers by the applicable Resolution Authority in respect of any liability of an Affected Financial Institution.

“**Bail-In Legislation**” means (a) with respect to any EEA Member Country implementing Article 55 of Directive 2014/59/EU of the European Parliament and of the Council of the European Union, the implementing law, regulation, rule or requirement for such EEA Member Country from time to time which is described in the EU Bail-In Legislation Schedule and (b) with respect to the United Kingdom, Part I of the United Kingdom Banking Act 2009 (as amended from time to time) and any other law, regulation or rule applicable in the United Kingdom relating to the resolution of unsound or failing banks, investment firms or other financial institutions or their Affiliates (other than through liquidation, administration or other insolvency proceedings).

“**Beneficial Ownership Certification**” means a certification regarding beneficial ownership as required by the Beneficial Ownership Regulation.

“**Beneficial Ownership Regulation**” means 31 C.F.R. § 1010.230.

“**Benefit Plan**” means any of (a) an “employee benefit plan” (as defined in ERISA) that is subject to Title I of ERISA, (b) a “plan” as defined in and subject to Section 4975 of the Code or (c) any Person whose assets include (for purposes of ERISA Section 3(42) or otherwise for purposes of Title I of ERISA or Section 4975 of the Code) the assets of any such “employee benefit plan” or “plan.”

“**BHC Act Affiliate**” of a party means an “affiliate” (as such term is defined under, and interpreted in accordance with, 12 U.S.C. 1841(k)) of such party.

“**Blocked Account**” has the meaning assigned to such term in Section 6.11(c).

“**Board of Directors**” means, as to any Person, the board of directors, board of managers or other governing body of such Person, or if such Person is owned or managed by a single entity, the board of directors, board of managers or other governing body of such entity, and the term “directors” means members of the Board of Directors.

“**Borrower**” has the meaning specified in the introductory paragraph to this Agreement.

“**Borrower Materials**” has the meaning specified in Section 6.02.

“**Borrowing**” means a borrowing consisting of Loans made on the same date.

“**Borrowing Request**” means a written notice of a Borrowing pursuant to Article II, which shall be substantially in the form of Exhibit A or such other form as the Administrative Agent may reasonably agree.

“**Builder**” means Eastern Shipbuilding Group, Inc. (“**ESG**”) and Zurich American Insurance Company and Fidelity & Deposit Company of Maryland, and their respective successors (the “**Surety**”).

“**Business Day**” means any day that is not a Saturday, Sunday or other day on which commercial banks in New York City are authorized or required by law to remain closed.

“**Business Successor**” means (i) any former Subsidiary of the Borrower and (ii) any Person that, after the Closing Date, has acquired, merged or consolidated with a Subsidiary of the Borrower (that results in such Subsidiary ceasing to be a Subsidiary of the Borrower), or acquired (in one transaction or a series of transactions) all or substantially all of the property and assets or business of a Subsidiary or assets constituting a business unit, line of business or division of a Subsidiary of the Borrower.

“**Capitalized Lease Obligation**” means, at the time any determination thereof is to be made, the amount of the liability in respect of a Capitalized Lease that would at such time be required to be capitalized and reflected as a liability on a balance sheet (excluding the footnotes thereto) prepared in accordance with GAAP.

“**Capitalized Leases**” means all capital or finance leases that have been or are required to be, in accordance with GAAP as in effect on the Closing Date, recorded as capitalized leases; *provided* that for all purposes hereunder the amount of obligations under any Capitalized Lease shall be the amount thereof accounted for as a liability in accordance with GAAP as in effect on the Closing Date; *provided, further*, that all obligations of the Borrower and its Restricted Subsidiaries that are or would be characterized as an operating lease as determined in accordance with GAAP prior to the adoption of Accounting Standards Codification Topic 842, “Leases,” shall be accounted for as an operating lease (and not as a Capitalized Lease) for purposes of this Agreement regardless of any change in GAAP following the Closing Date (that would otherwise require such obligation to be recharacterized as a Capitalized Lease).

“**Captive Insurance Subsidiary**” means any Subsidiary of the Borrower that is subject to regulation as an insurance company (or any Subsidiary thereof).

“**Cash Equivalents**” means any of the following types of Investments (including for the avoidance of doubt, cash), to the extent owned by the Borrower or any Restricted Subsidiary:

- (a) Dollars;
- (b) securities issued or directly and fully guaranteed or insured by the United States, government, a member of the European Union or, in each case any agency or instrumentality thereof the securities of which are guaranteed as a full faith and credit obligation of such government with maturities of one year or less from the date of acquisition;
- (c) certificates of deposit, time deposits, eurodollar time deposits, overnight bank deposits, demand deposits or bankers’ acceptances with maturities of one year or less from the date of acquisition, in each case with a Lender or any other financial institution whose short-term unsecured debt rating is A or A2 or above as obtained from either S&P or Moody’s having capital and surplus of not less than \$250,000,000 (or the foreign currency equivalent thereof as of the date of such investment);

- (d) repurchase obligations for underlying securities of the types described in clauses (c) and (d) above or clauses (g) and (h) below and securities with maturities of one year or less from the date of acquisition backed by standby letters of credit, in each case, entered into with any financial institution meeting the qualifications specified in clause (d) above;
- (e) commercial paper and variable or fixed rate notes issued by any financial institution meeting the qualifications specified in clause (d) above (or by the parent company thereof) with maturities of one year or less from the date of creation;
- (f) marketable short-term money market and similar highly liquid funds having a rating of at least P-2 or A-2 from Moody's or S&P, respectively (or, if at any time neither Moody's nor S&P shall be rating such obligations, an equivalent rating from another nationally recognized statistical rating agency);
- (g) readily marketable direct obligations issued by and directly and fully guaranteed or insured by any state, commonwealth, province or territory of the United States or any political subdivision or taxing authority thereof, in each case rated at least A by S&P or A by Moody's (or, if at any time neither Moody's nor S&P shall be rating such obligations, an equivalent rating from another nationally recognized statistical rating agency) with maturities of 12 months or less from the date of acquisition; and
- (h) Investments with average maturities of 12 months or less from the date of acquisition in money market funds rated AAA (or the equivalent thereof) or better by S&P or Aaa (or the equivalent thereof) or better by Moody's (or, if at any time neither Moody's nor S&P shall be rating such obligations, an equivalent rating from another nationally recognized statistical rating agency) and have portfolio assets of at least U.S.\$1,000,000,000.

In the case of Investments by any Foreign Subsidiary that is a Restricted Subsidiary or Investments made in a jurisdiction outside the United States of America, Cash Equivalents shall also include (i) investments of the type and maturity described in clauses (a) through (h) above in foreign obligors, which Investments or obligors (or the parents of such obligors) have ratings described in such clauses or equivalent ratings from comparable foreign rating agencies and (ii) other short-term investments in accordance with normal investment practices for cash management in investments analogous to the foregoing investments in clauses (a) through (h) above and in this paragraph. Notwithstanding the foregoing, Cash Equivalents shall include amounts denominated in Dollars, Canadian dollars, Australian dollars, pounds sterling, yen, euro, or any other national currency of any member state of the European Union; provided that (other than as set forth in clause (a) above) such amounts, except amounts used to pay obligations of the Borrower or any Restricted Subsidiary denominated in any currency other than Dollars in the ordinary course of business, are converted into Dollars as promptly as practicable and in any event within ten (10) Business Days following the receipt of such amounts.

"Casualty Event" means any event that gives rise to the receipt by a Loan Party of any insurance proceeds or condemnation awards in respect of any equipment, fixed assets or real property (including any improvements thereon) to replace or repair such equipment, fixed assets or real property.

“**Change in Law**” means the occurrence, after the date of this Agreement, of any of the following:

(a) the adoption or taking effect of any law, rule, regulation or treaty (excluding the taking effect after the date of this Agreement of a law, rule, regulation or treaty adopted prior to the date of this Agreement),

(b) any change in any law, rule, regulation or treaty or in the administration, interpretation or application thereof by any Governmental Authority or (c) the making or issuance of any request, guideline or directive (whether or not having the force of law) by any Governmental Authority. It is understood and agreed that (i) the Dodd-Frank Wall Street Reform and Consumer Protection Act (Pub. L. 111-203, H.R. 4173), all Laws relating thereto, all interpretations and applications thereof and any compliance by a Lender with any and all requests, rules, guidelines, requirements and directives thereunder or issued in connection therewith or in implementation thereof or relating thereto and (ii) all requests, rules, guidelines, requirements or directives issued by any United States or foreign regulatory authority in connection with the implementation of the recommendations of the Bank for International Settlements or the Basel Committee on Banking Regulations and Supervisory Practices (or any successor or similar authority) in each case pursuant to Basel III, shall, for the purposes of this Agreement, be deemed to be adopted subsequent to the date hereof and a Change in Law regardless of the date enacted, adopted, issued, promulgated or implemented.

“**Change of Control**” means the earliest to occur of:

(a) (i) at any time while the Voting Stock of the Borrower (or any Parent Entity) is publicly traded, the Borrower (or such Parent Entity) becomes aware of (by way of a report or any other filing pursuant to Section 13(d) of the Exchange Act, proxy, vote, written notice or otherwise) or (ii) at any other time, any “person” or “group” (as each term is used in Sections 13(d) and 14(d) of the Exchange Act as in effect on the Closing Date), other than one or more Permitted Holders or any Parent Entity, that is or becomes the “beneficial owner” (as defined in Rules 13d-3 and 13d-5 of the Exchange Act as in effect on the Closing Date) of more than 50% of the total voting power of the Voting Stock of the Borrower (or any Parent Entity); *provided* that (x) so long as the Borrower is a Subsidiary of any Parent Entity, no person shall be deemed to be or become a beneficial owner of more than 50% of the total voting power of the Voting Stock of the Borrower unless such person shall be or become a beneficial owner of more than 50% of the total voting power of the Voting Stock of such Parent Entity (other than a Parent Entity that is a Subsidiary of another Parent Entity) and (y) any Voting Stock of which any Permitted Holder is the beneficial owner shall not in any case be included in any Voting Stock of which any such person is the beneficial owner; *provided, further*, notwithstanding the foregoing or the other provisions of this Agreement, no “Change of Control” shall occur so long as (x) the change in total voting power of the Voting Stock of the Borrower (or any Parent Entity) as set forth in this clause (a) is a result of the Sponsors ceasing to hold their Equity Interests in connection with any Qualifying IPO or any other Equity Offering after any Qualifying IPO (including, for the avoidance of doubt, any block trades and/or secondary offering), or (y) upon the occurrence of any such event the Borrower maintains (or obtains) a loan issue credit rating on the Loans of at least equal to BB- (by S&P or Fitch) or Ba3 (by Moody’s) or, if the Loans do not have a loan issue rating from S&P, Moody’s or Fitch or if the Loans have a loan issue credit rating of less than BB- by S&P or Fitch or less than Ba3 by Moody’s, such change of control would not increase Borrower’s Total Net Leverage Ratio (after giving Pro Forma Effect to such change of control) above 2.5 to 1.0 nor decrease the Borrower’s Fixed Charge Coverage Ratio (after giving Pro Forma Effect to such change of control) below 1.5 to 1.0 (any event that would have constituted a Change of Control but for the application of the foregoing proviso, a “**Permitted Change of Control**”); or

(b) the sale or transfer, in one or a series of related transactions, of all or substantially all of the assets of the Borrower and its Restricted Subsidiaries, taken as a whole, to a Person (other than the Borrower or any of its Restricted Subsidiaries or one or more Permitted Holders) and any “person” or “group” (each, as defined in clause (a) above), other than one or more Permitted Holders or any Parent Entity, is or becomes the “beneficial owner” (as so defined) of more than 50% of the total voting power of the Voting Stock of the transferee Person in such sale or transfer of assets, as the case may be; *provided* that (x) so long as the Borrower is a Subsidiary of any Parent Entity, no person shall be deemed to be or become a beneficial owner of more than 50% of the total voting power of the Voting Stock of the Borrower unless such person shall be or become a beneficial owner of more than 50% of the total voting power of the Voting Stock of such Parent Entity (other than a Parent Entity that is a Subsidiary of another Parent Entity) and (y) any Voting Stock of which any Permitted Holder is the beneficial owner shall not in any case be included in any Voting Stock of which any such person is the beneficial owner. For the avoidance of doubt, any Permitted Change of Control consummated pursuant to a merger in accordance with Section 7.04 shall not be a Change of Control under this clause (b).

Notwithstanding the preceding or any provision of Section 13d-3 of the Exchange Act, (i) a Person or group shall not be deemed to beneficially own Voting Stock subject to a stock or asset purchase agreement, merger agreement, option agreement, warrant agreement or similar agreement (or voting or option or similar agreement related thereto) until the consummation of the acquisition of the Voting Stock in connection with the transactions contemplated by such agreement, (ii) if any group includes one or more Permitted Holders, the issued and outstanding Voting Stock of the Borrower owned, directly or indirectly, by any Permitted Holders that are part of such group shall not be treated as being beneficially owned by such group or any other member of such group for purposes of determining whether a Change of Control has occurred, (iii) a Person or group will not be deemed to beneficially own the Voting Stock of another Person as a result of its ownership of Voting Stock or other securities of such other Person’s parent entity (or related contractual rights) unless it owns 50% or more of the total voting power of the Voting Stock entitled to vote for the election of directors of such parent entity having a majority of the aggregate votes on the Board of Directors (or similar body) of such parent entity, (iv) the right to acquire Voting Stock (so long as such Person does not have the right to direct the voting of the Voting Stock subject to such right) or any veto power in connection with the acquisition or disposition of Voting Stock will not cause a party to be a beneficial owner, (v) for purposes of this definition, a time charter of, bareboat charter or other contract for, vessels to customers in the ordinary course of business shall not be deemed a sale or transfer of assets under clause (a) above and (vi) a Change of Control shall not occur as a result of any Reorganization Transactions and any transactions relating thereto, so long as, the Borrower maintains (or obtains) a loan issue credit rating on the Loans of at least equal to BB- (by S&P or Fitch) or Ba3 (by Moody’s) or, if the Loans do not have a loan issue rating from S&P, Moody’s or Fitch or if the Loans have a loan issue credit rating of less than BB- by S&P or Fitch or less than Ba3 by Moody’s, such Reorganization Transactions would not increase Borrower’s Total Net Leverage Ratio (after giving Pro Forma Effect to such change of control) above 2.5 to 1.0 nor decrease the Borrower’s Fixed Charge Coverage Ratio below 1.5 to 1.0.

“**Closing Date**” means December 27, 2024.

“**Closing Date Jones Act Vessels**” has the meaning specified in Section 5.20.

“**Code**” means the U.S. Internal Revenue Code of 1986, as amended from time to time.

“**Collateral**” means all the “Collateral” (or equivalent term) as defined in any Collateral Document (including the Vessel Collateral), and all other property that is subject or purported to be subject to any Lien in favor of the Collateral Trustee for the benefit of the Secured Parties pursuant to any Collateral Document, but in any event excluding all Excluded Assets.

“**Collateral Agreement**” means that certain Amended and Restated Guaranty and Collateral Agreement, dated as of December 27, 2024, executed by the Loan Parties party thereto (as the same may be amended, restated, amended and restated, supplemented or otherwise modified from time to time), together with each Collateral Agreement Supplement thereto executed and delivered pursuant to Section 6.11.

“**Collateral Agreement Supplement**” has the meaning specified in the Collateral Agreement.

“**Collateral Coverage Ratio**” means as of any date of determination, the ratio of (a) Collateral Value Amount to (b) Consolidated First and Second Lien Debt, in each case, as of such date of determination.

“**Collateral Documents**” means, collectively, the Collateral Agreement, the Collateral Trust Agreement, the Vessel Mortgages, each of the collateral assignments, Collateral Agreement Supplements, security agreements, collateral assignments of vessel construction contracts, pledge agreements, account control agreements (if any) or other similar agreements delivered to the Agents and the Lenders pursuant to Sections 4.01(a)(iii), 6.11, 6.12 or 6.15, and each of the other agreements, instruments or documents that creates or purports to create a Lien in favor of the Collateral Trustee for the benefit of the Secured Parties.

“**Collateral Trust Agreement**” means that certain Collateral Trust Agreement, dated as of December 27, 2024, substantially in the form attached hereto as Exhibit L (as the same may be modified in a manner satisfactory to the Administrative Agent, the Collateral Trustee, the Required Lenders and the Borrower) or, if requested by the providers of other secured Indebtedness permitted hereunder, another collateral trust arrangement reasonably satisfactory to the Administrative Agent, the Collateral Trustee, the Required Lenders and the Borrower, in each case, as amended, restated, amended and restated, modified or supplemented from time to time in accordance with the terms hereof and thereof.

“**Collateral Trustee**” has the meaning specified in the introductory paragraph to this Agreement.

“**Collateral Trustee Fee Letter**” means the Fee Letter, dated as of December 27, 2024, by and among the Borrower and the Collateral Trustee, as amended, restated, amended and restated, supplemented or otherwise modified from time to time in accordance with the terms thereof.

“**Collateral Value Amount**” means an amount equal to the sum of (a) the Vessel Collateral Value Amount as determined on or about the applicable Measurement Date (but, in any case, no earlier than thirty (30) days prior to the applicable Measurement Date and no later than five (5) days after the Measurement Date), *plus* (b) cash Collateral provided in favor of the Secured Parties in a blocked account and subject to a first lien in favor of the Secured Parties (which, at the option of the Borrower, may be an interest-bearing blocked account with interest bearing at market rates) prior to the applicable Measurement Date.

“**Commitment**” means the commitment of a Lender to make or otherwise fund any Loan. The amount of each Lender’s Commitment is set forth on Schedule 2.01 under the caption “Commitment”. The aggregate amount of the Commitments as of the Closing Date is \$450,000,000.

“**Commodity Exchange Act**” means the Commodity Exchange Act (7 U.S.C. § 1 et seq.), as amended from time to time, and any successor statute.

“**Compliance Certificate**” means a certificate substantially in the form of Exhibit C.

“**Connection Income Taxes**” means Other Connection Taxes that are imposed on or measured by net income (however denominated) or capital or that are franchise Taxes or branch profits Taxes.

“**Consolidated Adjusted EBITDA**” means, with respect to any Person for any Test Period, the Consolidated Net Income of such Person for such Test Period:

(1) increased (without duplication) by:

(a) to the extent deducted (and not added back) in computing Consolidated Net Income, Consolidated Interest Expense of such Person for such period (including (x) net payments and losses or any obligations on any Swap Obligations or other derivative instruments (including any one-time cash costs associated with breakage in respect of any Swap obligations or other derivative instruments), (y) bank, letter of credit and other financing fees (including any annual agency fees) and (z) costs of surety bonds in connection with financing activities); *plus*

(b) to the extent deducted (and not added back) in computing Consolidated Net Income, (x) provision for Taxes based on gross receipts, income, profits, revenue or capital, including federal, foreign, state, provincial, territorial, local, unitary, excise, property, franchise, value added and similar Taxes (such as Delaware franchise Tax, Pennsylvania capital Tax and Texas margin Tax) and withholding Taxes (including any future Taxes or other levies which replace or are intended to be in lieu of such Taxes and any penalties, additions to Tax, and interest related to such Taxes or arising from Tax examinations) and similar Taxes of such Person paid or accrued during such period (including in respect of repatriated funds), (y) any distributions made to a Parent Entity or other direct or indirect holder of Equity Interests in the Borrower in respect of any such Taxes attributable to such Parent Entity or holder or pursuant to a Tax sharing arrangement or as a result of a Tax distribution or repatriated funds and (z) the net Tax expense associated with any adjustments made pursuant to the definition of "Consolidated Net Income"; *plus*

(c) to the extent deducted (and not added back) in computing Consolidated Net Income, consolidated depreciation and amortization expense (as determined by the Borrower in accordance with GAAP) of such Person for such period; *plus*

(d) to the extent deducted (and not added back) in computing Consolidated Net Income, any fees, costs, expenses or charges (other than consolidated depreciation and amortization expense (as determined by the Borrower in accordance with GAAP)) related to any actual, proposed or contemplated Equity Offering (including any expense relating to enhanced accounting functions or other transaction costs associated with becoming a public company, including Public Company Costs), Permitted Investment, Restricted Payment, acquisition, disposition or other transaction outside the ordinary course of business (whether or not successful or completed and including any such transaction consummated prior to the Closing Date), including (i) such fees, expenses or charges (including rating agency fees, consulting fees and other related expenses and/or letter of credit or similar fees) related to the offering or incurrence of, or ongoing administration of this Agreement, the First Lien RCF Credit Agreement, any other credit facilities or debt instruments and any Securitization Fees, and (ii) any amendment, waiver or other modification of this Agreement, the First Lien RCF Credit Agreement, any other credit facilities or debt instruments, any Securitization Fees, any other Indebtedness or any Equity Offering, in each case, whether or not consummated; *provided, however*, in no event will synergies, cost savings or similar pro forma adjustments be added-back pursuant to this clause (d); *provided, further*, that the amount of adjustments made for cash items pursuant to sub-clauses (d), (e), (h), and (i) of this clause (1) in any period shall not exceed 15% of the aggregate amount of Consolidated Adjusted EBITDA for such period (calculated prior to giving effect to such capped amount under such clauses); *plus*

(e) (i) the amount of any restructuring charge, accrual, reserve (and adjustments to existing reserves) or expense, integration cost, inventory optimization programs or other business optimization, realignment or restructuring expense or cost (including charges directly related to the implementation of cost-savings initiatives and Tax restructurings) outside the ordinary course of business that is deducted (and not otherwise added back) in such period in computing Consolidated Net Income, including any costs incurred in connection with acquisitions or divestitures after the Closing Date, and (ii) fees, costs and expenses associated with litigation and settlement thereof; *provided, however*, in no event will synergies, cost savings or similar pro forma adjustments be added-back pursuant to this clause (e); *provided, further*, that the amount of adjustments for cash items made pursuant to sub-clauses (d), (e), (h), and (i) of this clause (1) in any period shall not exceed 15% of the aggregate amount of Consolidated Adjusted EBITDA for such period (calculated prior to giving effect to such capped amount under such clauses); *plus*

(f) any other non-cash charges, write-downs, expenses, losses or items reducing Consolidated Net Income for such period including, without limitation, (i) any write-offs or write-downs, deferred commissions, deferred revenue or impairment charges, (ii) impairment charges, amortization (or write offs) of financing costs (including debt discount, early extinguishments, debt issuance costs, yield, make whole premium and commissions and other fees associated with Indebtedness, including Indebtedness under this Agreement) of such Person and its Subsidiaries, and/or (iii) the impact of acquisition method accounting adjustment and any non-cash write-up, write-down or write-off with respect to re-valuing assets and liabilities in connection with any Investment, deferred revenue or any effects of adjustments resulting from the application of purchase accounting, purchase price accounting (including any step-up in inventory and loss of profit on the acquired inventory) (excluding non-cash losses on the sale of assets) (provided that if any such non-cash charge, write-down, expense, loss or item represents an accrual or reserve for potential cash items in any future period, (A) the Borrower may elect not to add back such non-cash charge, expense or loss in the current period and (B) to the extent the Borrower elects to add back such non-cash charge, the cash payment in respect thereof in such future period shall be subtracted from Consolidated Adjusted EBITDA when paid), or other items classified by the Borrower as special items less other non-cash items of income increasing Consolidated Net Income (excluding any amortization of a prepaid cash item that was paid in a prior period or such non-cash item of income to the extent it represents a receipt of cash in any future period and excluding non-cash gains on the sale of assets); *plus*

(g) [reserved];

(h) to the extent deducted (and not added back) in computing Consolidated Net Income, any costs or expenses incurred by the Borrower or a Restricted Subsidiary or a Parent Entity pursuant to any management equity plan, stock option plan, phantom equity plan, profits interests or any other management, employee benefit or other compensatory plan or agreement (and any successor plans or arrangements thereto), employment, termination or severance agreement, or any stock subscription or equityholder agreement, and any costs or expenses in connection with the roll-over, acceleration or payout of Equity Interests held by management, to the extent that such costs or expenses are non-cash or otherwise funded with cash proceeds contributed to the capital of the Borrower or net cash proceeds of an issuance of Equity Interests (other than Disqualified Equity Interests) of the Borrower; provided, that the amount of adjustments for cash items made pursuant to sub-clauses (d), (e), (h), and (i) of this clause (1) in any period shall not exceed 15% of the aggregate amount of Consolidated Adjusted EBITDA for such period (calculated prior to giving effect to such capped amount under such clauses); *plus*

(i) (i) unrealized or realized foreign exchange losses resulting from the impact of foreign currency changes and (ii) gains and losses due to fluctuations in currency values and related Tax effects determined in accordance with GAAP, provided, that the amount of adjustments for cash items made pursuant to sub-clauses (d), (e), (h), and (i) of this clause (1) in any period shall not exceed 15% of the aggregate amount of Consolidated Adjusted EBITDA for such period (calculated prior to giving effect to such capped amount under such clauses); *plus*

(j) the amount of any non-cash costs, charges or expenses relating to payments made to stock appreciation or similar rights, stock option, restricted stock, phantom equity, profits interests or other interests or rights holders of the Borrower or any of its Subsidiaries or any Parent Entity in connection with, or as a result of, any distribution being made to equityholders of such Person or any of its Subsidiaries or any Parent Entities, which payments are being made to compensate such holders as though they were equityholders at the time of, and entitled to share in, such distribution; *plus*

(k) any recovery of the Borrower or any of its Restricted Subsidiaries on account of any litigation, arbitration or bona fide dispute (whether determined through settlement, arbitration, judicial adjudication or otherwise) and any recovery of the Borrower or any of its Restricted Subsidiaries arising under or in respect of surety or similar arrangements to the extent such amounts were actually received and deducted (and not added back) in computing Consolidated Net Income; *plus*

(l) any mark-to-market fair value adjustment to liability-classified warrants and any other similar liability-classified adjustments in respect of any warrants, options and similar arrangements in respect of Equity Interests of the Borrower, any Parent Entity or any of their Subsidiaries to the extent deducted (and not added back) in computing Consolidated Net Income; *plus*

(m) any other non-cash adjustments to Consolidated Net Income approved by the Administrative Agent (such approval not to be unreasonably withheld, conditioned or delayed),

(2) decreased (without duplication) to the extent added back in or otherwise increasing Consolidated Net Income for such period, by non-cash items of such Person for such period, excluding any non-cash items to the extent they represent the reversal of an accrual or reserve for a potential cash item that reduced Consolidated Adjusted EBITDA in any prior period (other than non-cash gains relating to the application of Accounting Standards Codification Topic 842—Leases (or any successor provision or other financial accounting standard having a similar result or effect)).

In addition, “Consolidated Adjusted EBITDA” shall be calculated on a pro forma basis with such pro forma adjustments as are appropriate and consistent with the pro forma provisions set forth in the definition of “Fixed Charge Coverage Ratio” and Section 1.08 and to also give effect to (A) (i) any acquisition of a Vessel (whether by out-right purchase thereof or by virtue of a merger of a company that is not the Borrower or a Restricted Subsidiary into the Borrower or a Restricted Subsidiary or acquisition by the Borrower or a Restricted Subsidiary of any other company that is not the Borrower or a Restricted Subsidiary (which acquisitions or mergers are not otherwise prohibited by this Agreement)), (ii) any acquisition or delivery of a newly constructed or converted Vessel of the Borrower or a Restricted Subsidiary (whether constructed or converted directly for the Borrower or a Restricted Subsidiary or constructed or converted for a third party and acquired by the Borrower or a Restricted Subsidiary within twelve (12) months after its delivery), or (iii) any reactivated Vessel that has been a Stacked Vessel for more than twelve months (including prior to the time of acquisition by the Borrower or any Restricted Subsidiary) (Vessels of the type described in clauses (i) – (iii), the “**Specified Vessels**”) (including, but not limited to, offshore supply vessels, offshore service vessels, multi-purpose support vessels, service operation vessels, commissioning service operation vessels, other offshore wind-related vessels, construction support offshore vessels, flotels, other specialty vessels, other construction vessels, crewboats, fast supply vessels, anchor handling and towing supply vessels, tankers, tugs and tank barges) usable in the normal course of business of the Borrower or any of its Restricted Subsidiaries, that is (or are) subject to a Qualified Services Contract and (B) subject to the Borrower providing the Administrative Agent with a written notice of implementation of a stacking strategy, cost savings and operating expense reductions in connection with any Vessel (including, but not limited to, offshore supply vessels, offshore service vessels, multi-purpose support vessels, service operation vessels, commissioning service operation vessels, other offshore wind-related vessels, construction support offshore vessels, flotels, other specialty vessels, other construction vessels, crewboats, fast supply vessels, anchor handling and towing supply vessels, tankers, tugs and tank barges) that will or has become a Stacked Vessel pursuant to such stacking strategy.

For purposes of this paragraph, the amount of Consolidated Adjusted EBITDA or cost savings and operating expense reductions attributable to such Specified Vessel (or Specified Vessels) (or in the case of clause (B), such other Vessels) shall be factually supportable and calculated in good faith by a responsible financial or accounting officer of the Borrower, and shall include in the calculation of the Consolidated Adjusted EBITDA the revenues to be earned pursuant to the Qualified Services Contract relating to such Specified Vessel (or Specified Vessels), taking into account, where applicable, only contractual minimum amounts (and not, for the avoidance of doubt, on an annualized or other extended basis in excess of the minimum contractual length), and the estimated expenses related thereto. Such estimated expenses shall be based on the expenses previously incurred by any reactivated Stacked Vessel or, in the case of a new Specified Vessel (or Specified Vessels), the expenses of the most nearly comparable vessel in the Borrower’s fleet or, if no such comparable vessel exists, then on the industry average for expenses of comparable vessels; provided, *however*, in determining the estimated expenses attributable to such new Specified Vessel (or Specified Vessels), the calculation shall give effect to the interest expense attributable to the incurrence, assumption or guarantee of any Indebtedness relating to the construction, delivery, acquisition or reactivation of such new Specified Vessel (or Specified Vessels). Notwithstanding the foregoing, in any calculation of Consolidated Adjusted EBITDA based on this paragraph, the pro forma inclusion of Consolidated Adjusted EBITDA attributable to such Qualified Services Contract for the applicable period shall be reduced by the actual Consolidated Adjusted EBITDA from such new Specified Vessel (or Specified Vessels) previously earned and accounted for in the actual results for the applicable period. Any such adjustments pursuant to this paragraph shall be (x) reasonably acceptable to the Required Lenders (and deemed acceptable unless the Required Lenders, through the Administrative Agent, notify that the Borrower that such adjustments are not reasonable), (y) supported by delivery of an abstract of the relevant Qualified Services Contract, and (z) in the case of Qualified Services Contracts for Specified Vessels which are reactivated, off-set by any amounts included in Consolidated Adjusted EBITDA in respect of any Vessel taken off-contract which such Specified Vessel is replacing.

To the extent that trailing actual Consolidated Adjusted EBITDA is not available for a newly acquired Specified Vessel, when determining Consolidated Adjusted EBITDA for such Specified Vessel, the pro forma calculation for such Specified Vessel will be based on the reasonably anticipated actual number of days of employment for such Specified Vessel for the year after acquisition and other reference data provided by the chief financial officer of the Parent Entity acting in good faith to the reasonable satisfaction of the Administrative Agent, which may include revenues to be earned pursuant to any Qualified Service Contract in accordance with the preceding paragraph.

All references to “Restricted Subsidiary” in this definition may apply equally to any existing, any newly created or any newly acquired Restricted Subsidiaries.

The adjustments described in the foregoing five paragraphs shall be referred to herein as a “**QSC and Stacking Adjustment**”.

“**Consolidated First and Second Lien Debt**” means, as of any date of determination, the amount of Consolidated Total Debt outstanding under the Term Loan Facility and outstanding under any other Indebtedness (other than Intercompany Indebtedness) that is First Lien Debt or secured by the Collateral.

“**Consolidated Interest Expense**” means, with respect to any Person for any period, the sum, without duplication, of (a) the consolidated interest expense of such Person and its Restricted Subsidiaries for such period, whether paid or accrued (including, without limitation, amortization of original issue discount, the interest component of any deferred payment obligations, the interest component of all payments associated with Capitalized Lease Obligations, commissions, discounts and other fees and charges incurred in respect of letter of credit or bankers’ acceptance financings, and net payments (if any) pursuant to Swap Obligations but excluding (i) amortization of debt issuance costs and (ii) any nonrecurring charges relating to any premium or penalty paid, write off of deferred finance costs or original issue discount or other charges in connection with redeeming or otherwise retiring any Indebtedness prior to its maturity date, to the extent that any of such nonrecurring charges constitute interest expense) and (b) the consolidated interest expense of such Person and its Restricted Subsidiaries that was capitalized during such period; provided that Consolidated Interest Expense shall exclude any interest that is paid-in-kind or is imputed non-cash interest expense in accordance with GAAP.

But excluding solely for purposes of determining “Fixed Charges”, for the avoidance of doubt, (i) amortization of deferred financing costs, debt issuance costs, commissions, fees and expenses and any other amounts of non-cash interest other than referred to in clause (b) above (including as a result of the effects of acquisition method accounting or pushdown accounting), (ii) non-cash interest expense attributable to the movement of the mark-to-market valuation of obligations under hedging agreements or other derivative instruments pursuant to FASB Accounting Standards Codification No. 815-Derivatives and Hedging, (iii) any one-time cash costs associated with breakage in respect of Hedge Agreements, (iv) commissions, discounts, yield, make whole premium and other fees and charges (including any interest expense) incurred in connection with any permitted receivables financing, (v) any “additional interest” owing pursuant to a registration rights agreement with respect to any securities, (vi) any payments with respect to make-whole premiums or other breakage costs of any Indebtedness, including any Indebtedness issued in connection with the Transactions, (vii) penalties and interest relating to taxes, (viii) accretion or accrual of discounted liabilities not constituting Indebtedness, (ix) interest expense attributable to a direct or indirect Parent Entity resulting from push-down accounting, (x) any expense resulting from the discounting of Indebtedness in connection with the application of recapitalization or purchase accounting, (xi) any interest expense attributable to the exercise of appraisal rights and the settlement of any claims or actions (whether actual, contingent or potential) with respect thereto and with respect to any acquisition or Investment permitted hereunder, all as calculated on a consolidated basis in accordance with GAAP and (xii) annual agency fees paid to any trustees, administrative agents, collateral trustees, and collateral agents with respect to any secured or unsecured loans, debt facilities, debentures, bonds, commercial paper facilities or other forms of Indebtedness (including any security or intercreditor arrangements related thereto). For the avoidance of doubt, interest expense shall be determined after giving effect to any net payments made or received by the Borrower and the Restricted Subsidiaries in respect of Hedge Agreements relating to interest rate protection.

“**Consolidated Net Debt**” means, as of any date of determination, (a) Consolidated Total Debt minus (b) the aggregate amount of cash and Cash Equivalents of the Borrower and the Restricted Subsidiaries as of such date that is not Restricted.

“**Consolidated Net Income**” means, with respect to any Person for any period, the consolidated net income (or loss) of such Person and its Restricted Subsidiaries, determined in accordance with GAAP and before any reduction in respect of preferred stock dividends, *provided that*:

(1) Net Income (but not loss) of any Person that is not a Restricted Subsidiary or that is accounted for by the equity method of accounting shall be included only to the extent of the amount of dividends or distributions paid in cash to the referent Person or a Restricted Subsidiary thereof,

(2) except to the extent of the amount of dividends or distributions paid to Restricted Subsidiaries which are Guarantors, the Net Income of any Restricted Subsidiary which is not a Guarantor shall be excluded to the extent that the declaration or payment of dividends or similar distributions by that Restricted Subsidiary of that Net Income is not at the date of determination permitted without any prior governmental approval (that has not been obtained) or, directly or indirectly, by operation of the terms of its charter or any agreement, instrument, judgment, decree, order, statute, rule or governmental regulation applicable to that Restricted Subsidiary or its stockholders,

(3) unrealized losses and gains under derivative instruments included in the determination of Consolidated Net Income, including, without limitation those resulting from the application of FASB ASC Topic No. 815, Derivatives and Hedging, shall be excluded,

(4) the cumulative effect of a change in accounting principles shall be excluded,

(5) any income (loss) from the extinguishment, conversion, modification or cancellation of Indebtedness, Swap Obligations or other derivative instruments (including deferred financing costs written off, premiums paid or other expenses incurred) shall be excluded,

(6) any unrealized or realized gain or loss resulting in such period from currency translation increases or decreases or transaction gains or losses and any other realized or unrealized foreign exchange gains or losses relating to the translation of assets and liabilities denominated in foreign currencies shall be excluded;

(7) (i) any impairment charge, write-off or write-down, including impairment charges, write-offs or write-downs related to intangible assets, long-lived assets, goodwill, investments in debt or equity securities (including any losses with respect to the foregoing in bankruptcy, insolvency or similar proceedings) and investments recorded using the equity method or as a result of a Change In Law or regulation and the amortization of intangibles arising pursuant to GAAP and (ii) gains, losses or charges arising from Accounting Standards Codification Topic 820—Fair Value Measurements and Disclosures shall be excluded, and

(8) any extraordinary, non-recurring, unusual or infrequent items shall be excluded (other than any gains or losses from dispositions of property or assets in the ordinary course of business (it being acknowledged and agreed that sales of Vessels permitted under Section 7.05 of this Agreement are in the ordinary course of business)).

In addition, notwithstanding the preceding, (a) there shall be excluded from Consolidated Net Income any nonrecurring charges relating to any premium or penalty paid, write off of deferred finance costs or original issue discount or other charges in connection with redeeming or otherwise retiring any Indebtedness prior to its stated maturity and (b) to the extent not already excluded (or included, as applicable) in the Consolidated Net Income of such Person and its Restricted Subsidiaries, notwithstanding anything to the contrary in the foregoing, Consolidated Net Income shall be increased by the amount of: (i) any expenses, charges or losses that are reimbursed by indemnification or other reimbursement provisions in connection with any investment or any sale, conveyance, transfer or other disposition of assets permitted hereunder, or, so long as the Borrower has made a determination that there exists reasonable evidence that such amount will in fact be reimbursed within 365 days of the date of such evidence (including that such counterparty has not denied reimbursement or indemnification) (net of any amount so added back in a prior period to the extent not so reimbursed within the applicable 365-day period) and (ii) to the extent covered by insurance (including business interruption insurance) and actually reimbursed, or, so long as the Borrower has made a determination that there exists reasonable evidence that such amount will in fact be reimbursed by the insurer (including that the insurer has not denied reimbursement of such amounts) and only to the extent that such amount is in fact reimbursed within 365 days of the date of such evidence (net of any amount so added back in a prior period to the extent not so reimbursed within the applicable 365-day period), expenses, charges or losses with respect to liability or Casualty Events or business interruption.

“**Consolidated Net Tangible Assets**” means, with respect to any Person as of any date, the sum of the amounts that would appear on a consolidated balance sheet of such Person and its consolidated Restricted Subsidiaries as the total assets of such Person and its consolidated Restricted Subsidiaries, determined on a consolidated basis in accordance with GAAP and after deducting therefrom, (a) to the extent otherwise included, unamortized debt discount and expenses and other unamortized deferred charges, goodwill, patents, trademarks, service marks, trade names, copyrights, licenses, organization or development expenses, right of use assets and other intangible items and (b) the aggregate amount of liabilities of such Person and its Restricted Subsidiaries that may be properly classified as current liabilities (including tax accrued as estimated), determined on a consolidated basis in accordance with GAAP.

“**Consolidated Total Debt**” means, as of any date of determination, the aggregate outstanding principal amount of Indebtedness (other than Intercompany Indebtedness) of the Borrower and the Restricted Subsidiaries on such date, determined on a consolidated basis and as reflected on the face of a balance sheet prepared in accordance with GAAP (but excluding the effects of the application of purchase accounting in connection with the Transactions, any acquisition or any other Investment permitted hereunder), consisting of Indebtedness for borrowed money, unreimbursed obligations in respect of drawn letters of credit (to the extent not cash collateralized), and obligations in respect of Capitalized Leases and purchase money obligations and debt obligations evidenced by promissory notes (other than, for the avoidance of doubt, the Jones Act Notes) or debentures; *provided*, that Consolidated Total Debt will not include Indebtedness in respect of (a) [reserved], (b) any letter of credit, except to the extent of unreimbursed obligations in respect of drawn letters of credit (*provided*, that any unreimbursed amount under commercial letters of credit will not be counted as Consolidated Total Debt until three (3) Business Days after such amount is drawn (it being understood that any borrowing, whether automatic or otherwise, to fund such reimbursement will be counted)), (c) obligations under Hedge Agreements, (d) trade payable and earn outs and similar obligations except to the extent owing and not paid, (e) Indebtedness to the extent it has been cash collateralized, and (f) any lease obligations other than in respect of Capitalized Leases (and any of the Indebtedness described in the foregoing (other than in the proviso) constituting Consolidated Total Debt, “**Specified Debt**”).

“**Construction Contracts**” mean (i) that certain Vessel Conversion Agreement, dated as of June 30, 2023, between ESG and Hornbeck Offshore Wind, LLC, (ii) that certain Completion Agreement (Hull No. 370), dated as of December 20, 2023, between Surety and ESG, (iii) that certain Completion Agreement (Hull No. 369), dated as of December 20, 2023, between Surety and ESG, and (iv) that certain Takeover Agreement, dated as of October 3, 2023, between HOS LLC and Surety, each as amended or supplemented from time to time.

“Contingent Obligations” means, with respect to any Person, any obligation of such Person guaranteeing in any manner, whether directly or indirectly, any Non-Financing Lease Obligation, dividend or other obligation that does not constitute Indebtedness (**“primary obligations”**) of any other Person (the **“primary obligor”**), including any obligation of such Person, whether or not contingent:

(1) to purchase any such primary obligation or any property constituting direct or indirect security therefor;

(2) to advance or supply funds:

(a) for the purchase or payment of any such primary obligation; or

(b) to maintain the working capital or equity capital of the primary obligor or otherwise to maintain the net worth or solvency of the primary obligor; or

(3) to purchase property, securities or services primarily for the purpose of assuring the owner of any such primary obligation of the ability of the primary obligor to make payment of such primary obligation against loss in respect thereof.

“Control” and **“Controlled”** have the meaning specified in the definition of **“Affiliate.”**

“Control Agreement” means (a) with respect to accounts governed by U.S. law, an agreement, in form and substance satisfactory to the Administrative Agent and the Collateral Trustee, which provides for the Collateral Trustee to have with respect to accounts governed by U.S. law, “control” (as defined in Section 9-104 of the Uniform Commercial Code of the State of New York or Section 8-106 of the Uniform Commercial Code of the State of New York, as applicable) of Deposit Accounts or Securities Accounts, as applicable and (b) with respect to accounts governed by the law of any other jurisdiction, a customary “control agreement” for such jurisdiction in form and substance satisfactory to the Administrative Agent and the Collateral Trustee (it being agreed and understood that no Loan Document requires a “control agreement” of the type described in this clause (b)).

“Controlled Investment Affiliate(s)” means, as to any Person, any other Person, which directly or indirectly is in control of, is controlled by, or is under common control with such Person and is organized by such Person (or any Person controlling such Person) primarily for making direct or indirect equity or debt investments in the Borrower, its Subsidiaries any Parent Entity and/or other companies.

“Conversion Settlement” has the meaning specified in the definition of **“Permitted Payment.”**

“Covered Entity” means any of the following:

(a) a “covered entity” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 252.82(b);

(b) a “covered bank” as that term is defined in, and interpreted in accordance with, 12 C.F.R § 47.3(b); or

(c) a “covered FSI” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 382.2(b).

“Covered Party” has the meaning specified in Section 11.26.

“**Debtor Relief Laws**” means the U.S. Bankruptcy Code and all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization, or similar debtor relief Laws of the United States or other Applicable Jurisdictions from time to time in effect and affecting the rights of creditors generally.

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

“**Default Rate**” means the lesser of (a) an interest rate equal to fourteen percent (14%) *per annum* and (b) the Maximum Rate.

“**Default Rights**” has the meaning assigned to that term in, and shall be interpreted in accordance with, 12 C.F.R. §§ 252.81, 47.2 or 382.1, as applicable.

“**Defaulting Lender**” means, subject to Section 2.11(b), any Lender that,

(a) has failed to (i) fund all or any portion of its Loans within two (2) Business Days of the date such Loans were required to be funded hereunder unless such Lender notifies the Administrative Agent and the Borrower in writing that such failure is the result of such Lender’s determination that one or more conditions precedent to funding (which conditions precedent, together with the applicable default, if any, shall be specifically identified in such writing) has not been satisfied, or (ii) pay to the Administrative Agent or any other Lender any other amount required to be paid by it hereunder within two (2) Business Days of the date when due,

(b) has notified the Borrower or the Administrative Agent in writing that it does not intend to comply with its funding obligations hereunder, or has made a public statement to that effect (unless such writing or public statement relates to such Lender’s obligation to fund a Loan hereunder and states that such position is based on such Lender’s determination that a condition precedent to funding (which condition precedent, together with the applicable default, if any, shall be specifically identified in such writing or public statement) cannot be satisfied),

(c) has failed, within three (3) Business Days after written request by the Administrative Agent or the Borrower, to confirm in writing to the Administrative Agent and the Borrower that it will comply with its prospective funding obligations hereunder (*provided* that such Lender shall cease to be a Defaulting Lender pursuant to this clause (b) upon receipt of such written confirmation by the Administrative Agent and the Borrower), or

(d) the Administrative Agent has received notification that such Lender is, or has a direct or indirect parent company that is, (i) insolvent, or is generally unable to pay its debts as they become due, or admits in writing its inability to pay its debts as they become due, or makes a general assignment for the benefit of its creditors, (ii) other than via an Undisclosed Administration, the subject of a bankruptcy, insolvency, reorganization, liquidation or similar proceeding, or a receiver, trustee, conservator, intervenor or sequestrator, administrator, assignee for the benefit of creditors or similar Person charged with reorganization or liquidation of its business or assets, including the Federal Deposit Insurance Corporation or any other Federal or state, provincial or territorial regulatory authority acting in such a capacity or the like has been appointed for such Lender or its direct or indirect parent company, or such Lender or its direct or indirect parent company has taken any action in furtherance of or indicating its consent to or acquiescence in any such proceeding or appointment or (iii) become the subject of a Bail-In Action; *provided* that a Lender shall not be a Defaulting Lender solely by virtue of the ownership or acquisition of any Equity Interest in that Lender or any direct or indirect parent company thereof by a Governmental Authority so long as such ownership interest does not result in or provide such Lender with immunity from the jurisdiction of courts within the United States or from the enforcement of judgments or writs of attachment on its assets or permit such Lender (or such Governmental Authority or instrumentality) to reject, repudiate, disavow or disaffirm any contracts or agreements made with such Lender.

Any determination by the Administrative Agent that a Lender is a Defaulting Lender under clauses (a) through (c) above shall be conclusive absent manifest error, and such Lender shall be deemed to be a Defaulting Lender (subject to Section 2.11) upon delivery of written notice of such determination to the Borrower and each Lender.

“Deliverable Obligation” means each obligation of the Loan Parties that would constitute a “Deliverable Obligation” under a market standard credit default swap transaction documented under the ISDA CDS Definitions and specifying any of the Loan Parties as a Reference Entity. Each capitalized term used but not defined in the preceding sentence has the meaning specified in the ISDA CDS Definitions.

“Deposit Account” has the meaning specified in the Uniform Commercial Code.

“Derivative Instrument” means, with respect to a Person, any contract or instrument to which such Person is a party (whether or not requiring further performance by such Person), the value and/or cash flows of which (or any portion thereof) are based on the value and/or performance of the Loans and/or any Deliverable Obligations or “Obligations” (as defined in the ISDA CDS Definitions) with respect to the Loan Parties; *provided* that a “Derivative Instrument” will not include any contract or instrument that is entered into pursuant to bona fide market-making activities.

“Designated Non-Cash Consideration” means the Fair Market Value of any non-cash consideration received by the Borrower or a Restricted Subsidiary in connection with a Disposition pursuant to Section 7.05 that is designated as Designated Non-Cash Consideration pursuant to a certificate of a Responsible Officer, setting forth in reasonable detail the basis of such valuation (which (i) certificate shall conclusively establish such value absent manifest error and (ii) amount will be reduced by the Fair Market Value of the portion of the non-cash consideration converted to cash following the consummation of the applicable Disposition).

“Disinterested Director” means, with respect to any Affiliate Transaction, a member of the Board of Directors having no material direct or indirect financial interest in or with respect to such Affiliate Transaction. A member of the Board of Directors shall be deemed not to have such a financial interest by reason of such member’s holding Equity Interests of the Borrower or any Parent Entity or any options, warrants or other rights in respect of such Equity Interests.

“Disposition” or “Dispose” means:

(a) the sale, conveyance, transfer or other disposition, whether in a single transaction or a series of related transactions, of property or assets (including by way of a Sale Leaseback Transaction) of the Borrower or any of its Restricted Subsidiaries (in each case other than Equity Interests of the Borrower); or

(b) the issuance or sale of Equity Interests of any Restricted Subsidiary (other than preferred stock or Disqualified Equity Interests of Restricted Subsidiaries or directors’ qualifying shares and shares issued to foreign nationals as required under applicable law), whether in a single transaction or a series of related transactions;

in each case, other than:

(1) a disposition by the Borrower or a Restricted Subsidiary to the Borrower or a Restricted Subsidiary, including pursuant to any Intercompany License Agreement;

(2) a disposition of cash, Cash Equivalents or Investment Grade Securities, including any marketable securities portfolio owned by the Borrower and its Subsidiaries on the Closing Date;

(3) a disposition of inventory, goods or other assets (including Settlement Assets) in the ordinary course of business or consistent with past practice or held for sale or no longer used in the ordinary course of business, including any disposition of disposed, abandoned or discontinued operations;

(4) a disposition of obsolete, worn-out, uneconomic, damaged, non-core or surplus property, equipment or other assets or property, equipment or other assets that are no longer economically practical or commercially desirable to maintain or used or useful in the business of the Borrower and its Restricted Subsidiaries whether now or hereafter owned or leased or acquired in connection with an acquisition or used or useful in the conduct of the business of the Borrower and its Restricted Subsidiaries (including by ceasing to enforce, allowing the lapse, abandonment or invalidation of or discontinuing the use or maintenance of or putting into the public domain any intellectual property that is, in the reasonable judgment of the Borrower or the Restricted Subsidiaries, no longer used or useful, or economically practicable to maintain, or in respect of which the Borrower or any Restricted Subsidiary determines its reasonable judgment that such action or inaction is desirable);

(5) transactions governed by and permitted under Section 7.04 or a transaction that constitutes a Change of Control;

(6) an issuance of Equity Interests by a Restricted Subsidiary to the Borrower or to another Restricted Subsidiary or as part of or pursuant to an equity incentive or compensation plan approved by the Board of Directors of the Borrower;

(7) any dispositions of Equity Interests (other than Equity Interests of the Borrower or any Guarantor), properties or assets (excluding Vessel Collateral) in a single transaction or series of related transactions with a Fair Market Value (as determined in good faith by the Borrower) of up to \$25.0 million;

- (8) any Restricted Payment that is permitted to be made, and is made, under Section 7.06 or Section 7.09 and the making of any Permitted Payment, Permitted Investment or asset sales;
- (9) dispositions in connection with Permitted Liens, Permitted Intercompany Activities and related transactions;
- (10) dispositions of receivables in connection with the compromise, settlement or collection thereof in the ordinary course of business or consistent with past practice or in bankruptcy or similar proceedings and exclusive of factoring or similar arrangements;
- (11) conveyances, sales, transfers, licenses, sublicenses, cross-licenses or other dispositions of intellectual property, software or other general intangibles and licenses, sublicenses, cross-licenses, leases or subleases of other property, in each case, in the ordinary course of business or consistent with past practice or pursuant to a research or development agreement in which the counterparty to such agreement receives a license in the intellectual property or software that result from such agreement;
- (12) the lease, assignment, license, sublease or sublicense of any real or personal property in the ordinary course of business or consistent with industry practice;
- (13) foreclosure, condemnation, expropriation, forced disposition or any similar action with respect to any property or other assets or the granting of Liens not prohibited by this Agreement;
- (14) the sale, discount or other disposition (with or without recourse, and on customary or commercially reasonable terms and for credit management purposes) of inventory, accounts receivable or notes receivable in the ordinary course of business or consistent with past practice, or the conversion or exchange of accounts receivable for notes receivable;
- (15) any issuance or sale of Equity Interests in, or Indebtedness or other securities of, an Unrestricted Subsidiary or any other disposition of Equity Interests, Indebtedness or other securities of an Unrestricted Subsidiary;
- (16) any disposition of Equity Interests of a Restricted Subsidiary pursuant to an agreement or other obligation with or to a Person (other than the Borrower or a Restricted Subsidiary) from whom such Restricted Subsidiary was acquired, or from whom such Restricted Subsidiary acquired its business and assets (having been newly formed in connection with such acquisition), made as part of such acquisition and in each case comprising all or a portion of the consideration in respect of such sale or acquisition;
- (17) (i) dispositions of property to the extent that such property is exchanged for credit against the purchase price of similar replacement property that is promptly purchased, (ii) dispositions of property to the extent that the proceeds of such disposition are promptly applied to the purchase price of such replacement property (which replacement property is actually promptly purchased) and (iii) to the extent allowable under Section 1031 of the Code or comparable law or regulation, any exchange of like property (excluding any boot thereon) for use in a Similar Business;

(18) [reserved];

(19) any financing transaction with respect to property constructed, acquired, leased, renewed, relocated, expanded, replaced, repaired, maintained, upgraded or improved (including any reconstruction, refurbishment, renovation and/or development of real property) by the Borrower or any Restricted Subsidiary after the Closing Date, including Sale Leaseback Transactions not prohibited by this Agreement;

(20) sales, transfers or other dispositions of Investments in joint ventures or similar entities to the extent required by, or made pursuant to customary buy/sell arrangements between, the parties set forth in joint venture arrangements and similar binding arrangements;

(21) any surrender or waiver of contractual rights or the settlement, release, surrender or waiver of contractual, tort, litigation or other claims of any kind;

(22) the unwinding of any Cash Management Obligations (as such term is defined in the First Lien RCF Credit Agreement as of the Closing Date) or Hedge Agreements;

(23) transfers of property or assets subject to Casualty Events upon receipt of the net proceeds of such Casualty Event;

(24) any disposition to a Captive Insurance Subsidiary;

(25) the disposition of any assets (including Equity Interests) (i) acquired in a transaction after the Closing Date, which assets are not useful in the core or principal business of the Borrower and its Restricted Subsidiaries, or (ii) made in connection with the approval of any applicable antitrust authority or otherwise necessary or advisable in the reasonable determination of the Borrower to consummate any acquisition;

(26) any charter or lease of any equipment or other properties or assets entered into in the ordinary course of business and with respect to which the Borrower or any of its Restricted Subsidiaries is the lessor or Person granting the charter, except any such charter or lease that provides for the acquisition of such properties or assets by the lessee during or at the end of the term thereof for an amount that is less than the Fair Market Value thereof at the time the right to acquire such properties or assets occurs;

(27) any sale, lease, conveyance or other disposition of any property or assets other than the Collateral; and

(28) any disposition of non-revenue producing assets to a Person who is providing services related to such assets, the provision of which have been or are to be outsourced by the Borrower or any Restricted Subsidiary to such Person.

In the event that a transaction (or any portion thereof) meets the criteria of a permitted Disposition and would also be a Permitted Investment or an Investment permitted under Section 7.06 the Borrower, in its sole discretion, will be entitled to divide and classify such transaction (or a portion thereof) as a Disposition and/or one or more of the types of Permitted Investments or Investments permitted under Section 7.06. For the avoidance of doubt, the entry into a Hedge Agreement (including any call, capped call or warrant transaction) any settlement, unwind or termination thereof shall not constitute a Disposition.

“Disqualified Equity Interest” means, with respect to any Person, any Equity Interests of such Person which by its terms (or by the terms of any security into which it is convertible or for which it is exchangeable) or upon the happening of any event:

(1) matures or is mandatorily redeemable for cash or in exchange for Indebtedness pursuant to a sinking fund obligation or otherwise; or

(2) is or may become (in accordance with its terms) upon the occurrence of certain events or otherwise redeemable or repurchasable for cash or in exchange for Indebtedness at the option of the holder of the Equity Interests in whole or in part, in each case on or prior to the earlier of (a) the Maturity Date of the Loans or (b) the date on which all Loans and other Obligations have been paid in full; provided, however, that (i) only the portion of Equity Interests which so matures or is mandatorily redeemable, is so convertible or exchangeable or is so redeemable at the option of the holder thereof prior to such date will be deemed to be Disqualified Equity Interests and (ii) any Equity Interests that would constitute Disqualified Equity Interests solely because the holders thereof have the right to require the Borrower to repurchase such Equity Interests upon the occurrence of a change of control or asset sale (howsoever defined or referred to) shall not constitute Disqualified Equity Interests if any such redemption or repurchase obligation is subject to compliance by the relevant Person with Section 7.06; provided, however, that if such Equity Interests are issued to any future, current or former employee, director, officer, manager, contractor, consultant or advisor (or their respective Controlled Investment Affiliates or Immediate Family Members) (excluding the Permitted Holders (but not excluding any future, current or former employee, director, officer, manager, contractor, consultant or advisor) or Immediate Family Members), of the Borrower, any of its Subsidiaries, any Parent Entity or any other entity in which the Borrower or a Restricted Subsidiary has an Investment and is designated in good faith as an “affiliate” by the Board of Directors (or the compensation committee thereof) or any other plan for the benefit of current, former or future employees (or their respective Controlled Investment Affiliates or Immediate Family Members) of the Borrower or its Subsidiaries or by any such plan to such employees (or their respective Controlled Investment Affiliates or Immediate Family Members), such Equity Interests shall not constitute Disqualified Equity Interests solely because it may be required to be repurchased by the Borrower or its Subsidiaries in order to satisfy applicable statutory or regulatory obligations.

“Disqualified Lender” means,

(a) the competitors of the Borrower and their Subsidiaries identified in writing by or on behalf of the Borrower (i) to the Administrative Agent on or prior to the Closing Date and (ii) to the Administrative Agent from time to time on or after the Closing Date subject to the Administrative Agent’s consent (such consent not to be unreasonably withheld, conditioned or delayed);

(b) (i) any Persons that are engaged as principals primarily in private equity, mezzanine financing or venture capital and (ii) those particular banks, financial institutions, other institutional lenders and other Persons, in the case of each of clauses (i) and (ii), to the extent identified in writing by or on behalf of the Borrower to the Administrative Agent on or prior to the Closing Date or after the Closing Date subject to the Administrative Agent's consent (such consent not to be unreasonably withheld, conditioned or delayed);

(c) any Affiliate of the Persons described in the preceding clauses (a) or (b) (in each case, other than any Affiliates that are banks, financial institutions, *bona fide* debt funds or investment vehicles that are engaged in making, purchasing, holding or otherwise investing in commercial loans, bonds and similar extensions of credit in the ordinary course (except to the extent separately identified under clause (a) or (b) above)), in each case, that are either reasonably identifiable as such on the basis of their name or are identified as such in writing by or on behalf of the Borrower (i) to the Administrative Agent on or prior to the Closing Date, or (ii) to the Administrative Agent from time to time on or after the Closing Date; and

(d) at any time, or with respect to any action (or proposed action) in connection with which, a Net Short Representation is required to be made (or deemed made) hereunder, any Lender (or prospective Lender) that has breached its Net Short Representation at such time or in connection with such action (or proposed action).

Notwithstanding the foregoing, any Persons identified as Disqualified Lenders on or after the Closing Date shall be added to the list of Disqualified Lenders, and such designation as a Disqualified Lender will take effect, three (3) Business Days after such designation or identification is made in writing and received by the Administrative Agent; *provided*, that to the extent any transfer is made in anticipation of such designation or otherwise in bad faith by any Lender or Participant during such three (3) Business Day period, such transaction shall be subject to the applicable provisions of Section 11.29(a) (and the Borrower shall be entitled to seek specific performance in any applicable court of law or equity to enforce this sentence). The Administrative Agent shall make the list of Disqualified Lenders available to any Lender, Participant or prospective Lender or Participant upon request by such Lender, Participant or prospective Lender or Participant; *provided* that such Lender, Participant or prospective Lender or Participant shall only make such request, to the extent and only to the extent, necessary to determine whether a proposed assignment, participation or disclosure of Information is permitted.

“**Division**” has the meaning specified in Section 1.02(d).

“**Dollar**”, “**\$**” and “**USD**” mean lawful money of the United States.

“**Domestic Subsidiary**” means any Subsidiary that is organized under the Laws of the United States, any state thereof or the District of Columbia.

“**EEA Financial Institution**” means (a) any credit institution or investment firm established in any EEA Member Country which is subject to the supervision of an EEA Resolution Authority, (b) any entity established in an EEA Member Country which is a parent of an institution described in clause (a) of this definition, or (c) any financial institution established in an EEA Member Country which is a subsidiary of an institution described in clauses (a) or (b) of this definition and is subject to consolidated supervision with its parent.

“**EEA Member Country**” means any of the member states of the European Union, Iceland, Liechtenstein and Norway.

“**EEA Resolution Authority**” means any public administrative authority or any person entrusted with public administrative authority of any EEA Member Country (including any delegee) having responsibility for the resolution of any EEA Financial Institution.

“**Eligible Assignee**” means any Person that meets the requirements to be an assignee under Section 11.07(b)(v); *provided* that the following Persons shall not be Eligible Assignees: (a) any Defaulting Lender, and (b) so long as no Event of Default pursuant to Section 9.01(a) or Section 9.01(f) shall have occurred and be continuing for at least 10 days, any Disqualified Lender (other than a Net Short Lender, which shall never be an Eligible Assignee hereunder); *provided* that, to the extent persons become Disqualified Lenders after the Closing Date in accordance with clauses (a) or (c) in the definition thereof, the inclusion of such persons as Disqualified Lenders shall not retroactively apply to prior assignments or participations made in compliance with applicable assignment or participation provisions.

“**EMU**” means the Economic and Monetary Union as contemplated in the EU Treaty.

“**EMU Legislation**” means the legislative measures of the EMU for the introduction of, changeover to, or operation of the Euro in one or more member states.

“**Environmental Claim**” means any and all administrative, regulatory or judicial actions, suits, demands, demand letters, claims, liens, notices of noncompliance or violation, or proceedings with respect to any Environmental Liability or pursuant to Environmental Law, including those (a) by any Governmental Authority for enforcement, cleanup, removal, response, remedial or other actions or damages pursuant to any Environmental Law and (b) by any Person seeking damages, contribution, indemnification, cost recovery, compensation or injunctive relief pursuant to any Environmental Law.

“**Environmental Laws**” means any Laws relating to the protection of the environment or, to the extent relating to exposure to Hazardous Materials, human health.

“**Environmental Liability**” means any liability, contingent or otherwise (including any liability for damages, costs of environmental remediation, fines, penalties or indemnities, including but not limited to those assumed by contract, written agreement, or other consensual written agreement) of any Loan Party or any of its Subsidiaries directly resulting from or based upon (a) violation of any Environmental Law, (b) the generation, use, handling, transportation, storage, treatment or disposal of any Hazardous Materials, (c) exposure of any Person to any Hazardous Materials, or (d) the release or threatened release of any Hazardous Materials into the environment.

“**Environmental Permit**” means any permit, approval, identification number, license or other authorization required under or issued pursuant to any Environmental Law.

“Equity Interests” of any Person means any and all shares of, rights to purchase or acquire, warrants (including, for the avoidance of doubt, the Jones Act Warrants), options or depositary receipts for, or other equivalents of, or partnership or other interests in (however designated), equity of such Person, including any Preferred Stock, but excluding any debt securities convertible into, or exchangeable for, such equity.

“Equity Offering” means (x) a sale of Equity Interests (other than through the issuance of Disqualified Equity Interests) other than (a) offerings registered on Form S-8 (or any successor form) under the Securities Act or any similar offering in other jurisdictions or other securities of the Borrower or any Parent Entity and (b) issuances of Equity Interests to any Subsidiary of the Borrower or (y) a cash equity contribution to the Borrower.

“ERISA” means the Employee Retirement Income Security Act of 1974, as amended from time to time, and the rules and regulations promulgated thereunder.

“ERISA Affiliate” means any trade or business (whether or not incorporated) that together with any Loan Party is treated as a single employer within the meaning of Section 414 of the Code or Section 4001 of ERISA. For the avoidance of doubt, when any provision of this Agreement relates to a past event or period of time, the term “ERISA Affiliate” includes any Person who was, as to the time of such past event or period of time, an ERISA Affiliate within the meaning of the preceding sentence.

“ERISA Event” means (a) a Reportable Event with respect to a Pension Plan; (b) a withdrawal by any Loan Party or any of their respective ERISA Affiliates from a Pension Plan subject to Section 4063 of ERISA during a plan year in which it was a substantial employer (as defined in Section 4001(a)(2) of ERISA) or a cessation of operations that is treated as a termination under Section 4062(e) of ERISA; (c) a complete or partial withdrawal by any Loan Party or any of their respective ERISA Affiliates from a Multiemployer Plan, written notification of any Loan Party or any of their respective ERISA Affiliates concerning the imposition of Withdrawal Liability on it or written notification that a Multiemployer Plan is insolvent within the meaning of Title IV of ERISA or in endangered or critical status within the meaning of Section 432 of the Code or Section 305 of ERISA; (d) the filing under Section 4041(c) of ERISA of a notice of intent to terminate a Pension Plan, the treatment of a Pension Plan or Multiemployer Plan amendment as a termination under Sections 4041 or 4041A of ERISA, the commencement of proceedings by the PBGC to terminate a Pension Plan or Multiemployer Plan, or the written notification from the PBGC or a plan administrator relating to an intention to terminate or to appoint a trustee to administer any Pension Plan or Multiemployer Plan under Section 4042 of ERISA; (e) the imposition of any liability under Title IV of ERISA, other than for the payment of plan contributions or PBGC premiums due but not delinquent under Section 4007 of ERISA, upon any Loan Party; (f) the failure to satisfy the minimum funding standards (within the meaning of Section 412 of the Code or Section 302 of ERISA) with respect to any Pension Plan; (g) the application for a minimum funding waiver under Section 412 of the Code or Section 302(c) of ERISA with respect to a Pension Plan; (h) the failure by any Loan Party or any of their respective ERISA Affiliates to make any required contribution to any Pension Plan or any Multiemployer Plan; (i) the imposition of a lien on the assets of a Loan Party under Section 430(k) of the Code or Section 303(k) of ERISA with respect to any Pension Plan; or (j) a determination that any Pension Plan is in “at risk” status (within the meaning of Section 430(i) of the Code or Section 303(i) of ERISA).

“**Erroneous Payment**” has the meaning specified in Section 10.17(a).

“**Erroneous Payment Deficiency Assignment**” has the meaning specified in Section 10.17(d).

“**Erroneous Payment Impacted Loan**” has the meaning specified in Section 10.17(d).

“**Erroneous Payment Return Deficiency**” has the meaning specified in Section 10.17(d).

“**Erroneous Payment Subrogation Rights**” has the meaning specified in Section 10.17(d).

“**ESG**” has the meaning specified in the definition of “Builder”.

“**EU Bail-In Legislation Schedule**” means the EU Bail-In Legislation Schedule published by the Loan Market Association (or any successor person), as in effect from time to time.

“**EU Treaty**” means the Treaty on European Union.

“**Euro**” and “**€**” mean the single currency of the Participating Member States introduced in accordance with the provisions of Article 109(i)4 of the EU Treaty.

“**Event of Default**” has the meaning specified in Section 9.01.

“**Exchange Act**” means the Securities Exchange Act of 1934, as amended, and the rules and regulations of the SEC promulgated thereunder, as amended.

“**Exchange Rate**” means, on any date with respect to any currency, the rate at which such currency may be exchanged into any other currency, as set forth at approximately 11:00 a.m., London time, on such date on the applicable Bloomberg page for such currency. In the event that such rate does not appear on any Bloomberg page, the Exchange Rate shall be determined by reference to such other publicly available service for displaying the exchange rates as may be selected by the Administrative Agent, or, in the event no such service is selected, such Exchange Rate shall instead be the arithmetic average of the spot rates of exchange of the Administrative Agent in the market where its foreign currency exchange operations in respect of such currency are then being conducted, at or about 10:00 a.m., local time, on such date for the purchase of the relevant currency for delivery two (2) Business Days later; *provided* that, if at the time of any such determination, for any reason no such spot rate is being quoted, the Administrative Agent, after consultation with the Borrower, may use any reasonable method that it deems appropriate to determine such rate, and such determination shall be presumed correct absent manifest error.

“**Excluded Account**” means each of the following Deposit Accounts and Securities Accounts of the Borrower or a Guarantor (and all cash, Cash Equivalents and other securities or investments credited thereto or deposited therein): (a) Deposit Accounts and Securities Accounts exclusively used for withholding, payroll, payroll Taxes, workers compensation and employee benefits, or withholding, sales, use, value added or similar taxes, (b) Deposit Accounts and Securities Accounts held in trust for a third party; *provided*, that such accounts consist solely of funds set aside for such purpose, (c) escrow accounts that have an overnight balance of which in the aggregate, together with the overnight balance of all such other escrow accounts excluded pursuant to this clause (c), do not exceed \$5,000,000, (d) each Deposit Account holding the cash constituting cash collateral in respect of letters of credit permitted to be issued pursuant to this Agreement or Section 7.03 and other cash collateral permitted under Section 7.01(k)(i), (iii) or (iv), Section 7.01(ii) or Section 7.01(mm), (e) any zero balance accounts so long as the relevant Borrower or Guarantor shall ACH or wire transfer no less frequently than daily to a Blocked Account all amounts on deposit in each such zero balance account, (f) any bank account opened in, or under the laws of, a jurisdiction outside of the United States, (g) those Deposit Accounts and Securities Accounts that have an overnight balance of which in the aggregate, together with the overnight balance of all such other Deposit Accounts, Securities Accounts and Commodity Accounts excluded pursuant to this clause (g) and clause (i) that do not exceed \$5,000,000, (h) any Deposit Accounts and Securities Accounts holding exclusively Subsidized Indebtedness Specified Cash and (i) other Deposit Accounts and Securities Accounts, provided that the aggregate balance in such accounts excluded pursuant to this clause (i) and clause (g) at the end of any Business Day shall not exceed \$5.0 million in the aggregate.

“**Excluded Asset**” means:

(a) any asset (including, to the extent applicable, any equipment or inventory owned by the Borrower or a Guarantor that is subject to a Permitted Lien pursuant to Section 7.01(n)), lease, license, franchise, charter, authorization, contract or agreement to which the Borrower or a Guarantor is a party, together with any rights or interest thereunder, in each case, if and to the extent security interests therein (A) are prohibited by or in violation of any applicable law, (B) require any governmental consent that has not been obtained or consent of a third party (that is not the Borrower or a Restricted Subsidiary) that has not been obtained pursuant to any contract or agreement binding on such asset at the time of its acquisition and not entered into in contemplation of such acquisition, (C) in the case of any lease, license, franchise, charter, authorization, contract or agreement, are prohibited by or in violation of a term, provision or condition of any such lease, license, franchise, charter, authorization, contract or agreement to which the Borrower or a Guarantor is a party or create a right of termination in favor of any other party thereto (other than the Borrower or a Restricted Subsidiary), except, in the case of each of the foregoing clauses (A), (B), and (C), to the extent that such prohibition or restriction would be rendered ineffective under the Uniform Commercial Code or other applicable law or principle of equity or (D) in the case of any property subject to a lien securing permitted purchase money indebtedness, capitalized lease obligation indebtedness, government or quasi-government provided, supported, guaranteed or subsidized Indebtedness or similar arrangement, but only to the extent that a grant of a security interest therein to secure the Loans would violate or invalidate such purchase money, capital lease, government or quasi-government provided, supported, guaranteed or subsidized Indebtedness or similar arrangement (including as a result of any requirement to obtain the consent, approval, license or authorization of any third party unless such consent has been obtained (and it being understood and agreed that neither the Borrower nor any Guarantor shall have any obligation to procure any such consent, approval, license or authorization)) or create a right of termination in favor of any other party thereto (other than the Borrower, a Guarantor or a Restricted Subsidiary) after giving effect to the applicable anti-assignment provisions of the Uniform Commercial Code; *provided, however*, that, notwithstanding the foregoing, the Collateral includes, at such time as the contractual or legal prohibition shall no longer be applicable, and, to the extent severable, any portion of such asset, lease, license, franchise, charter, authorization, contract or agreement not subject to the prohibitions specified in clauses (A), (B), (C) or (D) above (in each case, after giving effect to the applicable anti-assignment provisions of the Uniform Commercial Code or other applicable law);

(b) the Excluded Equity Interests and any assets of any Subsidiary that is not a Guarantor;

(c) [reserved];

(d) any “intent-to-use” trademark applications prior to the filing and acceptance of a “Statement of Use” pursuant to Section 1(d) of the Lanham Act or an “Amendment to Allege Use” pursuant to Section 1(c) of the Lanham Act with respect thereto, to the extent that, and solely during the period, if any, in which, the grant of a security interest therein would impair the validity or enforceability of any registration that issues from such intent-to-use application under applicable federal law (it being understood that, after such period, such intent-to-use application will automatically be included in the Collateral);

(e) (A) any leasehold interest (including any ground lease interest) in real property, including leasehold improvements, (B) any fee interest in owned real property, and (C) any fixtures affixed to any real property to the extent a security interest in such fixtures may not be perfected by the filing of a Uniform Commercial Code financing statement in the jurisdiction of organization of the applicable Borrower or Guarantor;

(f) any asset (other than Vessel Collateral) subject to any notice or consent of governmental authorities under the Federal Assignment of Claims Act or any similar or commensurate legislation under the Laws of the United States or a jurisdiction thereof;

(g) (A) as-extracted collateral, (B) timber to be cut, (C) farm products, (D) manufactured homes and (E) healthcare insurance receivables;

(h) any particular asset, if the pledge thereof or the security interest therein would result in material adverse Tax consequences to any Parent Entity, the Borrower or any Guarantor as reasonably determined by the Borrower in good faith in consultation with the Administrative Agent;

(i) [reserved];

(j) any specifically identified asset with respect to which the Administrative Agent has determined in its reasonable judgement (in consultation with the Borrower) that the costs of obtaining, perfecting or maintaining a security interest or pledge in such asset outweighs the benefit to be obtained on account thereof (including if such actions exceed the fair market value thereof, as determined by the Borrower in its reasonable judgement) or the practical benefit to the Lenders afforded thereby;

(k) letter-of-credit rights, except to the extent constituting a supporting obligation for other Collateral as to which perfection of the security interest in such other Collateral is accomplished by the filing of UCC-1 financing statements;

(l) commercial tort claims (i) existing as of the date hereof and (ii) arising after the Closing Date where, in the case of this clause (ii), the amount of the damages reasonably expected to be realized by the applicable Borrower or Guarantor (as determined by the Borrower in good faith) is not in excess of an amount equal to the greater of (a) \$40.0 million and (b) an amount equal to 5.0% of the Borrower's Consolidated Net Tangible Assets determined as of the end of the Borrower's most recently completed fiscal quarter for which internal financial statements are available;

(m) motor vehicles, aircraft, recreational vessels and other assets (other than Vessels (other than recreational vessels)) subject to certificates of title or ownership (including aircraft, airframes, aircraft engines or helicopters, or any equipment or other assets constituting a part thereof and rolling stock) in each case, to the extent a security interest therein cannot be perfected by the filing of a UCC-1 financing statement in the jurisdiction of organization (or other location of the Borrower or Guarantor under Section 9-307 of the Uniform Commercial Code) of the applicable Borrower or Guarantor;

(n) any Excluded Accounts;

(o) any Excluded Vessels;

(p) any foreign assets and assets located in or governed by any non-U.S. jurisdiction or agreement (other than stock certificates otherwise required to be pledged and other than Vessels flagged under an Approved Flag Jurisdiction if the Borrower has expressly elected to include such Vessel as Vessel Collateral) or credit support with respect to such foreign assets or any property or assets owned by a FSHCO, Foreign Subsidiary, Subsidiary of a FSHCO or Foreign Subsidiary, or an Unrestricted Subsidiary;

(q) any asset (other than any Vessel Collateral) subject to any notice, consent or other action of or in respect of governmental authorities under the Federal Assignment of Claims Act or any similar or commensurate legislation under the Laws of the United States or a jurisdiction thereof;

(r) any assets acquired pursuant to an acquisition, merger, consolidation or other Investments after the Closing Date permitted hereunder that are financed by or constitute collateral in respect of Acquired Indebtedness permitted hereunder or that are prohibited from having a Lien granted thereon by any enforceable contract or other agreement (in each case, binding on the assets at the time of such consummation and not created or entered into in contemplation thereof), solely to the extent and for so long as such contract or other agreement (or a permitted refinancing or replacement thereof) finances, is secured by or prohibits such security interest;

provided, that the Borrower, in its sole discretion may (upon written notice to the Collateral Trustee) cause any assets (including Vessels) that otherwise qualify as Excluded Assets under any of the clauses above to become Collateral and thereafter such assets shall not constitute “Excluded Assets” (or, if applicable, Excluded Vessels) until such time as the Lien in such assets is released in accordance with the terms of this Agreement, the applicable Collateral Document or the applicable Intercreditor Agreement, as applicable; *provided, further*, that the Excluded Assets referred to above shall not include any proceeds or receivables of any such Excluded Asset (except to the extent such proceeds or receivables constitute Excluded Assets). For the avoidance of doubt, the foregoing is subject to the Permitted Reflagging Transactions.

“**Excluded Equity Interests**” has the meaning specified in the Collateral Agreement.

“**Excluded Foreign Flag Vessel**” means any Vessel that is registered under the laws and flag of an Approved Flag Jurisdiction other than the United States of America or is a U.S. Non-Jones Act Vessel (a) as of the Closing Date, (b) if acquired by the Borrower or a Restricted Subsidiary after the Closing Date from a Person other than the Borrower or a Restricted Subsidiary, as of the date of such acquisition or (c) as of any date after the Closing Date if (i) (w) on a pro forma basis, following the reflagging of such Vessel, the Term Loan Collateral Release Ratio is less than 30% (or if the Term Loan Collateral Release Ratio is greater than 30%, the Administrative Agent (or, if required by Section 11.01(b)(v), all Lenders) shall have consented to such reflagging), (x) the Borrower or a Guarantor shall designate a Substitute Vessel (or Substitute Vessels) with a Vessel Collateral Value Amount that is equal or greater than the Vessel Collateral Value Amount for such Vessel so reflagged pursuant to the terms of Section 2.03(f) hereof, (y) the Borrower or a Guarantor shall pay to the Administrative Agent (for the benefit of the Lenders) an amount equal to the Release Value of such Vessel so reflagged, plus the applicable Prepayment Fee on the amount paid to the Administrative Agent or (z) the Borrower shall do a combination of clauses (y) and (x) such that the Payment Percentage and Substitution Percentage equal at least 100% (plus the applicable Prepayment Fee on the amount so paid to the Administrative Agent) and (ii) a reflagging of Vessel Collateral is, in the good faith judgment of the Borrower, necessary or desirable in order to pursue customer opportunities in non-U.S. jurisdictions.

“**Excluded Subsidiary**” means:

(a) any Restricted Subsidiary that is not a wholly-owned Restricted Subsidiary of the Borrower or a Guarantor,

(b) any (i) FSHCO, (ii) Foreign Subsidiary or (iii) any Restricted Subsidiary of any FSHCO or Foreign Subsidiary,

(c) any Restricted Subsidiary that is prohibited or restricted by applicable Law from providing a Guaranty or by a binding contractual obligation existing on the Closing Date or at the time of the acquisition of such Restricted Subsidiary (and not incurred in contemplation of the Closing Date or such acquisition) from providing a Guaranty (*provided* that such contractual obligation is not entered into by the Borrower or its Restricted Subsidiaries principally for the purpose of qualifying as an “Excluded Subsidiary” under this definition) or if such Guaranty would require governmental (including regulatory) or third party (other than the Borrower or a Restricted Subsidiary) consent, approval, license or authorization, unless such consent, approval, license or authorization has been obtained,

(d) [reserved],

(e) any Restricted Subsidiary that is a not-for-profit organization,

(f) any Captive Insurance Subsidiary,

(g) any other Restricted Subsidiary with respect to which, as reasonably determined by the Borrower in good faith and in consultation with the Administrative Agent, the cost or other consequences (including any material adverse tax consequences) of providing the Guaranty shall be excessive in view of the benefits to be obtained by the Lenders therefrom,

(h) any other Restricted Subsidiary to the extent the provision of a guarantee by such Restricted Subsidiary would result in material adverse Tax consequences to any Parent Entity (to the extent such material adverse Tax consequences are related to its ownership of the Equity Interests in the Borrower and its subsidiaries), the Borrower or any of their subsidiaries as reasonably determined by the Borrower in good faith and in consultation with the Administrative Agent;

(i) any Unrestricted Subsidiary; and

(j) any Immaterial Subsidiary;

provided that the Borrower, in its sole discretion (or in the case of any Foreign Subsidiary, in consultation with the Administrative Agent), may cause any Restricted Subsidiary that qualifies as an Excluded Subsidiary under clauses (a) through (j) above to become a Guarantor in accordance with the definition thereof (subject to completion of any requested “know your customer” and similar requirements of the Administrative Agent and the Lenders) and thereafter such Restricted Subsidiary shall not constitute an “Excluded Subsidiary” (unless and until the Borrower elects, in its sole discretion, to designate such Persons as an Excluded Subsidiary).

“**Excluded Taxes**” means any of the following Taxes imposed on or with respect to a Recipient or required to be withheld or deducted from a payment to a Recipient, (i) Taxes imposed on or measured by income (however denominated), branch profits, franchise or similar Taxes, in each case, that are (A) imposed by the jurisdiction (or political subdivision thereof) under the laws of which it is organized or in which its principal office is located or, in the case of any Lender, in which its applicable Lending Office is located, or (B) Other Connection Taxes, (ii) any Tax that is (or would be) required to be withheld with respect to amounts payable hereunder in respect of an Eligible Assignee (pursuant to an assignment under Section 11.07) on the date it becomes an assignee to the extent such Tax is in excess of the Tax that would have been applicable had such assigning Lender not assigned its interest arising under any Loan Document (unless such assignment is at the express written request of the Borrower), (iii) withholding Taxes imposed on amounts payable to or for the account of a Recipient with respect to an applicable interest in a Loan or Commitment pursuant to a Law in effect on the date on which (A) such Lender or Agent acquires such interest in the Loan or Commitment (other than pursuant to an assignment request by the Borrower under Section 3.07) or (B) such Lender changes its Lending Office (other than at the written request of the Borrower to change such Lending Office), except in each case to the extent that pursuant to this Section 3.01, amounts with respect to such Taxes were payable to such Recipient’s assignor immediately before such Recipient became a party hereto, or to such Lender immediately before it changed its Lending Office, (iv) any Taxes imposed as a result of the failure of any Recipient to comply with the provisions of Sections 3.01(b), 3.01(c), 3.01(d) or 3.01(e) (in the case of any U.S. Lender, as defined below), and (v) any Taxes imposed under FATCA.

“**Excluded Vessel**” means any Vessel owned from time to time by the Borrower or any Guarantor (i) that is an Excluded Foreign Flag Vessel, (ii) that is under construction and has not been delivered to the Borrower or a Guarantor, (iii) [reserved] or (iv) that is an Excluded Asset, other than any such Vessel that the Borrower has elected to cause to become Collateral. Notwithstanding the foregoing, it is agreed that upon completion of construction and delivery to the Borrower or a Guarantor, HOS Warhorse and HOS Wild Horse (the “**2024 Newbuild Vessels**”) shall not be deemed Excluded Vessels and shall become subject to a Vessel Mortgage in accordance with the time periods provided for in Section 6.11(d).

“**Existing Second Lien Term Loan Agreement**” has the meaning set forth in the Preliminary Statements hereto.

“**Fair Market Value**” may be conclusively established by means of a certificate from a Responsible Officer or resolutions of the Board of Directors setting out such fair market value as determined by such Responsible Officer or such Board of Directors in good faith.

“**FATCA**” means Sections 1471 through 1474 of the Code, as of the date of this Agreement (or any amended or successor version to the extent such version is substantively comparable and not materially more onerous to comply with), any current or future regulations or official interpretations thereof, any agreements entered into pursuant to Section 1471(b)(1) of the Code and any fiscal or regulatory legislation, rules or practices adopted pursuant to any intergovernmental agreement, treaty or convention among Governmental Authorities implementing the foregoing.

“**Federal Funds Rate**” means, for any day, the rate calculated by the Federal Reserve Bank of New York based on such day’s federal funds transactions by depository institutions (as determined in such manner as the Federal Reserve Bank of New York shall set forth on its public website from time to time) and published on the next succeeding Business Day by the Federal Reserve Bank of New York as the federal funds effective rate; provided, that if the Federal Funds Rate for any day is less than 0.00%, the Federal Funds Rate for such day will be deemed to be 0.00%.

“**Fee Letter**” means the Fee Letter, dated as of December 27, 2024, by and among the Borrower, the Administrative Agent and the Lenders, as amended, restated, amended and restated, supplemented or otherwise modified from time to time in accordance with the terms thereof.

“**Financial Covenant**” means the covenants set forth in Article VIII.

“**Financial Statements**” means the audited consolidated balance sheets of the Borrower as of December 31, 2023, the related consolidated statements of operations, changes in stockholders’ equity and cash flows for the Borrower for the fiscal year then ended.

“**First Lien Agent**” means the administrative agent under the First Lien RCF Credit Agreement.

“**First Lien Debt**” means Indebtedness under the First Lien RCF Credit Agreement and any First Lien RCF Credit Agreement Refinancing Indebtedness provided that the aggregate principal amount of any such Indebtedness does not exceed \$125,000,000 at any time.

“**First Lien RCF Credit Agreement**” means that certain Credit Agreement, dated as of August 13, 2024, among the Borrower, as borrower, DNB Bank ASA, New York Branch, as administrative agent, Wilmington Trust, National Association, as collateral trustee, and the lenders party thereto from time to time as amended, restated, amended and restated, supplemented or modified from time to time.

“**First Lien RCF Credit Agreement Refinancing Indebtedness**” means Indebtedness of the Borrower or any Restricted Subsidiary in the form of term loans, notes or revolving commitments; *provided that*:

(a) such Indebtedness is incurred or otherwise obtained (including by means of the extension or renewal of existing Indebtedness) in exchange for, or to extend, renew, upsize, replace, or refinance, in whole or part, Indebtedness under the First Lien RCF Credit Agreement or constituting First Lien RCF Credit Agreement Refinancing Indebtedness (“**Refinanced Debt**”);

(b) the aggregate principal amount of such Indebtedness (together with any other Indebtedness under the First Lien RCF Credit Agreement) does not exceed \$125,000,000 at any time;

(c) the Weighted Average Life to Maturity of such Indebtedness is equal to or longer than the remaining Weighted Average Life to Maturity of the Refinanced Debt; and

(d) the First Lien RCF Credit Agreement Refinancing Indebtedness may be secured by the Collateral on a first lien basis with the Obligations and subject to a Senior Lien Intercreditor Agreement; *provided, however*, in the event any assets securing such First Lien RCF Credit Agreement Refinancing Indebtedness do not constitute Collateral, the Borrower shall be required to offer the Collateral Trustee such additional assets as Collateral and notify the Administrative Agent of such offer, and if the Administrative Agent so requests, take all such actions required to so provide such Collateral to the Collateral Trustee for the benefit of the Secured Parties or (ii) unsecured.

“**Fitch**” means Fitch Ratings Ltd. and any successor thereto.

“**Fixed Charge Coverage Ratio**” means, with respect to any Person on any determination date, the ratio of Consolidated Adjusted EBITDA of such Person for the most recent four consecutive fiscal quarters ending immediately prior to such determination date (the “**reference period**”) for which consolidated financial statements are available (which may, at the Borrower’s election, be internal consolidated financial statements) to the Fixed Charges of such Person for the reference period. In the event that the Borrower or any Restricted Subsidiary incurs, assumes, guarantees, redeems, defeases, retires or extinguishes any Indebtedness (other than Indebtedness incurred under any revolving credit facility unless such Indebtedness has been permanently repaid and has not been replaced), has caused any Reserved Indebtedness Amount to be deemed to be incurred during such period or issues or redeems Disqualified Equity Interests or Preferred Stock subsequent to the commencement of the reference period but prior to or simultaneously with the event for which the calculation of the Fixed Charge Coverage Ratio is made (the “**Fixed Charge Coverage Ratio Calculation Date**”), then the Fixed Charge Coverage Ratio shall be calculated giving pro forma effect to such incurrence, deemed incurrence, assumption, guarantee, redemption, defeasance, retirement or extinguishment of Indebtedness, or such issuance or redemption of Disqualified Equity Interests or Preferred Stock, as if the same had occurred at the beginning of the applicable four-quarter period.

Notwithstanding anything to the contrary herein, in the event an item of Indebtedness (or any portion thereof) is incurred or issued, any Lien is incurred or other transaction is undertaken in reliance on any ratio based exceptions, thresholds and baskets, such ratio(s) shall be calculated with respect to such incurrence, issuance or other transaction without giving effect to amounts being utilized under any other exceptions, thresholds or baskets (other than ratio based baskets) on the same date. Each item of Indebtedness that is incurred or issued, each Lien incurred and each other transaction undertaken will be deemed to have been incurred, issued or taken first, to the extent available, pursuant to the relevant ratio-based test.

For purposes of this definition, whenever pro forma effect is to be given to a transaction, the pro forma calculations shall be made in good faith by a responsible financial or chief accounting officer of the Borrower (and may include, for the avoidance of doubt, cost savings, operating expenses reductions and synergies resulting from such transactions which is being given pro forma effect) and will include any QSC and Stacking Adjustment. If any Indebtedness bears a floating rate of interest and is being given pro forma effect, the interest on such Indebtedness shall be calculated as if the rate in effect on the Fixed Charge Coverage Ratio Calculation Date had been the applicable rate for the entire reference period (taking into account any Swap Obligations applicable to such Indebtedness). Interest on a Capitalized Lease Obligation shall be deemed to accrue at an interest rate reasonably determined by a responsible financial or accounting officer of the Borrower to be the rate of interest implicit in such Capitalized Lease Obligation in accordance with GAAP. For purposes of making the computation referred to above, interest on any Indebtedness under a revolving credit facility computed with a pro forma basis shall be computed based upon the average daily balance of such Indebtedness during the reference period except as set forth in the first paragraph of this definition. Interest on Indebtedness that may optionally be determined at an interest rate based upon a factor of a prime or similar rate, a eurocurrency interbank offered rate, or other rate, shall be determined to have been based upon the rate actually chosen, or if none, then based upon such optional rate chosen as the Borrower may designate.

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

(1) Consolidated Interest Expense of such Person for such period;

(2) all cash dividends or other distributions paid (excluding items eliminated in consolidation) on any series of Preferred Stock of any Restricted Subsidiary of such Person during such period;

(3) all cash dividends or other distributions paid (excluding items eliminated in consolidation) on any series of Disqualified Equity Interests of such Person during such period; and

(4) all scheduled amortization payments in respect of Indebtedness for borrowed money during such period.

“**FMV**” has the meaning in the definition of OLV.

“**Foreign Corporate Subsidiary**” means a Foreign Subsidiary that is treated as a corporation for U.S. federal income tax purposes.

“**Foreign Lender**” has the meaning specified in Section 3.01(b).

“**Foreign Pension Plan**” means any plan, fund (including any superannuation fund) or other similar program established or maintained outside the United States by any Loan Party or any one or more of its Subsidiaries primarily for the benefit of its or their employees residing outside the United States, which plan, fund or other similar program provides, or results in, defined benefit retirement income, other than any such plan that is sponsored, maintained or administered by a Governmental Authority, and which plan is not subject to United States Law.

“**Foreign Plan Event**” means:

(1) the accrued benefit obligations of a Foreign Pension Plan (based on those assumptions used to fund that Foreign Pension Plan or, if that Foreign Pension Plan is unfunded, based on those assumptions used for financial accounting statement purposes or, if accrued benefit obligations are not calculated for financial accounting purposes, based on such reasonable assumptions as may be approved by the relevant entity’s independent auditors for these purposes) materially exceeding the assets of such Foreign Pension Plan and such event would reasonably be expected to result in a Material Adverse Effect; or

(2) the occurrence of an event with respect to the funding or maintenance of a Foreign Pension Plan that could reasonably be expected to result in a Material Adverse Effect.

“**Foreign Subsidiary**” means any direct or indirect Subsidiary of the Borrower that is not a Domestic Subsidiary.

“**FRB**” means the Board of Governors of the Federal Reserve System of the United States.

“**FSHCO**” means any direct or indirect Subsidiary that substantially all of the assets of which consist of Equity Interests and/or Indebtedness of one or more direct or indirect Foreign Corporate Subsidiaries.

“**Fund**” means any Person (other than a natural person) that is engaged in making, purchasing, holding or otherwise investing in commercial loans and similar extensions of credit in the ordinary course.

“**GAAP**” means generally accepted accounting principles in the United States, as in effect from time to time; *provided, however*, that if the Borrower notifies the Administrative Agent that the Borrower requests an amendment to any provision of a Loan Document to eliminate the effect of any change occurring after the Closing Date in GAAP or in the application thereof (including through the adoption of IFRS) (any such change, an “**Accounting Change**”) on the operation of such provision (or if the Administrative Agent notifies the Borrower that the Required Lenders request an amendment to any provision hereof for such purpose), regardless of whether any such notice is given before or after such change in GAAP or in the application thereof (including through the adoption of IFRS), then such provision shall be interpreted on the basis of GAAP as in effect and applied immediately before such change shall have become effective until such notice shall have been withdrawn or such provision amended in accordance herewith.

“**Governmental Authority**” means the government of the United States or any other nation, or of any political subdivision thereof, whether state, provincial, territorial or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government (including any supra-national bodies such as the European Union or the European Central Bank).

“**Grant Event**” means the occurrence of any of the following:

- (a) the formation or acquisition by a Loan Party of a new wholly-owned Subsidiary (other than an Excluded Subsidiary);
- (b) the designation in accordance with Section 6.13 of a wholly-owned Subsidiary (other than an Excluded Subsidiary) of any Loan Party as a Restricted Subsidiary;
- (c) any Person becoming a wholly-owned Subsidiary (other than an Excluded Subsidiary); or
- (d) any wholly-owned Restricted Subsidiary of a Loan Party ceasing to be an Excluded Subsidiary.

“**Granting Lender**” has the meaning specified in Section 11.07(g).

“**Guarantee**” means, any obligation, contingent or otherwise, of any Person directly or indirectly guaranteeing any Indebtedness of any other Person, including any such obligation, direct or indirect, contingent or otherwise, of such Person:

- (a) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness of such other Person (whether arising by virtue of partnership arrangements, or by agreements to keep-well, to purchase assets, goods, securities or services, to take-or-pay or to maintain financial statement conditions or otherwise); or

(b) entered into primarily for purposes of assuring in any other manner the obligee of such Indebtedness of the payment thereof or to protect such obligee against loss in respect thereof (in whole or in part); *provided, however*, that the term “Guarantee” will not include (x) endorsements for collection or deposit in the ordinary course of business or consistent with past practice and, (y) standard contractual indemnities or product warranties provided in the ordinary course of business, or (z) pledges or grants of liens in any assets of a Person as long as the obligations benefiting from such pledge or lien are otherwise non-recourse (or foreign law equivalent) to such Person and *provided, further*, that the amount of any Guarantee shall be deemed to be the lower of (i) an amount equal to the stated or determinable amount of the primary obligation in respect of which such Guarantee is made and (ii) the maximum amount for which such guaranteeing Person may be liable pursuant to the terms of the instrument embodying such Guarantee or, if such Guarantee is not an unconditional guarantee of the entire amount of the primary obligation and such maximum amount is not stated or determinable, the amount of such guaranteeing Person’s maximum reasonably anticipated liability in respect thereof as determined by such Person in good faith. The term “Guarantee” used as a verb has a corresponding meaning.

“**Guarantors**” means each Restricted Subsidiary that executed a counterpart to the Guaranty (or a joinder thereto) on the Closing Date or thereafter pursuant to Section 6.11, in each case, other than any Excluded Subsidiaries; *provided, however*, that a Guarantor shall not be released from its Guaranty by virtue of becoming an Excluded Subsidiary under clause (i) of the definition of Excluded Subsidiary if (x) the transaction which caused the Restricted Subsidiary to cease to be a wholly-owned Subsidiary of the Borrower or a Guarantor was done in contemplation of the release and (y) the Equity Interests in such Restricted Subsidiary that are not held by a Borrower or Guarantor are owned by an Affiliate thereof.

“**Guaranty**” means (a) the guaranty made by the Guarantors from time to time party thereto in favor of the Administrative Agent on behalf of the Secured Parties pursuant to the Collateral Agreement and (b) each other guaranty and guaranty supplement delivered pursuant to Section 6.11.

“**Guaranty Release Event**” has the meaning specified in Section 10.11(a)(iv).

“**Hazardous Materials**” means any hazardous or toxic chemicals, materials, substances or waste which is listed, classified or regulated by any Governmental Authority as “hazardous substances,” “hazardous wastes,” “hazardous materials,” “extremely hazardous wastes,” “restricted hazardous wastes,” “toxic substances,” “toxic wastes,” “contaminants” or “pollutants,” or words of similar import, under any Environmental Law, due to their deleterious or dangerous properties or characteristics, including petroleum or petroleum products (including gasoline, crude oil or any fraction thereof), asbestos or asbestos-containing materials, polychlorinated biphenyls, radon gas and urea formaldehyde.

“**Hedge Agreement**” means any agreement with respect to (a) any and all rate swap transactions, basis swaps, credit derivative transactions, forward rate transactions, commodity swaps, commodity options, forward commodity contracts, equity or equity index swaps or options, any call or capped call option warrant or substantively equivalent derivative transactions, bond or bond price or bond index swaps or options or forward bond or forward bond price or forward bond index transactions, interest rate options, forward foreign exchange transactions, cap transactions, floor transactions, collar transactions, currency swap transactions, cross-currency rate swap transactions, currency options, spot contracts, or any other similar transactions or any combination of any of the foregoing (including any options to enter into any of the foregoing), whether or not any such transaction is governed by or subject to any master agreement, and (b) any and all transactions of any kind, and the related confirmations, which are subject to the terms and conditions of, or governed by, any form of master agreement published by the International Swaps and Derivatives Association, Inc., any International Foreign Exchange Master Agreement, or any other master agreement, including any such obligations or liabilities under any such master agreement.

“**Holding Company**” means any Person so long as such Person directly or indirectly holds 100% of the total voting power of the Voting Stock of the Borrower, and at the time such Person acquired such voting power, no Person and no group (within the meaning of Section 13(d)(3) or Section 14(d)(2) of the Exchange Act, or any successor provision), including any such group acting for the purpose of acquiring, holding or disposing of securities (within the meaning of Rule 13d-5(b)(1) under the Exchange Act) (other than any Permitted Holder), shall have beneficial ownership (within the meaning of Rule 13d-3 under the Exchange Act, or any successor provision), directly or indirectly, of more than 50% of the total voting power of the Voting Stock of such Person.

“**HOS LLC**” has the meaning set forth in the Preliminary Statements hereto.

“**Identified Transaction**” has the meaning specified in Section 10.11.

“**IFRS**” means International Financial Reporting Standards and applicable accounting requirements set by the International Accounting Standards Board or any successor thereto (or the Financial Accounting Standards Board, the Accounting Principles Board of the American Institute of Certified Public Accountants, or any successor to either such board, or the SEC, as the case may be), as in effect from time to time.

“**Immaterial Subsidiary**” means, at any date of determination, each Restricted Subsidiary of the Borrower that (i) has not guaranteed any other Indebtedness of the Borrower and (ii) has Total Assets and revenues, in each case, of less than 3.5% of Total Assets and revenues and, together with all other Immaterial Subsidiaries, has Total Assets and revenues of less than 3.5% of Total Assets and revenues, in each case, measured (1) at the end of the most recent fiscal period for which consolidated financial statements are available (which may, at the Borrower’s election, be internal consolidated financial statements) on a pro forma basis giving effect to any acquisitions or dispositions of assets, Vessels, companies, division or lines of business since such balance sheet date or the start of such four quarter period, as applicable, and (2) as of the date of acquisition of any such Restricted Subsidiary.

“**Immediate Family Members**” means, with respect to any individual, such individual’s child, stepchild, grandchild or more remote descendant, parent, stepparent, grandparent, spouse, former spouse, qualified domestic partner, sibling, mother-in-law, father-in-law, son-in-law and daughter-in-law (including adoptive relationships, the estate of such individual and such other individuals above) and any trust, partnership or other bona fide estate-planning vehicle the only beneficiaries of which are any of the foregoing individuals or any private foundation or fund that is controlled by any of the foregoing individuals or any donor-advised fund of which any such individual is the donor.

“**Indebtedness**” means, with respect to any Person, on any date of determination (without duplication):

(1) the principal of indebtedness of such Person for borrowed money;

(2) the principal of obligations of such Person evidenced by bonds, debentures, notes or other similar instruments;

(3) all reimbursement obligations of such Person in respect of letters of credit, bankers’ acceptances or other similar instruments (the amount of such obligations being equal at any time to the aggregate then undrawn and unexpired amount of such letters of credit or other instruments plus the aggregate amount of drawings thereunder that have not been reimbursed) (except to the extent such reimbursement obligations relate to trade payables and such obligations are satisfied within thirty (30) days of incurrence);

(4) the principal component of all obligations of such Person to pay the deferred and unpaid purchase price of property (except trade payables or similar obligations, including accrued expenses owed, to a trade creditor), which purchase price is due more than one year after the date of placing such property in service or taking final delivery and title thereto;

(5) Capitalized Lease Obligations of such Person;

(6) the principal component of all obligations, or liquidation preference, of such Person with respect to any Disqualified Equity Interests or, with respect to any Restricted Subsidiary, any preferred stock (but excluding, in each case, any accrued dividends);

(7) the principal component of all Indebtedness of other Persons secured by a Lien on any asset of such Person, whether or not such Indebtedness is assumed by such Person; *provided, however*, that the amount of such Indebtedness will be the lesser of (a) the Fair Market Value of such asset at such date of determination (as determined in good faith by the Borrower) and (b) the amount of such Indebtedness of such other Persons; *provided, further*, that this clause (7) shall not apply in respect of any Restricted Subsidiary that provides Collateral for the First Lien Debt and Senior Indebtedness (if any) that is not a guarantor of any First Lien Debt or Senior Indebtedness as long as such Collateral is also provided to secure the Obligations;

(8) Guarantees by such Person of the principal component of Indebtedness of the type referred to in clauses (1), (2), (3), (4), (5) and (9) of other Persons to the extent Guaranteed by such Person; and

(9) to the extent not otherwise included in this definition, net obligations of such Person under Hedge Agreements (the amount of any such obligations to be equal at any time to the net payments under such agreement or arrangement giving rise to such obligation that would be payable by such Person at the termination of such agreement or arrangement);

with respect to clauses (1), (2), (3), (4), (5) and (9), above, if and to the extent that any of the foregoing Indebtedness (other than letters of credit and obligations in respect of Hedge Agreements) would appear as a liability upon a balance sheet (excluding the footnotes thereto) of such Person prepared in accordance with GAAP.

The amount of Indebtedness of any Person at any time in the case of a revolving credit or similar facility shall be the total amount of funds borrowed and then outstanding. The amount of any Indebtedness outstanding as of any date shall be (a) the accreted value thereof in the case of any Indebtedness issued with original issue discount and (b) the principal amount of Indebtedness, or liquidation preference thereof, in the case of any other Indebtedness. Indebtedness shall be calculated without giving effect to the effects of Accounting Standards Codification Topic 815—Derivatives and Hedging and related pronouncements to the extent such effects would otherwise increase or decrease an amount of Indebtedness for any purpose under this Agreement as a result of accounting for any embedded derivatives created by the terms of such Indebtedness.

Notwithstanding the above provisions, in no event shall the following constitute Indebtedness:

(a) Contingent Obligations incurred in the ordinary course of business or consistent with past practice, other than guarantees or other assumptions of Indebtedness;

(b) Cash Management Obligations (as such term is defined in the First Lien RCF Credit Agreement as of the Closing Date);

(c) any lease, concession or license of property (or Guarantee thereof) which would be considered an operating lease under GAAP as in effect on the Closing Date, Non-Financing Lease Obligations, Sale Leaseback Transactions or any prepayments of deposits received from clients or customers in the ordinary course of business or consistent with past practice;

(d) obligations under any license, permit or other approval (or guarantees given in respect of such obligations) incurred prior to the Closing Date or in the ordinary course of business or consistent with past practice;

(e) in connection with the purchase by the Borrower or any Restricted Subsidiary of any business, any deferred or prepaid revenue, post-closing payment adjustments to which the seller may become entitled to the extent such payment is determined by a final closing balance sheet or such payment depends on the performance of such business after the closing; *provided, however*, that, at the time of closing, the amount of any such payment is not determinable and, to the extent such payment thereafter becomes fixed and determined, the amount is paid in a timely manner;

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

(g) [reserved];

(h) Indebtedness of any Parent Entity appearing on the balance sheet of the Borrower solely by reason of push down accounting under GAAP;

(i) Equity Interests (other than in the case of clause (6), above, Disqualified Equity Interests);

(j) lease obligations other than obligations in respect of Capitalized Leases; and

(k) amounts owed to dissenting stockholders (including in connection with, or as a result of, exercise of dissenters' or appraisal rights and the settlement of any claims or action (whether actual, contingent or potential)), pursuant to or in connection with a consolidation, amalgamation, merger or transfer of assets that complies with Section 7.04.

"Indebtedness for Borrowed Money" means, with respect to a Person, Indebtedness of such Person under clauses (1), (2), (3), (4), (5), (8) and (9) (to the extent relating to the foregoing clauses) of the definition of "Indebtedness", and shall include any exchange of existing Indebtedness that results in another class of Indebtedness for borrowed money.

"Indemnified Liabilities" has the meaning specified in Section 11.05(e).

"Indemnified Taxes" means (a) Taxes, other than Excluded Taxes, imposed on or with respect to any payment made by or on account of any obligation of any Loan Party under any Loan Document and (b) to the extent not otherwise described in (a), Other Taxes.

"Indemnitees" has the meaning specified in Section 11.05.

"Independent Financial Advisor" means an accounting, appraisal, investment banking firm or consultant of nationally recognized standing that is, in the good faith judgment of the Borrower, qualified to perform the task for which it has been engaged and that is independent of the Borrower and their Affiliates.

"Information" has the meaning specified in Section 11.08.

"Initial Agreement" has the meaning specified in Section 7.08(c)(xvi).

"Intercompany Indebtedness" means Indebtedness by and among the Borrower or any Restricted Subsidiary, on the one hand, and the Borrower or any Restricted Subsidiary, on the other hand.

"Intercompany License Agreement" means any cost sharing agreement, commission or royalty agreement, license or sublicense agreement, distribution agreement, services agreement, intellectual property rights transfer agreement, any related agreements or similar agreements, in each case where all parties to such agreement are one or more of the Borrower or a Restricted Subsidiary.

"Intercreditor Agreements" means any Senior Lien Intercreditor Agreement, any Collateral Trust Agreement and any other intercreditor agreement governing lien priority with the approval of the Required Lenders, in each case that may be executed by the Administrative Agent and Collateral Trustee from time to time.

“**Investment**” means, with respect to any Person, all investments by such Person in other Persons (including Affiliates) in the form of advances, loans or other extensions of credit (excluding (i) accounts receivable, trade credit, advances or extensions of credit to customers, suppliers, future, present or former employees, directors, officers, managers, contractors, consultants or advisors (or their respective Controlled Investment Affiliates or Immediate Family Members) of any Person in the ordinary course of business or consistent with past practice, (ii) any debt or extension of credit represented by a bank deposit other than a time deposit, (iii) intercompany advances arising from cash management, Tax and accounting operations and (iv) intercompany loans, advances or Indebtedness having a term not exceeding 364 days (inclusive of any roll-over or extensions of terms)) or capital contribution to (by means of any transfer of cash or other property to others or any payment for property or services for the account or use of others), or the incurrence of a guarantee of any obligation of, or any purchase or acquisition of Equity Interests, Indebtedness or other similar instruments issued by, such other Persons and all other items that are or would be classified as investments on a balance sheet prepared in accordance with GAAP; *provided, however*, that endorsements of negotiable instruments and documents in the ordinary course of business or consistent with past practice will not be deemed to be an Investment.

For purposes of Section 6.13 and Section 7.06:

(1) “Investment” will include the portion (proportionate to the Borrower’s equity interest in a Restricted Subsidiary to be designated as an Unrestricted Subsidiary) of the Fair Market Value of the net assets of such Restricted Subsidiary at the time that such Restricted Subsidiary is designated an Unrestricted Subsidiary; *provided, however*, that upon a redesignation of such Subsidiary as a Restricted Subsidiary, the Borrower will be deemed to continue to have a permanent “Investment” in an Unrestricted Subsidiary in an amount (if positive) equal to (a) the Borrower’s “Investment” in such Subsidiary at the time of such redesignation less (b) the portion (proportionate to the Borrower’s equity interest in such Subsidiary) of the Fair Market Value of the net assets (as determined by the Borrower) of such Subsidiary at the time that such Subsidiary is so re-designated a Restricted Subsidiary;

(2) any property transferred to or from an Unrestricted Subsidiary will be valued at its Fair Market Value at the time of such transfer, in each case as determined by the Borrower;

(3) if the Borrower or any Restricted Subsidiary issues, sells or otherwise disposes of Equity Interests in a Person that is a Restricted Subsidiary such that, after giving effect thereto, such Person is no longer a Restricted Subsidiary, any investment by the Borrower or any Restricted Subsidiary in such Person remaining after giving effect thereto shall not be deemed to be an Investment at such time.

(4) The amount of any Investment outstanding at any time shall be the original cost of such Investment, reduced by any dividend, distribution, interest payment, return of capital, repayment or other amount received in cash and Cash Equivalents by the Borrower or a Restricted Subsidiary in respect of such Investment to the extent such amounts do not increase any other baskets under this Agreement.

“Investment Grade Securities” means:

- (1) securities issued or directly and fully Guaranteed or insured by the United States government or any agency or instrumentality thereof (other than Cash Equivalents);
- (2) securities issued or directly and fully guaranteed or insured by the Canadian, United Kingdom, Australian or Japanese governments, a member state of the European Union, or any agency or instrumentality thereof (other than Cash Equivalents);
- (3) debt securities or debt instruments with a rating of “BBB-” or higher from S&P or “Baa3” or higher by Moody’s or the equivalent of such rating by such rating organization or, if no rating of Moody’s or S&P then exists, the equivalent of such rating by any other Nationally Recognized Statistical Ratings Organization, but excluding any debt securities or instruments constituting loans or advances among the Borrower and its Subsidiaries;
- (4) investments in any fund that invests exclusively in investments of the type described in clauses (1), (2) and (3) above which fund may also hold cash and Cash Equivalents pending investment or distribution; and
- (5) corresponding instruments in countries other than the United States customarily utilized for high quality investments.

“IRS” means Internal Revenue Service of the United States.

“ISDA CDS Definitions” has the meaning specified in the definition of “Net Short Position.”

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

“ISM Code Documentation” includes, in respect of a Vessel constituting Vessel Collateral, the Document of Compliance and Safety Management Certificate issued pursuant to the ISM Code in relation to such Vessel within the periods specified by the ISM Code.

“ISPS Code” means, in relation to its application to the Shipowners, any Vessel and its operation, the International Ship and Port Facility Security Code consisting of part A (the provisions which shall be treated as mandatory) and part B (the provisions which shall be treated as recommendatory), as adopted, on December 12, 2002, by Resolution 2 of the Conference of Contracting Governments to the International Convention for the Safety of Life at Sea, 1974, as may be amended by IMO.

“ISPS Code Documentation” includes the International Ship Security Certificate issued under the ISPS Code.

“**Jones Act Notes**” means certain demand notes incurred in connection with Restricted Payments pursuant to the Jones Act Warrants (or other warrants issued pursuant thereto); *provided* that, to the extent that such Restricted Payments were made in compliance with Section 7.06 (assuming for such purpose that payment by the Borrower of such Jones Act Notes as of such date (even if the actual payment of the Jones Act Notes occurs as of a later date)) constitute a Restricted Payment for purposes of Section 7.06 herein (and, for the avoidance of doubt, such payment in respect of the Jones Act Notes shall only be permitted if, at the time such Restricted Payment pursuant to the Jones Act Warrants (or other warrants issued pursuant thereto) is made (even if the actual payment of the Jones Act Notes occurs as of a later date), such payment under the Jones Act Notes would have been permitted under Section 7.06 as of such date).

“**Jones Act Vessel**” means, when referring to a vessel, a United States-flagged vessel documented with the United States Coast Guard with a coastwise endorsement and qualified to engage in domestic coastwise trade under the U.S. citizenship and cabotage laws principally contained in 46 U.S.C. § 50501(a), (b) and (d) and 46 U.S.C. Chapters 121 and 551, as amended or modified from time to time, and any successor statutes thereto.

“**Jones Act Warrants**” means those certain warrants issued to certain non-U.S. citizens in settlement of certain liabilities in respect of the Chapter 11 cases in the United States Bankruptcy Court for the Southern District of Texas, Houston Division, consummated September 4, 2020 and in connection with subsequent private offerings of the Borrower’s Equity Interests.

“**Judgment Currency**” has the meaning specified in Section 2.12(b).

“**Junior Debt Repayment**” has the meaning specified in Section 7.09(a).

“**Junior Financing**” means any Material Indebtedness (with clause (d) of the proviso in the definition thereof being deemed to be limited to Intercompany Indebtedness) that is contractually subordinated in right of payment to the Obligations expressly by its terms.

“**Junior Financing Documentation**” means any documentation governing any Junior Financing.

“**Laws**” means, collectively, all international, foreign, federal, state, provincial, territorial and local statutes, treaties, rules, legally binding guidelines, regulations, ordinances, codes and administrative or judicial precedents or authorities and executive orders, including the legally binding interpretation or administration thereof by any Governmental Authority charged with the enforcement, interpretation or administration thereof.

“**LCT Election**” has the meaning specified in Section 1.08(f).

“**LCT Test Date**” has the meaning specified in Section 1.08(f).

“**Lender**” has the meaning specified in the introductory paragraph to this Agreement and their respective successors and assigns as permitted hereunder, each of which is referred to herein as a “Lender.” As of the Closing Date, Schedule 2.01 sets forth the name of each Lender.

“**Lending Office**” means, as to any Lender, the office or offices of such Lender described as such in such Lender’s Administrative Questionnaire, or such other office or offices as a Lender may from time to time notify the Borrower and the Administrative Agent.

“**Lien**” means any mortgage, pledge, security interest, encumbrance, lien, hypothecation or charge of any kind (including any conditional sale or other title retention agreement or lease in the nature thereof); *provided* that in no event shall Non-Financing Lease Obligations be deemed to constitute a Lien.

“**Lien Release Event**” has the meaning specified in Section 10.11(a)(i).

“**Limited Condition Transaction**” means (1) any Investment or acquisition (whether by merger, amalgamation, consolidation or other business combination or the acquisition of Equity Interests or otherwise and which may include, for the avoidance of doubt, a transaction that may constitute a Change of Control), (2) any redemption, repurchase, defeasance, satisfaction and discharge or repayment of Indebtedness, Disqualified Equity Interests or Preferred Stock requiring irrevocable notice in advance of such redemption, repurchase, defeasance, satisfaction and discharge or repayment, (3) any Restricted Payment requiring irrevocable notice in advance thereof, (4) any asset sale or a disposition excluded from the definition of “Disposition,” and (5) any combination of any of the foregoing.

“**Liquidity**” means, as of any date of determination, the aggregate amount of cash and Cash Equivalents that is not Restricted, in each case, of the Loan Parties and their Restricted Subsidiaries.

“**Loan Documents**” means, collectively, (a) this Agreement, (b) the Term Loan Notes, if any, (c) the Guaranty, (d) the Collateral Documents, (e) any Intercreditor Agreements required to be entered into pursuant to the terms of this Agreement, (f) the Collateral Trustee Fee Letter, (g) [reserved] and (h) any other document or agreement designated as such by the Borrower and the Administrative Agent.

“**Loan Parties**” means, collectively, the Borrower and the Guarantors.

“**Loans**” has the meaning specified in Section 2.01.

“**Low-Spec Vessels**” means, when referring to a Vessel, a Vessel with cargo-carrying capacity of less than 2,500 DWT (i.e., primarily 200 class OSV notations), and/or dynamic-positioning systems with a DP-1 classification or lower.

“**LTV**” has the meaning specified in Section 2.03(b)(iii).

“**Management Advances**” means loans or advances made to, or Guarantees with respect to loans or advances made to, future, present or former employees, directors, officers, managers, contractors, consultants or advisors (or their respective Controlled Investment Affiliates or Immediate Family Members) of any Parent Entity, the Borrower or any Restricted Subsidiary:

(1) (a) in respect of travel, entertainment, relocation or moving related expenses, payroll advances and other analogous or similar expenses or payroll expenses, in each case incurred in the ordinary course of business or consistent with past practice or (b) for purposes of funding any such person’s purchase of Equity Interests (or similar obligations) of the Borrower, its Subsidiaries or any Parent Entity with (in the case of this clause (1)(b)) the approval of the Board of Directors of the Borrower;

(2) in respect of relocation or moving related expenses, payroll advances and other analogous or similar expenses or payroll expenses, in each case incurred in connection with any closing or consolidation of any facility or office; or

(3) not exceeding \$2.0 million .

“**Management Stockholders**” means the members of management of the Borrower (or any Parent Entity) or its Subsidiaries who are holders of Equity Interests of the Borrower or of any Parent Entity.

“**Margin Stock**” has the meaning set forth in Regulation U.

“**Material Adverse Effect**” means any event, circumstance or condition that has had a materially adverse effect on (a) the business, operations, assets, liabilities (actual or contingent) or financial condition of the Borrower and the Restricted Subsidiaries, taken as a whole, (b) the ability of the Loan Parties (taken as a whole) to perform their respective payment obligations under any Loan Document to which any of the Loan Parties is a party or (c) the rights and remedies of the Collateral Trustee or the Administrative Agent under any Loan Document.

“**Material Indebtedness**” means, as of any date, Indebtedness for Borrowed Money on such date of any Loan Party in an aggregate principal amount exceeding the Threshold Amount; *provided* that in no event shall any of the following be Material Indebtedness (a) Indebtedness under a Loan Document, (b) [reserved], (c) Capitalized Lease Obligations, (d) Indebtedness held by a Loan Party or any Indebtedness held by an Affiliate of a Loan Party and (e) Indebtedness under Hedge Agreements.

“**Maturity Date**” means January 1, 2033; *provided* that if such day is not a Business Day, the Maturity Date shall be the Business Day immediately preceding such day.

“**Maximum Rate**” has the meaning specified in Section 11.10.

“**Measurement Date**” has the meaning assigned to such term in Section 8.01(d).

“**Moody’s**” means Moody’s Investors Service, Inc. and any successor thereto.

“**Multiemployer Plan**” means any multiemployer plan as defined in Section 4001(a)(3) of ERISA and subject to Title IV of ERISA, to which any Loan Party or any of their respective ERISA Affiliates makes or is obligated to make contributions, or during the preceding five plan years, has made or been obligated to make contributions if liability to a Loan Party remains.

“**Net Income**” means, with respect to any Person, the net income (loss) of such Person, determined in accordance with GAAP (determined, for the avoidance of doubt, on a consolidated basis) and before any reduction in respect of preferred stock dividends.

“**Net Short Lender**” means, at any date of determination, each Lender (other than any Unrestricted Lender) that has a Net Short Position as of such date.

“**Net Short Position**” means, with respect to a Lender (other than an Unrestricted Lender), as of a date of determination, the net positive position, if any, held by such Lender that is remaining after deducting any long position that the Lender holds (i.e., a position (whether as an investor, lender or holder of Loans, debt obligations and/or Derivative Instruments) where the Lender is exposed to the credit risk of Deliverable Obligations of the Loan Parties) from any short positions (i.e., a position as described above, but where the Lender is instead protected from the credit risk described above).

For purposes of determining whether a Lender (other than an Unrestricted Lender) has a Net Short Position on any date of determination:

(i) Derivative Instruments shall be counted at the notional amount (in Dollars) of such Derivative Instrument; *provided* that, subject to clause (v) below, the notional amount of Derivative Instruments referencing an index that includes any of the Loan Parties or any bond or loan obligation issued or guaranteed by any Loan Party shall be determined in proportionate amount and by reference to the percentage weighting of the component which references any Loan Party or any bond or loan obligation issued or guaranteed by any Loan Party that would be a “Deliverable Obligation” or an “Obligation” (as defined in the ISDA CDS Definitions) of the Loan Parties;

(ii) notional amounts of Derivative Instruments in other currencies shall be converted to the Dollar equivalent thereof by such Lender in accordance with the terms of such Derivative Instruments, as applicable; *provided* that if not otherwise provided in such Derivative Instrument, such conversion shall be made in a commercially reasonable manner consistent with generally accepted financial practices and based on the prevailing conversion rate determined (on a mid-market basis) by such Lender, acting in a commercially reasonable manner, on the date of determination;

(iii) Derivative Instruments that are documented using either the 2014 ISDA Credit Derivatives Definitions or the 2003 ISDA Credit Derivatives Definitions (or any successor definitions thereof, collectively, the “**ISDA CDS Definitions**”) shall be deemed to create a short position with respect to the Loans if such Lender is a protection buyer or the equivalent thereof for such Derivative Instrument and (A) the Loans are a “Reference Obligation” under the terms of such derivative transaction (whether specified by name in the related documentation, included as a “Standard Reference Obligation” on the most recent list published by Markit, if “Standard Reference Obligation” is specified as applicable in the relevant documentation or in any other manner) or (B) the Loans would be a “Deliverable Obligation” or an “Obligation” (as defined in the ISDA CDS Definitions) of the Loan Parties under the terms of such derivative transaction;

(iv) credit derivative transactions or other Derivative Instruments not documented using the ISDA CDS Definitions shall be counted for purposes of the Net Short Position determination if, with respect to the Loans, such transactions are functionally equivalent to a transaction that offers such Lender protection in respect of the Loans; and

(v) Derivative Instruments in respect of an index that includes any of the Loan Parties or any instrument issued or guaranteed by any of the Loan Parties shall not be deemed to create a short position, so long as (A) such index is not created, designed, administered or requested by such Lender and (B) the Loan Parties, and any Deliverable Obligation of the Loan Parties, collectively, shall represent less than 5.0% of the components of such index.

“Net Short Representation” means, with respect to any Lender (other than an Unrestricted Lender) at any time, a representation and warranty (including any deemed representation and warranty, as the case may be) from such Lender to the Borrower that it is not (x) a Net Short Lender at such time or (y) knowingly and intentionally acting in concert with any of its Affiliates for the express purpose of creating (and in fact creating) the same economic effect with respect to the Loan Parties as though such Lender were a Net Short Lender at such time.

“Non-Consenting Lender” has the meaning specified in the penultimate paragraph of [Section 3.07](#).

“Non-Defaulting Lender” means, at any time, each Lender that is not a Defaulting Lender at such time.

“Non-Financing Lease Obligation” means a lease obligation that is not required to be accounted for as a financing or capital lease in accordance with GAAP. For the avoidance of doubt, a straight-line or operating lease shall be considered a Non-Financing Lease Obligation.

“Obligations” means all (a) advances to, and debts, liabilities, obligations, covenants and duties of, any Loan Party arising under any Loan Document or otherwise with respect to any Loan, whether direct or indirect (including those acquired by assumption), absolute or contingent, due or to become due, now existing or hereafter arising and including interest, fees and expenses that accrue after the commencement by or against any Loan Party of any proceeding under any Debtor Relief Laws naming such Person as the debtor in such proceeding, regardless of whether such interest, fees and expenses are allowed claims in such proceeding and (b) Erroneous Payment Subrogation Rights. Without limiting the generality of the foregoing, the Obligations of the Loan Parties under the Loan Documents (and any of their Subsidiaries to the extent they have obligations under the Loan Documents) include the obligation (including guarantee obligations) to pay principal, interest, reimbursement obligations, charges, expenses, fees (including any Prepayment Fees), Attorney Costs, indemnities and other amounts payable by any Loan Party under any Loan Document.

“OLV” means (y) in the case of a fair market value (“FMV”) appraisal of the Vessel Collateral delivered by VesselsValue™, the amount equal to 80% of such FMV or (z) the appraised orderly liquidated value of the Vessel Collateral delivered by a Specified Qualified Appraiser.

“Organization Documents” means,

(a) with respect to any corporation, the certificate or articles of incorporation and the bylaws (or equivalent or comparable constitutive documents with respect to any non-U.S. jurisdiction);

(b) with respect to any limited liability company, the certificate or articles of formation or organization and operating agreement; and

(c) with respect to any partnership, joint venture, trust or other form of business entity, the partnership, joint venture or other applicable agreement of formation or organization and any agreement, instrument, filing or notice with respect thereto filed in connection with its formation or organization with the applicable Governmental Authority in the jurisdiction of its formation or organization and, if applicable, any certificate or articles of formation or organization of such entity.

“Other Connection Taxes” means, with respect to any Recipient, Taxes imposed as a result of a present or former connection between such Recipient and the jurisdiction imposing such Tax (other than connections arising solely from such Recipient having executed, delivered, become a party to, performed its obligations under, received payments under, received or perfected a security interest under, engaged in any other transaction pursuant to or enforced by any Loan Document).

“Other Taxes” has the meaning specified in [Section 3.01\(f\)](#).

“Overnight Rate” means, for any day, the greater of (i) the Federal Funds Rate and (ii) an overnight rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation.

“Parent Entity” has the meaning specified in [Section 6.01](#).

“Participant” has the meaning specified in [Section 11.07\(d\)](#).

“Participant Register” has the meaning specified in [Section 11.07\(e\)](#).

“Participating Member State” means each state as described in any EMU Legislation.

“Payment Date” has the meaning specified in [Section 2.04\(a\)](#).

“Payment Percentage” means an amount equal to a fraction, the numerator of which is the actual amount prepaid to the Administrative Agent (for the benefit of the Lenders) pursuant to [Section 2.03\(b\)\(i\)](#) and/or [Section 2.03\(b\)\(ii\)](#) divided by the Release Value of the Vessel so sold, reflagged, transferred, conveyed, designated, lost or similarly disposed.

“Payment Recipient” has the meaning specified in [Section 10.17\(a\)](#).

“PBGC” means the Pension Benefit Guaranty Corporation or any successor thereto.

“**Pension Plan**” means any “employee pension benefit plan” (as such term is defined in Section 3(2) of ERISA), other than a Multiemployer Plan, that is subject to Title IV of ERISA or Section 302 of ERISA or Section 412 of the Code and is sponsored or maintained by any Loan Party or any of their respective ERISA Affiliates or to which any Loan Party or any of their respective ERISA Affiliates contributes or has an obligation to contribute, or in the case of a multiple employer or other plan described in Section 4064(a) of ERISA, has made, or has had an obligation to make, contributions at any time in the preceding five plan years if liability to a Loan Party remains.

“**Permitted Asset Swap**” means the concurrent purchase and sale or exchange of assets (other than any Vessel Collateral) used or useful in a Similar Business or a combination of such assets and cash, Cash Equivalents between the Borrower or any of the Restricted Subsidiaries and another Person.

“**Permitted Change of Control**” has the meaning specified in the definition of Change of Control.

“**Permitted Consent Event**” has the meaning specified in Section 10.11.

“**Permitted Debt**” has the meaning specified in Section 7.03.

“**Permitted Holders**” means:

- (a) the Sponsors;
- (b) the Management Stockholders (including any Management Stockholders holding Equity Interests through an equityholding vehicle);
- (c) any Person who is acting solely as an underwriter in connection with a public or private offering of Equity Interests of any Parent Entity or the Borrower, acting in such capacity;
- (d) any group (within the meaning of Section 13(d)(3) or Section 14(d)(2) of the Exchange Act or any successor provision) of which any of the foregoing, any Holding Company, Permitted Plan or any Person or group that becomes a Permitted Holder specified in the last sentence of this definition are members and any member of such group; *provided* that, in the case of such group and without giving effect to the existence of such group or any other group, Persons referred to in subclauses (i) through (iii), collectively, have beneficial ownership of more than 50% of the total voting power of the Voting Stock of the Borrower or any Parent Entity held by such group;
- (e) any Holding Company in connection with and immediately following a Qualifying IPO or, prior to a Qualifying IPO, to the extent such Holding Company itself (or any of its Parent Entities) is listed on any United States national securities exchange; and
- (f) any Permitted Plan.

Any Person or group whose acquisition of beneficial ownership constitutes a Change of Control in respect of which the Required Lenders have provided a consent in accordance with this Agreement will thereafter, together with its Affiliates, constitute an additional Permitted Holder.

“Permitted Intercompany Activities” means any transactions (A) between or among the Borrower and its Restricted Subsidiaries that are entered into in the ordinary course of business or consistent with past practice of the Borrower and its Restricted Subsidiaries and, in the reasonable determination of the Borrower are necessary or advisable in connection with the ownership or operation of the business of the Borrower and its Restricted Subsidiaries, including (i) payroll, cash management, purchasing, insurance and hedging arrangements; (ii) management, technology and licensing arrangements; (iii) customary loyalty and rewards programs and (iv) Vessel reflagging arrangements (to the extent the reflagging is otherwise permitted hereunder); and (B) between or among the Borrower, its Restricted Subsidiaries and any Captive Insurance Subsidiary.

“Permitted Investment” means (in each case, by the Borrower or any of the Restricted Subsidiaries):

(1) Investments in (a) a Restricted Subsidiary (including the Equity Interests of, or guarantees of obligations of, a Restricted Subsidiary) or the Borrower or (b) a Person (including the Equity Interests of any such Person) that will, upon the making of such Investment, become a Restricted Subsidiary of the Borrower;

(2) Investments in another Person and as a result of such Investment such other Person, in one transaction or a series of transactions, is merged, amalgamated, consolidated or otherwise combined with or into, or transfers or conveys all or substantially all its assets (or such division, business unit, product line or business) to, or is liquidated into, the Borrower or a Restricted Subsidiary, and any Investment held by such Person; *provided* that such Investment was not acquired by such Person in contemplation of such acquisition, merger, amalgamation, consolidation, combination, transfer or conveyance;

(3) Investments in cash, Cash Equivalents or Investment Grade Securities;

(4) Investments in receivables owing to the Borrower or any Restricted Subsidiary created or acquired in the ordinary course of business or consistent with past practice;

(5) Investments in payroll, travel, entertainment, relocation, moving related and similar advances that are made in the ordinary course of business or consistent with past practice;

(6) Management Advances;

(7) Investments (including debt obligations and Equity Interests) (a) received in settlement, compromise or resolution of debts created in the ordinary course of business or consistent with past practice, (b) in exchange for any other Investment or accounts receivable, endorsements for collection or deposit held by the Borrower or any such Restricted Subsidiary, (c) as a result of foreclosure, perfection or enforcement of any Lien, (d) in satisfaction of judgments or (e) pursuant to any plan of reorganization or similar arrangement including upon the bankruptcy or insolvency of a debtor or litigation, arbitration or other disputes or otherwise with respect to any secured Investment or other transfer of title with respect to any secured Investment in default;

(8) Investments made as a result of the receipt of promissory notes or other non-cash consideration (including earn-outs) from a sale or other disposition of property or assets that complies with or is permitted by Section 7.05;

(9) Investments existing or pursuant to binding commitments, agreements or arrangements in effect on the Closing Date and any modification, replacement, renewal, reinvestment or extension thereof; *provided* that the amount of any such Investment may not be increased except (i) as required by the terms of such Investment or binding commitment as in existence on the Closing Date (including in respect of any unused commitment), plus any accrued but unpaid interest (including any accretion of interest, original issue discount or the issuance of pay-in-kind securities) and premium payable by the terms of such Indebtedness thereon and fees and expenses associated therewith as of the Closing Date or (ii) as otherwise permitted under this Agreement;

(10) Obligations in respect of Hedge Agreements (excluding Hedge Agreements entered into for speculative purposes);

(11) pledges or deposits with respect to leases or utilities provided to third parties in the ordinary course of business or Liens otherwise made in connection with Liens permitted under Section 7.01;

(12) any Investment to the extent made using Equity Interests of the Borrower (other than Disqualified Equity Interests) or Equity Interests of any Parent Entity or any Unrestricted Subsidiary as consideration;

(13) Investments consisting of (i) purchases or other acquisitions of inventory, supplies, materials, equipment and similar assets or (ii) licenses, sublicenses, cross-licenses, leases, subleases, assignments, contributions or other Investments of intellectual property or other intangibles or services in the ordinary course of business pursuant to any joint development, joint venture or marketing arrangements with other Persons or any Intercompany License Agreement and any other Investments made in connection therewith;

(14) (i) Guarantees of Indebtedness that does not constitute Specified Debt or is otherwise not prohibited by Section 7.03 and (other than with respect to Indebtedness) guarantees, keepwells and similar arrangements in the ordinary course of business or consistent with past practice, and (ii) performance guarantees and Contingent Obligations with respect to obligations that are not prohibited by this Agreement;

(15) Investments consisting of earnest money deposits required in connection with a purchase agreement, or letter of intent, or other acquisitions to the extent not otherwise prohibited by this Agreement;

(16) Investments of a Restricted Subsidiary acquired after the Closing Date or of an entity merged or amalgamated into or consolidated with the Borrower or merged or amalgamated into or consolidated with a Restricted Subsidiary after the Closing Date to the extent that such Investments were not made in contemplation of or in connection with such acquisition, merger, amalgamation or consolidation and were in existence on the date of such acquisition, merger, amalgamation or consolidation;

(17) contributions to a “rabbi” trust for the benefit of any employee, director, officer, manager, contractor, consultant, advisor or other service providers or other grantor trust subject to claims of creditors in the case of a bankruptcy of the Borrower, and Investments relating to non-qualified deferred payment plans in the ordinary course of business or consistent with past practice;

(18) provided no Default or Event of Default has occurred and is continuing, Investments in joint ventures and similar entities and Unrestricted Subsidiaries having an aggregate Fair Market Value, when taken together with all other Investments made pursuant to this clause that are at the time outstanding, not to exceed the greater of (i) \$25.0 million and (ii) an amount equal to 3.0% of the Borrower’s Consolidated Net Tangible Assets determined as of the end of the Borrower’s most recently completed fiscal quarter for which internal financial statements are available in the aggregate outstanding at the time of such Investment (with the Fair Market Value of each Investment being measured at the time made and without giving effect to subsequent changes in value), plus the amount of any returns (including dividends, payments, interest, distributions, returns of principal, profits on sale, repayments, income and similar amounts) in respect of such Investments (without duplication of any amounts applied pursuant to Section 7.06(d)(iv)) with the Fair Market Value of each Investment being measured at the time made and without giving effect to subsequent changes in value; *provided, however*, that if any Investment pursuant to this clause is made in any Person that is not the Borrower or a Restricted Subsidiary at the date of the making of such Investment (A) and such person becomes the Borrower or a Restricted Subsidiary after such date, such Investment shall thereafter be deemed to have been made pursuant to clause (1) or (2) above and shall cease to have been made pursuant to this clause and (B) the Borrower shall be in pro forma compliance with the Financial Covenants upon giving effect to such Investment;

(19) provided no Default or Event of Default has occurred and is continuing, additional Investments having an aggregate Fair Market Value, taken together with all other Investments made pursuant to this clause that are at that time outstanding, not to exceed the greater of (i) \$75.0 million and (ii) an amount equal to 10.0% of the Borrower’s Consolidated Net Tangible Assets determined as of the end of the Borrower’s most recently completed fiscal quarter for which internal financial statements are available in the aggregate outstanding at the time of such Investment (with the Fair Market Value of each Investment being measured at the time made and without giving effect to subsequent changes in value), plus the amount of any returns (including dividends, payments, interest, distributions, returns of principal, profits on sale, repayments, income and similar amounts) in respect of such Investments (without duplication of any amounts applied pursuant to Section 7.06(d)(iv)) with the Fair Market Value of each Investment being measured at the time made and without giving effect to subsequent changes in value; *provided, however*, that if any Investment pursuant to this clause is made in any Person that is not the Borrower or a Restricted Subsidiary at the date of the making of such Investment (A) and such Person becomes the Borrower or a Restricted Subsidiary after such date, such Investment shall thereafter be deemed to have been made pursuant to clause (1) or (2) above and shall cease to have been made pursuant to this clause and (B) the Borrower shall be in pro forma compliance with the Financial Covenants upon giving effect to such Investment;

(20) [reserved];

(21) [reserved];

(22) Investments made from casualty insurance proceeds in connection with the replacement, substitution, restoration or repair of assets on account of a Casualty Event;

(23) guaranty and indemnification obligations arising in connection with surety bonds issued in the ordinary course of business or consistent with past practice;

(24) Investments (a) consisting of purchases and acquisitions of assets or services in the ordinary course of business or consistent with past practice, (b) made in the ordinary course of business or consistent with past practice in connection with obtaining, maintaining or renewing client, franchisee and customer contacts and loans or (c) advances, loans, extensions of credit (including the creation of receivables) or prepayments made to, and guarantees with respect to obligations of, franchisees, distributors, suppliers, lessors, licensors and licensees in the ordinary course of business or consistent with past practice;

(25) Investments in prepaid expenses, negotiable instruments held for collection and lease, utility and workers compensation, performance and similar deposits entered into as a result of the operations of the business in the ordinary course of business or consistent with past practice;

(26) Investments consisting of UCC Article 3 endorsements for collection or deposit and Article 4 trade arrangements with customers (or any comparable or similar provisions in other Applicable Jurisdictions) in the ordinary course of business or consistent with past practices;

(27) any Investment by any Captive Insurance Subsidiary in connection with the provision of insurance to the Borrower or any Subsidiaries, which Investment is made in the ordinary course of business or consistent with past practice of such Captive Insurance Subsidiary, or by reason of applicable law, rule, regulation or order, or that is required or approved by any regulatory authority having jurisdiction over such Captive Insurance Subsidiary or its business, as applicable;

(28) non-cash Investments in connection with Tax planning and reorganization activities, and Investments in connection with a Permitted Intercompany Activities and related transactions;

(29) [reserved]; and

(30) any other Investment so long as no Default or Event of Default has occurred and is continuing and immediately after giving pro forma effect to the Investment and the incurrence of any Indebtedness the net proceeds of which are used to make such Investment, the Total Net Leverage Ratio shall be no greater than 2.00 to 1.00 and the Borrower shall be in pro forma compliance with the Financial Covenants upon giving effect to such Investment.

“Permitted Junior Debt Repayment” has the meaning specified in Section 7.09(a).

“Permitted Lien” means any Lien permitted under Section 7.01.

“**Permitted Maritime Lien**” means, at any time with respect to any Vessel Collateral:

(1) Liens for crews’ wages (including the wages of the master of any Vessel) that are incurred in the ordinary course of business and have accrued for not more than forty-five (45) days unless any such Lien is being contested in good faith and by appropriate proceedings or other acts by the relevant Loan Party and the relevant Loan Party shall have set aside on its books adequate reserves with respect to such Lien;

(2) Liens for salvage (including contract salvage) or general average, and Liens for wages of stevedores employed by the owner of any Vessel, the master of such Vessel or a charterer or lessee of such Vessel, which in each case have accrued for not more than forty-five (45) days unless any such Lien is being contested in good faith and by appropriate proceedings or other acts by the relevant Loan Party and such Loan Party shall have set aside on its books adequate reserves with respect to such Lien;

(3) shipyard Liens and other Liens arising by operation of law arising in the ordinary course of business in operating, maintaining, repairing, modifying, refurbishing, or rebuilding any Vessel (other than those referred to in (1) and (2) above), including maritime Liens for necessities, which in each case have accrued for not more than forty-five (45) days unless any such Lien is being contested in good faith and by appropriate proceedings or other acts by the relevant Loan Party, and such Loan Party shall have set aside on its books adequate reserves with respect to such Lien;

(4) Liens for damages arising from maritime torts which are unclaimed, or are covered by insurance and any deductible applicable thereto, or in respect of which a bond or other security has been posted on behalf of the relevant Loan Party with the appropriate court or other tribunal to prevent the arrest or secure the release of any Vessel from arrest, unless any such Lien is being contested in good faith and by appropriate proceedings or other acts by the relevant Loan Party, and such Loan Party shall have set aside on its books adequate reserves with respect to such Lien;

(5) Liens that, as indicated by the written admission of liability therefor by an insurance company, are covered by insurance (subject to reasonable deductibles);

(6) Liens securing or otherwise arising out of judgments, decrees, attachments, orders or awards and Settlement Liens, in each case, not in an aggregate amount in excess of the Threshold Amount; and

(7) Liens for charters or subcharters or leases or subleases, including any charter, subcharter, lease or sublease permitted under this Agreement.

“**Permitted Payment**” means:

(1) the payment of any dividend or distribution within sixty (60) days after the date of declaration thereof, if at the date of declaration such payment would have complied with the provisions of this Agreement or the redemption, repurchase or retirement of Indebtedness if, at the date of any redemption notice, such payment would have complied with the provisions of this Agreement as if it were and is deemed at such time to be a Restricted Payment at the time of such notice;

(2) (a) any prepayment, purchase, repurchase, redemption, defeasance, discharge, retirement or other acquisition of Equity Interests, including any accrued and unpaid dividends thereon (“**Treasury Equity Interests**”) made by exchange (including any such exchange pursuant to the exercise of a conversion right or privilege in connection with which cash is paid in lieu of the issuance of fractional shares) for, or out of the proceeds of the substantially concurrent sale of, Equity Interests of the Borrower or any Parent Entity to the extent contributed to the Borrower (in each case, other than Disqualified Equity Interests) (“**Refunding Equity Interests**”) and (b) the declaration and payment of dividends on Treasury Equity Interests out of the proceeds of the substantially concurrent sale or issuance (other than to a Subsidiary of the Borrower or to an employee stock ownership plan or any trust established by a Parent Entity, the Borrower or any of its Subsidiaries) of Refunding Equity Interests;

(3) any prepayment, purchase, repurchase, exchange, redemption, defeasance, discharge, retirement or other acquisition of Junior Financing (in each case, to the extent such Junior Financing is permitted by the terms of this Agreement) made by exchange for, or out of the proceeds of the substantially concurrent sale of, any Refinancing Indebtedness permitted to be incurred pursuant to Section 7.03;

(4) any prepayment, purchase, repurchase, exchange, redemption, defeasance, discharge, retirement or other acquisition of preferred stock of the Borrower or a Restricted Subsidiary made by exchange for, or out of the proceeds of the substantially concurrent sale of, preferred stock of the Borrower or a Restricted Subsidiary, as the case may be;

(5) any prepayment, purchase, repurchase, redemption, defeasance, discharge, retirement or other acquisition of Subordinated Indebtedness of the Issuer or a Restricted Subsidiary to the extent required by the agreement governing such Subordinated Indebtedness, following the occurrence of (i) a Change of Control (or other similar event described therein as a “change of control”) or (ii) an asset disposition (or other similar event described therein as an “asset disposition” or “asset sale”), but only if the Borrower shall have first complied with the terms described under “—Change of Control” or “— Limitation on Sales of Assets and Subsidiary Stock,” as applicable, and purchased all notes tendered pursuant to the offer to repurchase all the notes required thereby, prior to purchasing, repurchasing, redeeming, defeasing or otherwise acquiring or retiring such Subordinated Indebtedness;

(6) a Restricted Payment to pay for the prepayment, purchase, repurchase, redemption, defeasance, discharge, retirement or other acquisition of Equity Interests of the Borrower or any Parent Entity held by any future, present or former employee, director, officer, manager, contractor, consultant or advisor (or their respective Controlled Investment Affiliates or Immediate Family Members) of the Borrower, any of its Subsidiaries or any Parent Entity pursuant to any management equity plan, stock option plan, phantom equity plan or any other management, employee benefit or other compensatory plan or agreement (and any successor plans or arrangements thereto), employment, termination or severance agreement, or any stock subscription or equityholder agreement (including, for the avoidance of doubt, any principal and interest payable on any Indebtedness issued by the Borrower or any Parent Entity in connection with such prepayment, purchase, repurchase, redemption, defeasance, discharge, retirement or other acquisition), including any Equity Interests rolled over, accelerated or paid out by or to any employee, director, officer, manager, contractor, consultant or advisor (or their respective Controlled Investment Affiliates or Immediate Family Members) of the Borrower, any of its Subsidiaries or any Parent Entity in connection with any transaction; *provided, however*, that the aggregate Restricted Payments made under this clause do not exceed (x) the greater of (i) \$15.0 million and (ii) an amount equal to 1.5% of the Borrower's Consolidated Net Tangible Assets determined as of the end of the Borrower's most recently completed fiscal quarter for which internal financial statements are available in any fiscal year (with unused amounts in any fiscal year being carried over to succeeding fiscal years) or (y) subsequent to the consummation of a Qualifying IPO of the Borrower or any Parent Entity, the greater of (i) \$25.0 million and (ii) an amount equal to 3.0% of the Borrower's Consolidated Net Tangible Assets determined as of the end of the Borrower's most recently completed fiscal quarter for which internal financial statements are available in any fiscal year (with unused amounts in any fiscal year being carried over to succeeding fiscal years); *provided, further*, that such amount in any fiscal year may be increased by an amount not to exceed:

(a) the cash proceeds from the sale of Equity Interests (other than Disqualified Equity Interests) of the Borrower and, to the extent contributed to the capital of the Borrower, the cash proceeds from the sale of Equity Interests of any Parent Entity, in each case, to any future, present or former employee, director, officer, manager, contractor, consultant or advisor (or their respective Controlled Investment Affiliates or Immediate Family Members) of the Borrower, any of its Subsidiaries or any Parent Entity that occurred after the Closing Date, to the extent the cash proceeds from the sale of such Equity Interests have not otherwise been applied to the payment of Restricted Payments by virtue of clause (c) of the preceding paragraph; plus

(b) the cash proceeds of key man life insurance policies received by the Borrower or its Restricted Subsidiaries (or any Parent Entity to the extent contributed to the Borrower) after the Closing Date; less

(c) the amount of any Restricted Payments made in previous calendar years pursuant to clauses (a) and (b) of this clause; *provided* that the Borrower may elect to apply all or any portion of the aggregate increase contemplated by subclauses (a) and (b) of this clause in any fiscal year; *provided, further*, that (i) cancellation of Indebtedness owing to the Borrower or any Restricted Subsidiary from any future, present or former employee, director, officer, manager, contractor, consultant or advisor (or their respective Controlled Investment Affiliates or Immediate Family Members) of the Borrower or Restricted Subsidiaries or any Parent Entity in connection with a repurchase of Equity Interests of the Borrower or any Parent Entity and (ii) the repurchase of Equity Interests deemed to occur upon the exercise of options, warrants or similar instruments if such Equity Interests represents all or a portion of the exercise price thereof and payments, in lieu of the issuance of fractional shares of such Equity Interests or withholding to pay other Taxes payable in connection therewith, in the case of each of clauses (i) and (ii), will not be deemed to constitute a Restricted Payment for purposes of this covenant or any other provision of this Agreement;

(7) the declaration and payment of dividends on Disqualified Equity Interests of the Borrower or any of its Restricted Subsidiaries or preferred stock of a Restricted Subsidiary;

(8) payments made or expected to be made by the Borrower or any Restricted Subsidiary in respect of withholding or similar Taxes payable in connection with the exercise or vesting of Equity Interests or any other equity award by any future, present or former employee, director, officer, manager, contractor, consultant or advisor (or their respective Controlled Investment Affiliates or Immediate Family Members) of the Borrower or any Restricted Subsidiary or any Parent Entity and purchases, repurchases, redemptions, defeasances or other acquisitions or retirements of Equity Interests deemed to occur upon the exercise, conversion or exchange of stock options, warrants, equity-based awards or other rights in respect thereof if such Equity Interests represents a portion of the exercise price thereof or payments in respect of withholding or similar Taxes payable upon exercise or vesting thereof;

(9) (a) the declaration and payment of dividends on the common stock, common equity interests or Jones Act Warrants (including, for the avoidance of doubt, in the form of notes, warrants or similar Indebtedness) of the Borrower or any Parent Entity (and any equivalent declaration and payment of a distribution of any security exchangeable for such common stock, common equity interests or Jones Act Warrants to the extent required by the terms of any such exchangeable securities and any Restricted Payment to any such Parent Entity to fund the payment by such Parent Entity of dividends on such entity's Equity Interests), following a public offering of such common stock, common equity interests or Jones Act Warrants (or such exchangeable securities, as applicable), in an amount in any fiscal year not to exceed 6% of the amount of net cash proceeds received by or contributed to the Borrower or any of its Restricted Subsidiaries from any such public offering; or (b) in lieu of all or a portion of the dividends permitted by clause (a), any prepayment, purchase, repurchase, redemption, defeasance, discharge, retirement or other acquisition of the Borrower's Equity Interests (and any equivalent declaration and payment of a distribution of any security exchangeable for such common stock, common equity interests or Jones Act Warrants to the extent required by the terms of any such exchangeable securities and any Restricted Payment to any such Parent Entity to fund the payment by such Parent Entity of dividends on such entity's Equity Interests) for aggregate consideration that, when taken together with dividends permitted by clause (a), does not exceed the amount contemplated by clause (a);

(10) payments by the Borrower, or loans, advances, dividends or distributions to any Parent Entity to make payments, to holders of Equity Interests of the Borrower or any Parent Entity in lieu of the issuance of fractional shares of such Equity Interests, *provided, however*, that any such payment, loan, advance, dividend or distribution shall not be for the purpose of evading any limitation of this covenant or otherwise to facilitate any dividend or other return of capital to the holders of such Equity Interests (as determined in good faith by the Borrower);

(11) distributions, by dividend or otherwise, or other transfer or disposition of shares of Equity Interests of, or equity interests in, an Unrestricted Subsidiary (or a Restricted Subsidiary that owns one or more Unrestricted Subsidiaries and no other material assets), or Indebtedness owed to the Borrower or a Restricted Subsidiary by an Unrestricted Subsidiary (or a Restricted Subsidiary that owns one or more Unrestricted Subsidiaries and no other material assets), in each case, other than Unrestricted Subsidiaries, substantially all of the assets of which are cash and Cash Equivalents;

(12) the repurchase of warrants, common equity or other equity instruments of the Borrower to occur on or about the Closing Date as contemplated by the recitals hereto;

(13) (i) so long as, immediately after giving pro forma effect to the payment of any such Restricted Payment and the incurrence of any Indebtedness the net proceeds of which are used to make such Restricted Payment, no Default or Event of Default has occurred and is continuing (or would result therefrom), Restricted Payments (including, for the avoidance of doubt, in the form of notes, warrants or similar Indebtedness and including loans or advances) in an aggregate amount outstanding at the time made not to exceed the greater of (x) \$50.0 million and (y) an amount equal to 6.0% of the Borrower's Consolidated Net Tangible Assets determined as of the end of the Borrower's most recently completed fiscal quarter for which internal financial statements are available, and (ii) any Restricted Payments, so long as, immediately after giving pro forma effect to the payment of any such Restricted Payment and the incurrence of any Indebtedness the net proceeds of which are used to make such Restricted Payment, (A) no Default or Event of Default has occurred and is continuing (or would result therefrom) and (B) the Total Net Leverage Ratio shall be no greater than 1.50 to 1.00; *provided, however*, in the case of this clause (13), the Borrower shall be in pro forma compliance with the Financial Covenants upon giving effect thereto;

(14) payments or distributions to dissenting stockholders pursuant to applicable law (including in connection with, or as a result of, exercise of dissenters' or appraisal rights and the settlement of any claims or action (whether actual, contingent or potential)), pursuant to or in connection with a merger, amalgamation, consolidation or transfer of assets that complies with Section 7.04;

(15) any Restricted Payment made in connection with a Permitted Intercompany Activity or related transactions; *provided* that Restricted Payments in connection with Permitted Intercompany Activities between the Borrower and Restricted Subsidiaries that are Loan Parties, on the one hand, and Restricted Subsidiaries that are not Loan Parties or any other Person, on the other hand, shall only be permitted so long as an Event of Default has not occurred and is continuing (other than, for the avoidance of doubt, Permitted Intercompany Activities in accordance with clause (A)(i) of the definition thereof); and

(16) the making of (i) cash payments made by the Borrower or any of its Restricted Subsidiaries in satisfaction of the conversion obligation upon conversion into the Borrower equity of convertible Indebtedness issued in a convertible notes offering (it being understood that the satisfaction of such conversion obligation in cash shall not increase the Available Amount) and (ii) any payments by the Borrower or any of its Restricted Subsidiaries pursuant to the initiation, exercise, settlement or termination of any Hedge Agreement (clauses (i) and (ii), a "**Conversion Settlement**").

"**Permitted Plan**" means any employee benefits plan of the Borrower or any of its Affiliates and any Person acting in its capacity as trustee, agent or other fiduciary or administrator of any such plan.

"**Permitted Reflagging Transaction**" means any transaction or action by a Loan Party resulting in (i) the Vessel Collateral being reflagged under the laws of another Approved Flag Jurisdiction so long as no less than five (5) Business Days prior written notice has been provided to the Administrative Agent (or such shorter period as the Administrative Agent shall agree in its discretion) and either (A) such Vessel would thereafter constitute an Excluded Foreign Flag Vessel or (B) the Administrative Agent (or, if required by Section 11.01(b)(v), all Lenders) have provided their consent thereto (such consent not to be unreasonably withheld, conditioned or delayed), and in each case the Borrower has paid the Administrative Agent an administrative fee in the amount of \$100,000 for each such reflagged Vessel constituting Vessel Collateral (unless such reflagged Vessel will continue to be Vessel Collateral subject to a Vessel Mortgage) or (ii) any Excluded Vessel being reflagged (x) from a non-Approved Flag Jurisdiction to another non-Approved Flag Jurisdiction or to an Approved Flag Jurisdiction or (x) from an Approved Flag Jurisdiction to another Approved Flag Jurisdiction.

“**Person**” means any natural person, corporation, limited liability company, trust, joint venture, association, company, partnership, Governmental Authority or other entity.

“**Plan**” means any material “employee benefit plan” (as such term is defined in Section 3(3) of ERISA) established, sponsored, maintained or contributed to (or required to be contributed to) by any Loan Party or, with respect to any such plan that (i) is subject to Section 412 of the Code, Section 302 of ERISA or Title IV of ERISA or (ii) for which any Loan Party has liability under ERISA or the Code as a result of being in a “controlled group” with any of their respective ERISA Affiliates.

“**Platform**” has the meaning specified in Section 6.02.

“**Pledged Collateral**” has the meaning specified in the Collateral Agreement.

“**Pledged Equity**” has the meaning specified in the Collateral Agreement.

“**Preferred Stock**” as applied to the Equity Interests of any Person, means Equity Interests of any class or classes (however designated) which is preferred as to the payment of dividends or as to the distribution of assets upon any voluntary or involuntary liquidation or dissolution of such Person, over shares of Equity Interests of any other class of such Person.

“**Prepayment Date**” has the meaning specified in Section 2.03(b)(v).

“**Prepayment Fee**” means, as to any prepayment (whether voluntary or involuntary) made of the Loans, (a) a fee equal to 4.00% of the principal amount being prepaid assuming such prepayment occurs after the Closing Date but on or prior to the first anniversary date of the Closing Date, (b) a fee equal to 3.00% of the principal amount being prepaid assuming such prepayment occurs after the first anniversary date of the Closing Date but on or prior to the second anniversary date of the Closing Date, (c) a fee equal to 2.00% of the principal amount being prepaid assuming such prepayment occurs after the second anniversary date of the Closing Date but on or prior to the third anniversary date of the Closing Date, (d) a fee equal to 1.00% of the principal amount being prepaid assuming such prepayment occurs after the third anniversary date of the Closing Date.

“**Prepayment Notice**” means a written notice made pursuant to Section 2.03(a)(i) substantially in the form of Exhibit J.

“**Priority Waterfall**” means the provisions of Section 9.03.

“Private-Side Information” means any information with respect to the Borrower and its Subsidiaries that is not Public-Side Information.

“Pro Forma Basis” and **“Pro Forma Effect”** mean, with respect to compliance with any test or covenant or calculation hereunder, the determination or calculation of such test, covenant or ratio in accordance with the definition of “Consolidated Adjusted EBITDA”, the definition of “Fixed Charge Coverage Ratio” and Section 1.08.

“Pro Rata Share” means with respect to all payments, computations and other matters relating to the Loans of any Lender (expressed as a percentage, carried out to the ninth decimal place), the numerator of which is the amount of the Loans of that Lender and the denominator of which is the aggregate amount of all Loans of all Lenders at such time.

“PTE” means a prohibited transaction class exemption issued by the U.S. Department of Labor, as any such exemption may be amended from time to time.

“Public Company Costs” means, as to any Person, costs associated with, or in anticipation of, or preparation for, compliance with the requirements of the Sarbanes-Oxley Act of 2002 and the rules and regulations promulgated in connection therewith and costs relating to compliance with the provisions of the Securities Act and the Exchange Act or any other comparable body of laws, rules or regulations, as companies with listed equity, directors’ compensation, fees and expense reimbursement, costs relating to enhanced accounting functions and investor relations, stockholder meetings and reports to stockholders, directors’ and officers’ insurance and other executive costs, legal and other professional fees, listing fees and other transaction costs, in each case to the extent arising solely by virtue of the listing of such Person’s equity securities on a national securities exchange or issuance of public debt securities.

“Public Lenders” means Lenders that do not wish to receive Private-Side Information.

“Public-Side Information” means (a) at any time prior to a Parent Entity or the Borrower or any of their respective Subsidiaries becoming the issuer of any Traded Securities, information that the Borrower determines (i) would be required by applicable Law to be publicly disclosed in connection with an issuance by such Parent Entity or the Borrower or any of their respective Subsidiaries of its debt or equity securities pursuant to a registered public offering made at such time or (ii) not material to make an investment decision with respect to securities of such Parent Entity or the Borrower or any of their respective Subsidiaries (for purposes of United States federal, state or other applicable securities laws), and (b) at any time on or after such Parent Entity or the Borrower or any of their respective Subsidiaries becoming the issuer of any Traded Securities, information that does not constitute material non-public information (within the meaning of United States federal, state or other applicable securities laws) with respect to such Parent Entity or the Borrower or any of their respective Subsidiaries or any of their respective securities.

“Purchase Money Obligations” means any Indebtedness incurred to finance or refinance the acquisition, leasing, expansion, construction, installation, replacement, repair or improvement of property (real or personal), equipment or assets (including Equity Interests), and whether acquired through the direct acquisition of such property or assets, or the acquisition of the Equity Interests of any Person owning such property or assets, or otherwise.

“**QFC**” has the meaning assigned to the term “qualified financial contract” in, and shall be interpreted in accordance with, 12 U.S.C. 5390(c)(8)(D).

“**QFC Credit Support**” has the meaning specified in Section 11.28(a).

“**QSC and Stacking Adjustment**” has the meaning specified in the definition of “Consolidated Adjusted EBITDA”.

“**Qualified Equity Interests**” means any Equity Interests that are not Disqualified Equity Interests.

“**Qualified Services Contract**” means, with respect to any newly delivered, acquired or reactivated Specified Vessel (including, without limitation, offshore supply vessel, offshore service vessel, multi-purpose support vessels, service operation vessels, commissioning service operation vessels, other offshore wind-related vessels, construction support offshore vessels, flotels, other specialty vessels, other construction vessels, crewboats, fast supply vessels, anchor handling and towing supply vessels, tankers, tugs and tank barges) within 365 days of such vessel’s original delivery date, acquisition date or reactivation date, as applicable, a contract that the Board of Directors, acting in good faith, designates as a “Qualified Services Contract”, which contract: (a) provides for services to be performed by the Borrower or one of its Restricted Subsidiaries involving the use of such vessel or a charter (bareboat or otherwise) of such vessel by the Borrower or one of its Restricted Subsidiaries, in either case for a minimum period of at least 3 months; and (b) provides for a fixed or minimum dayrate or fixed or minimum volume or freight rates (including, if applicable, lay time and demurrage) for such vessel.

“**Qualifying IPO**” means (a) an underwritten public Equity Offering of the Borrower or any Parent Entity or (b) a transaction where the Equity Interests of the Borrower or any Parent Entity thereof is listed on any United States national securities exchange.

“**Recipient**” means (a) any Agent or (b) any Lender, as applicable.

“**Refinance**” means, in respect of any Indebtedness, to refinance, extend, renew, defease, amend, increase, modify, supplement, restructure, refund, replace or repay, or to issue other indebtedness or enter into alternative financing arrangements, in exchange or replacement for such indebtedness, including by adding or replacing lenders, creditors, agents, borrowers and/or guarantors, and including in each case, but not limited to, after the original instrument giving rise to such indebtedness has been terminated. “**Refinanced**” and “**Refinancing**” have correlative meanings.

“**Refinanced Debt**” has the meaning assigned to such term in the definition of “First Lien RCF Credit Agreement Refinancing Indebtedness.”

“Refinancing Indebtedness” means Indebtedness that is incurred to refund, refinance, replace, exchange, renew, repay or extend (including pursuant to any defeasance or discharge mechanism) any Indebtedness (or unutilized commitment in respect of Indebtedness) existing on the Closing Date or incurred (or established) in compliance with this Agreement (including Indebtedness of the Borrower that refinances Indebtedness of any Restricted Subsidiary and Indebtedness of any Restricted Subsidiary that refinances Indebtedness of the Borrower or another Restricted Subsidiary) including Indebtedness that refinances Refinancing Indebtedness, and Indebtedness incurred pursuant to a commitment that refinances any Indebtedness or unutilized commitment; *provided, however*, that

(i) (a) such Refinancing Indebtedness has a Weighted Average Life to Maturity at the time such Refinancing Indebtedness is incurred that is not less than the remaining Weighted Average Life to Maturity of the Indebtedness being refunded, refinanced, replaced, exchanged, renewed, repaid or extended (or requires no or nominal payments in cash (other than interest payments) prior to the date that is ninety-one (91) days after the Maturity Date); and (b) to the extent such Refinancing Indebtedness refinances Subordinated Indebtedness, such Refinancing Indebtedness is Subordinated Indebtedness, respectively, and, in the case of Subordinated Indebtedness, is subordinated to the Obligations on terms at least as favorable to the Lenders as those contained in the documentation governing the Indebtedness being refinanced,

(ii) Refinancing Indebtedness shall not include Indebtedness of a Subsidiary of the Borrower that is not a Guarantor that refinances Indebtedness of the Borrower or a Guarantor (unless such Subsidiary was an obligor in respect of the Indebtedness so refinanced) or (b) Indebtedness of the Borrower or a Restricted Subsidiary that refinances Indebtedness of an Unrestricted Subsidiary; and

(iii) such Refinancing Indebtedness is incurred in an aggregate principal amount (or if issued with original issue discount, an aggregate issue price) that is equal to or less than the sum of (x) the aggregate principal amount (or if issued with original issue discount, the aggregate accreted value) then outstanding of the Indebtedness being Refinanced, *plus* (y) an amount equal to any unutilized commitment relating to the Indebtedness being refinanced or otherwise then outstanding under a financing arrangement being refinanced to the extent the unutilized commitment being refinanced could be drawn in compliance with Section 7.03 immediately prior to such refinancing, *plus* (z) accrued and unpaid interest, dividends, premiums (including tender premiums), defeasance costs, underwriting discounts, fees, costs and expenses (including original issue discount, upfront fees or similar fees) in connection with such refinancing. Refinancing Indebtedness in respect of any Indebtedness may be incurred from time to time after the termination, discharge or repayment of any such Indebtedness.

Refinancing Indebtedness will be deemed to include any Registered Equivalent Notes issued in exchange therefor.

“Refunding Equity Interests” has the meaning specified in the definition of “Permitted Payments.”

“Register” has the meaning specified in Section 11.07(c).

“Registered Equivalent Notes” means, with respect to any notes originally issued in a Rule 144A or other private placement transaction under the Securities Act, substantially identical notes (having the same Guarantees) issued in a dollar-for-dollar exchange therefor pursuant to an exchange offer registered with the SEC.

“Regulation U” means Regulation U of the FRB as from time to time in effect and all official rulings and interpretations thereunder or thereof, or any successor thereto.

“Related Indemnified Person” of an Indemnatee means (a) any controlling person or controlled affiliate of such Indemnatee, (b) the respective directors, partners, officers, or employees of such Indemnatee or any of its controlling persons or controlled affiliates and (c) the respective agents of such Indemnatee or any of its controlling persons or controlled affiliates, in the case of this clause (c), acting at the instructions of such Indemnatee, controlling person or such controlled affiliate; *provided* that each reference to a controlled affiliate or controlling person in this definition shall pertain to a controlled affiliate or controlling person involved in the negotiation or syndication of the Term Loan Facility.

“Release Actions” has the meaning specified in Section 10.11.

“Release Certificate” has the meaning specified in Section 10.11.

“Release Value” means an amount equal to the product obtained by multiplying the outstanding principal balance of the Loans by a fraction, the numerator of which is the Allocated Dollar Value of the Vessel so sold, reflagged, transferred, conveyed, designated, lost or similarly disposed, and the denominator of which is the Allocated Dollar Values of all Vessels securing the Obligations immediately prior to such sale, reflagging, transfer, conveyance, designation, loss or other disposition.

“Relevant Person” means:

(a) the Borrower and each of its Subsidiaries; and

(b) each of their directors, officers and employees.

“Reorganization Transactions” any reorganizations and other activities in connection with or related to a Qualifying IPO of the Borrower or any Parent Entity (including, for the avoidance of doubt, any transfer (including by contribution, merger or otherwise) of interests in the Borrower to a wholly owned domestic subsidiary of a Parent Entity).

“Reportable Event” means, with respect to any Pension Plan, any of the events set forth in Section 4043(c) of ERISA or the regulations issued thereunder, other than events for which the 30 day notice period has been waived by applicable regulation.

“Required Lenders” means, as of any date of determination, Lenders having or holding more than 50.1% of the sum of the aggregate amount of all Loans of all Lenders; *provided* that the aggregate amount of Loans of or held by any Defaulting Lender shall be excluded for purposes of making a determination of Required Lenders. The Commitment (if any) and Loans of any Defaulting Lender shall be disregarded in determining Required Lenders at any time.

“**Resolution Authority**” means an EEA Resolution Authority or, with respect to any UK Financial Institution, a UK Resolution Authority.

“**Responsible Officer**” means the executive chairman, chief executive officer, president, executive vice president, senior vice president (finance), vice president (finance), chief financial officer, chief accounting officer, treasurer or assistant treasurer or other similar officer or Person performing similar functions of a Loan Party and, as to any document delivered on the Closing Date, any secretary or assistant secretary of a Loan Party. Any document delivered hereunder that is signed by a Responsible Officer of a Loan Party shall be conclusively presumed to have been authorized by all necessary corporate, partnership and/or other action on the part of such Loan Party and such Responsible Officer shall be conclusively presumed to have acted on behalf of such Loan Party. Unless otherwise specified, all references herein to a “Responsible Officer” shall refer to a Responsible Officer of the Borrower.

“**Restricted**” means, when referring to cash or Cash Equivalents of the Borrower or any of the Restricted Subsidiaries, that such cash or Cash Equivalents appear (or would be required by GAAP to appear) as “restricted” on a consolidated balance sheet of the Borrower or such Restricted Subsidiary (unless such appearance is related to a restriction in favor of the Administrative Agent).

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

“**Restricted Party**” means a Person that is (a) listed on any Sanctions List or targeted by Sanctions (whether designated by name or by reason of being included in a class of person), (b) located in or incorporated under the laws of any country or territory that is the target of comprehensive, country- or territory-wide Sanctions (at the time of this Agreement, the so - called Donetsk People’s Republic, the so- called Luhansk People’s Republic, the Crimea Region of Ukraine, Cuba, Iran, North Korea and Syria), or (c) directly or indirectly owned or controlled (as such terms are defined in applicable Sanctions) by, or acting on behalf, at the direction, or for the benefit, of a person referred to in (a) and/or (to the extent relevant under Sanctions) (b) above.

“**Restricted Payment**” has the meaning specified in Section 7.06.

“**Restricted Subsidiary**” means any Subsidiary of the Borrower other than an Unrestricted Subsidiary.

“**S&P**” means S&P Global Ratings, and any successor thereto.

“**Sale Leaseback Transaction**” means a sale leaseback transaction with respect to all or any portion of any real property owned by a Loan Party or other property customarily included in such transactions.

“**Same Day Funds**” means disbursements and payments in immediately available funds.

“**Sanctions**” means any applicable (to any Relevant Person and/or Loan Party as the context provides) laws, regulations or orders concerning any trade, economic or financial sanctions or embargoes imposed, administered or enforced from time to time by a Sanctions Authority.

“**Sanctions Authority**” means the Norwegian State, the United Nations, the European Union, the United Kingdom, the United States of America (including the Office of Foreign Assets Control of the U.S. Department of the Treasury or the U.S. Department of State), and any of their respective legislative, executive, enforcement and/or regulatory authorities or bodies acting in connection with Sanctions.

“**Sanctions List**” means: (a) the lists of Sanctions designations and/or targets maintained by any Sanctions Authority and/or (b) any other Sanctions designation or target listed and/or adopted by a Sanctions Authority, in each case, as amended, supplemented or replaced from time to time.

“**SEC**” means the Securities and Exchange Commission, or any Governmental Authority succeeding to any of its principal functions.

“**Secured Parties**” means, collectively, the Administrative Agent, the Collateral Trustee, the Lenders, the Supplemental Administrative Agent and each co-agent or sub-agent appointed by the Administrative Agent from time to time pursuant to Section 10.05 and Section 10.12.

“**Securities Account**” has the meaning specified in the Uniform Commercial Code.

“**Securities Act**” means the U.S. Securities Act of 1933, as amended.

“**Senior Indebtedness**” has the meaning specified in Section 11.02(b)(ix).

“**Senior Lien Intercreditor Agreement**” means that certain Junior Lien Intercreditor Agreement, dated as of December 27, 2024, substantially in the form attached hereto as Exhibit K-2 (as the same may be modified in a manner reasonably satisfactory to the Administrative Agent, the Collateral Trustee (at the direction of the Administrative Agent), the Required Lenders and the Borrower) or, if requested by the providers of Indebtedness permitted hereunder to be Senior Indebtedness, another lien subordination arrangement reasonably satisfactory to the Administrative Agent, the Collateral Trustee, the Required Lenders and the Borrower, in each case, as amended, restated, amended and restated, modified or supplemented from time to time in accordance with the terms hereof and thereof. Upon the request of the Borrower, the Administrative Agent and the Collateral Trustee will execute and deliver a Senior Lien Intercreditor Agreement for secured Indebtedness that is permitted to be incurred hereunder as Senior Indebtedness; *provided* that the Borrower shall not make such request unless such Indebtedness and related Liens are permitted by (including with respect to priority) the Loan Documents.

“**Settlement**” means the transfer of cash or other property with respect to any credit or debit card charge, check or other instrument, electronic funds transfer, or other type of paper-based or electronic payment, transfer, or charge transaction for which a Person acts as a processor, remitter, funds recipient or funds transmitter in the ordinary course of its business.

“**Settlement Asset**” means any cash, receivable or other property, including a Settlement Receivable, due or conveyed to a Person in consideration for a Settlement made or arranged, or to be made or arranged, by such Person or an Affiliate of such Person.

“**Settlement Indebtedness**” means any payment or reimbursement obligation in respect of a Settlement Payment.

“**Settlement Lien**” means any Lien relating to any Settlement or Settlement Indebtedness (and may include, for the avoidance of doubt, the grant of a Lien in or other assignment of a Settlement Asset in consideration of a Settlement Payment, Liens securing intraday and overnight overdraft and automated clearing house exposure, and similar Liens).

“**Settlement Payment**” means the transfer, or contractual undertaking (including by automated clearing house transaction) to effect a transfer, of cash or other property to effect a Settlement.

“**Settlement Receivable**” means any general intangible, payment intangible, or instrument representing or reflecting an obligation to make payments to or for the benefit of a Person in consideration for a Settlement made or arranged, or to be made or arranged, by such Person.

“**Shipowner**” means each Loan Party that owns a Vessel that is Vessel Collateral or the 2024 Newbuild Vessels.

“**Similar Business**” means (a) any businesses, services or activities engaged in by the Borrower or any of its Subsidiaries or any Associates on the Closing Date, (b) any businesses, services and activities engaged in by the Borrower or any of its Subsidiaries or any Associates that are related, complementary, incidental, ancillary or similar to any of the foregoing or are extensions or developments of any thereof, and (c) a Person conducting a business, service or activity specified in clauses (a) and (b), and any Subsidiary thereof. For the avoidance of doubt, any Person that invests in or owns Equity Interests or Indebtedness of another Person that is engaged in a Similar Business shall be deemed to be engaged in a Similar Business.

“**Solvent**” and “**Solvency**” mean, with respect to any Person on any date of determination, that on such date (a) the fair value of the assets of such Person, on a consolidated basis with its Subsidiaries, exceeds its debts and liabilities, subordinated, contingent or otherwise, on a consolidated basis, (b) the present fair saleable value of the property of such Person, on a consolidated basis with its Subsidiaries, is greater than the amount that will be required to pay the probable liability of its debts and other liabilities, subordinated, contingent or otherwise, on a consolidated basis, as such debts and other liabilities become absolute and matured, (c) such Person, on a consolidated basis with its Subsidiaries, is able to pay its debts and liabilities, subordinated, contingent or otherwise, on a consolidated basis, as such liabilities become absolute and matured and (d) such Person, on a consolidated basis with its Subsidiaries, is not engaged in, and is not about to engage in, business for which it has unreasonably small capital. The amount of any contingent liability at any time shall be computed as the amount that would reasonably be expected to become an actual and matured liability.

“**SPC**” has the meaning specified in Section 11.07(g).

“**Specified Event of Default**” means an Event of Default pursuant to Section 9.01(a) or an Event of Default pursuant to Section 9.01(f).

“**Specified Qualified Appraisers**” means DLS Marine Survey and Appraisal, Clarksons, Fearnleys, Pareto, Seabrokers Group, S&P Global, Arctic Offshore, North American Marine Consultants, LLC or Dufour Laskay & Strouse Inc (or any successor thereof) and other appraisers with the prior consent of the Administrative Agent (such consent not to be unreasonably withheld, conditioned or delayed).

“**Specified Vessel**” has the meaning specified in the definition of “Consolidated Adjusted EBITDA”.

“**Sponsors**” means, individually or collectively, any fund, partnership, co-investment vehicles and/or similar vehicles or accounts, in each case managed or advised by Ares Management Corp., Whitebox Advisors LLC, Highbridge Capital Management, LLC or any Subsequent Sponsor or any of their respective Affiliates, or any of their respective successors.

“**Stacked Vessel**” means a Vessel that has been temporarily or permanently removed from service in the exercise of the Borrower’s reasonable judgment consistent with reasonable business practices in light of the facts known at the time the decision was made (including, without limitation, operating costs and available marketing opportunities) or in the case of any after-acquired Vessel (whether by acquiring the Vessel or the entity that owns such Vessel) that was stacked at the time of its acquisition or thereafter.

“**Subordinated Indebtedness**” means, with respect to any person, any Indebtedness (whether outstanding on the Closing Date or thereafter incurred) which is expressly subordinated in right of payment to the Loans pursuant to a written agreement (but excluding any First Lien Debt).

“**Subsequent Sponsor**” means any “person” or “group” (as each term is used in Sections 13(d) and 14(d) of the Exchange Act as in effect on the Closing Date) that is or becomes the “beneficial owner” (as defined in Rules 13d-3 and 13d-5 of the Exchange Act as in effect on the Closing Date) of more than 50% of the total voting power of the Voting Stock of the Borrower (or any Parent Entity) pursuant to a Permitted Change of Control.

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

(1) any corporation, association, or other business entity (other than a partnership, joint venture, limited liability company or similar entity) of which more than 50% of the total voting power of shares of Equity Interests entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers or trustees thereof is at the time of determination owned or controlled, directly or indirectly, by such Person or one or more of the other Subsidiaries of that Person or a combination thereof;

(2) any partnership, joint venture, limited liability company or similar entity of which:

(3) more than 50% of the capital accounts, distribution rights, total equity and voting interests or general or limited partnership interests, as applicable, are owned or controlled, directly or indirectly, by such Person or one or more of the other Subsidiaries of that Person or a combination thereof whether in the form of membership, general, special or limited partnership interests or otherwise; and

(4) such Person or any Subsidiary of such Person is a controlling general partner or otherwise controls such entity; or

(5) at the election of the Borrower, any partnership, joint venture, limited liability company or similar entity of which such Person or any Subsidiary of such Person is a controlling general partner or otherwise controls such entity.

provided, that, notwithstanding the foregoing, “Subsidiary” shall not include Hornbeck Offshore Services de Mexico, S. de R.L. de C.V. or Hornbeck Offshore (Trinidad & Tobago), Ltd.

“**Subsidized Indebtedness Specified Cash**” has the meaning specified in Section 7.01.

“**Substitute Vessel**” has the meaning specified in Section 2.03(f)(i).

“**Substitution Notice**” has the meaning specified in Section 2.03(f)(i).

“**Substitution Percentage**” means an amount equal to a fraction, the numerator of which is the actual Vessel Collateral Value Amount of the Substitute Vessel (or Substitute Vessels) divided by the Vessel Collateral Value Amount of the Vessel so sold, reflagged, transferred, conveyed, designated, lost or similarly disposed.

“**Successor Company**” has the meaning specified in Section 7.04(a)(i).

“**Successor Person**” has the meaning specified in Section 7.04(b)(i).

“**Supplemental Administrative Agent**” and “**Supplemental Administrative Agents**” have the meanings specified in Section 10.12(a).

“**Supported QFC**” has the meaning specified in Section 11.26(a).

“**Surety**” has the meaning specified in the definition of “Builder”.

“**Swap Obligations**” means, with respect to any Person, the obligations of such Person under any interest rate swap agreement, interest rate cap agreement, interest rate collar agreement, commodity swap agreement, commodity cap agreement, commodity collar agreement, foreign exchange contracts, currency swap agreement or similar agreement providing for the transfer or mitigation of interest rate, commodity price or currency risks either generally or under specific contingencies.

“**Taxes**” has the meaning specified in Section 3.01(a).

“**Term Loan Collateral Release Ratio**” means the ratio of (i) the aggregate principal outstanding amount of the Loans to (ii) the Vessel Collateral Value Amount (as determined, if the Borrower so elects, by the most recent appraisals required to be delivered under Section 6.02(b) or otherwise delivered hereunder) in respect of Vessels which are not Stacked Vessels.

“**Term Loan Facility**” has the meaning set forth in the Preliminary Statements hereto.

“**Term Loan Note**” means a promissory note in the form of Exhibit B, as it may be amended, restated, amended and restated, supplemented or otherwise modified from time to time.

“**Test Period**” in effect at any time means the most recent period of four consecutive fiscal quarters of the Borrower ended on or prior to such time (taken as one accounting period) in respect of which financial statements for each quarter or fiscal year in such period are available or, in the case of Article VIII, are required to be delivered pursuant to Section 6.01(a) or 6.01(b) (which may be internal financial statements except (i) to the extent this Agreement otherwise expressly states that the Test Period is specified in a Compliance Certificate, in which case such financial statements shall have been delivered pursuant to Section 6.01(a) or (b) for the Test Period set forth in such Compliance Certificate or (ii) for purposes of Article VIII). A Test Period may be designated by reference to the last day thereof (i.e., the “December 31st Test Period” of a particular year refers to the period of four consecutive fiscal quarters of the Borrower ended on December 31st of such year), and a Test Period shall be deemed to end on the last day thereof.

“**Testing Date**” has the meaning assigned to such term in Section 8.01.

“**Threshold Amount**” means \$25.0 million.

“**Total Assets**” means, as of any date, the total consolidated assets of the Borrower and its Restricted Subsidiaries on a consolidated basis, as shown on the most recent consolidated balance sheet of the Borrower and its Restricted Subsidiaries, determined in accordance with GAAP.

“**Total Loss**” means, in relation to any Vessel constituting Vessel Collateral, any of the following and any such Total Loss shall be deemed to have occurred as of the date set forth in parenthesis after the definition of such Total Loss:

(i) its actual total loss or destruction, damage beyond repair, or being rendered permanently unfit for normal use (the date on which such loss, destruction, damage or rendition occurs or, if the date of loss or destruction is not known, the date on which such Vessel was last heard of);

(ii) its constructive or, with the consent of the Borrowers and the Lenders, compromised, arranged or agreed total loss (the earliest of (A) the date on which such loss is agreed or compromised or arranged by the insurers, (B) the date on which a competent court of law or arbitration tribunal issues a judgment or award against which there is no appeal to the effect that a total loss has occurred, (C) the date on which the insurers make payment of the full amount of the proceeds of such total loss on the basis of a total loss, (D) sixty (60) days from the date of the event giving rise to such loss, and (E) the maturity date of the Notes);

(iii) requisition for title or other compulsory acquisition of such Vessel (other than by requisition for hire) which shall continue for thirty (30) days (the date on which such requisition for title or other compulsory acquisition takes effect); and

(iv) capture, seizure, arrest, detention or confiscation of such Vessel by any Governmental Authority or by persons acting or purporting to act on behalf of any Governmental Authority, unless such Vessel is released from such capture, seizure, arrest, detention or confiscation, whether by posting of a bond or security or otherwise, within thirty (30) days after the occurrence thereof; (the date on which (A) the date on which the insurers make payment of the full amount of the proceeds of such total loss on the basis of a total loss, (B) thirty (30) days from the date of the event giving rise to such loss, and (C) the maturity date of the Notes).

“**Total Net Leverage Ratio**” means, with respect to any Test Period, the ratio of (a) Consolidated Net Debt as of the last day of such Test Period to (b) Consolidated Adjusted EBITDA of the Borrower for such Test Period.

“**Traded Securities**” means any debt or equity securities issued pursuant to a public offering or Rule 144A offering.

“**Transaction Expenses**” means any fees or expenses incurred or paid by the Borrower or any of its Subsidiaries in connection with the Transactions, this Agreement and the other Loan Documents and the transactions contemplated hereby and thereby, including any amortization thereof in any period.

“**Transactions**” means, collectively, (a) the occurrence of the Closing Date under this Agreement, (b) the occurrence of the repurchase of certain warrants, common equity or other equity instruments of Borrower to occur on or about the Closing Date and (c) the payment of the Transaction Expenses.

“**Treasury Equity Interests**” has the meaning specified in the definition of “Permitted Payment.”

“**U.S. Lender**” has the meaning specified in [Section 3.01\(e\)](#).

“**U.S. Non-Jones Act Vessel**” means a Vessel that is registered under the laws and flag of the United States of America but is not a Jones Act Vessel.

“**U.S. Tax Compliance Certificate**” has the meaning specified in [Section 3.01\(b\)](#).

“**UK Financial Institution**” means any BRRD Undertaking (as such term is defined under the PRA Rulebook (as amended from time to time) promulgated by the United Kingdom Prudential Regulation Authority) or any person falling within IFPRU 11.6 of the FCA Handbook (as amended from time to time) promulgated by the United Kingdom Financial Conduct Authority, which includes certain credit institutions and investment firms, and certain Affiliates of such credit institutions or investment firms.

“**UK Resolution Authority**” means the Bank of England or any other public administrative authority having responsibility for the resolution of any UK Financial Institution.

“**Undisclosed Administration**” means, in relation to a Lender or its direct or indirect parent entity, the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian, or other similar official by a supervisory authority or regulator under or based on the law in the country where such Lender or such parent entity is subject to home jurisdiction supervision, if applicable law requires that such appointment not be disclosed.

“**Unfunded Advances**” means with respect to the Administrative Agent, the aggregate amount, if any, made available to the Borrower on the assumption that each Lender has made available to the Administrative Agent such Lender’s share of the Loans available to the Administrative Agent as contemplated by Section 2.02.

“**Uniform Commercial Code**” means the Uniform Commercial Code or any successor provision thereof as the same may from time to time be in effect in the State of New York or the Uniform Commercial Code or any successor provision thereof (or similar code or statute) of another jurisdiction, to the extent it may be required to apply to any item or items of Collateral.

“**United States**” and “**U.S.**” mean the United States of America.

“**Unrestricted Lender**” means any Regulated Entity, Stonebriar Commercial Finance LLC or any of their respective Affiliates (other than, for the avoidance of doubt, any participants of any such Persons unless such participants constitute an Unrestricted Lender).

“**Unrestricted Subsidiary**” means (a) [reserved] and (b) any Subsidiary of the Borrower designated by the Board of Directors of the Borrower as an Unrestricted Subsidiary pursuant to Section 6.13 subsequent to the date hereof, in each case, until such Person ceases to be an Unrestricted Subsidiary of the Borrower in accordance with Section 6.13 or ceases to be a Subsidiary of the Borrower.

“**USA PATRIOT Act**” means The Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (Title III of Public Law No. 107-56 (signed into law October 26, 2001)), as amended or modified from time to time.

“**Vessel Collateral**” means, collectively, each of the Vessels set forth on Schedule 5.15, any Vessel subject to a Vessel Mortgage pursuant to Section 6.11(d) (i), and any other Vessel over which a Loan Party has, by its sole election, granted a Vessel Mortgage, in each case, until such Vessel is released from Vessel Collateral in accordance with the terms hereof; *provided*, that, for the avoidance of doubt, the Borrower shall not be restricted in its ability, at its sole election, to designate any Vessel Collateral as Stacked Vessels following the Closing Date.

“**Vessel Collateral Value Amount**” means the fair market value of each Vessel constituting Collateral (calculated in the aggregate), as determined by (a) VesselsValueTM (or any successor thereof) or (b) at the Borrower’s sole election, a Specified Qualified Appraiser; *provided* that, (i) if VesselsValueTM ceases to exist, (ii) if access to such information originating from VesselsValueTM becomes (x) commercially unavailable or impractical to obtain or (y) otherwise materially more costly to obtain, then the Borrower shall (or, with respect to clause (ii)(y), may at its sole election) select a Specified Qualified Appraiser or another appraiser that is reasonably acceptable to the Administrative Agent to determine the Vessel Collateral Value Amount in place of VesselsValueTM.

“**Vessel Mortgage**” means an amended and restated first preferred single vessel mortgage or fleet mortgage, as applicable, in substantially the form of Exhibit M, as the same may be amended, modified or supplemented from time to time.

“**Vessel Substitution**” has the meaning specified in Section 2.03(f)(i).

“**Vessels**” means marine vessels (other than recreational vessels), and “**Vessel**” shall mean any of such Vessels.

“**Voting Stock**” of a Person means all classes of Equity Interests of such Person then outstanding and normally entitled to vote in the election of directors.

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

(a) the sum of the products obtained by multiplying (i) the number of years (calculated to the nearest one-twelfth) from the date of determination to the date of each successive scheduled principal payment of such Indebtedness or redemption or similar payment with respect to such Disqualified Equity Interests or Preferred Stock, by (ii) the amount of such payment, by

(b) the sum of all such payments;

provided that, for purposes of determining the Weighted Average Life to Maturity of any Indebtedness, the effects of any prepayments or amortization made on such Indebtedness prior to the date of such determination will be disregarded; *provided further* that for purposes of determining the Weighted Average Life to Maturity of (i) any Refinanced Debt or (ii) any Indebtedness that is being modified, refinanced, refunded, renewed, replaced or extended (in any such case, the “**Applicable Indebtedness**”), the effects of any amortization payments or other prepayments made on such Applicable Indebtedness (including the effect of any prepayment on remaining scheduled amortization) prior to the date of the applicable modification, refinancing, refunding, renewal, replacement, extension or incurrence shall be disregarded.

“**wholly-owned**” means, with respect to a Subsidiary of a Person, a Subsidiary of such Person all of the outstanding Equity Interests of which (other than (a) director’s qualifying shares and (b) nominal shares issued to foreign nationals to the extent required by applicable Law) are owned by such Person and/or by one or more wholly-owned Subsidiaries of such Person.

“**Withdrawal Liability**” means the liability to a Multiemployer Plan as a result of a complete or partial withdrawal from such Multiemployer Plan, as such term is defined in Part I of Subtitle E of Title IV of ERISA.

“**Withholding Agent**” means the Borrower, any Guarantor or the Administrative Agent.

“**Write-Down and Conversion Powers**” means, (a) with respect to any EEA Resolution Authority, the write-down and conversion powers of such EEA Resolution Authority from time to time under the Bail-In Legislation for the applicable EEA Member Country, which write-down and conversion powers are described in the EU Bail-In Legislation Schedule, and (b) with respect to the United Kingdom, any powers of the applicable Resolution Authority under the Bail-In Legislation to cancel, reduce, modify or change the form of a liability of any UK Financial Institution or any contract or instrument under which that liability arises, to convert all or part of that liability into shares, securities or obligations of that person or any other person, to provide that any such contract or instrument is to have effect as if a right had been exercised under it or to suspend any obligation in respect of that liability or any of the powers under that Bail-In Legislation that are related to or ancillary to any of those powers.

Section 1.02 Other Interpretive Provisions. With reference to this Agreement and each other Loan Document, unless otherwise specified herein or in such other Loan Document:

(a) The meanings of defined terms are equally applicable to the singular and plural forms of the defined terms.

(b) (i) The words “herein,” “hereto,” “hereof” and “hereunder” and words of similar import when used in any Loan Document shall refer to such Loan Document as a whole and not to any particular provision thereof; (ii) references in this Agreement to an Exhibit, Schedule, Article, Section, clause or sub-clause refer (A) to the appropriate Exhibit or Schedule to, or Article, Section, clause or sub-clause in this Agreement or (B) to the extent such references are not present in this Agreement, to the Loan Document in which such reference appears; (iii) the term “including” is by way of example and not limitation; (iv) the term “documents” includes any and all instruments, documents, agreements, certificates, notices, reports, financial statements and other writings, however evidenced, whether in physical or electronic form; (v) the term “continuing” means, with respect to a Default or Event of Default, that it has not been cured or waived; and (vi) in the computation of periods of time from a specified date to a later specified date, the word “from” means “from and including,” the words “to” and “until” each mean “to but excluding,” and the word “through” means “to and including.”

(c) Section headings herein and in the other Loan Documents are included for convenience of reference only and shall not affect the interpretation of this Agreement or any other Loan Document.

(d) For all purposes under the Loan Documents, in connection with any division or plan of division under Delaware law (or any comparable event under a different jurisdiction’s laws) (a “**Division**”), if (a) any asset, right, obligation or liability of any Person becomes the asset, right, obligation or liability of a different Person, then it shall be deemed to have been transferred from the original Person to the subsequent Person, and (b) any new Person comes into existence, such new Person shall be deemed to have been organized on the first date of its existence by the holders of its Equity Interests at such time.

Section 1.03 Accounting and Finance Terms; Accounting Periods; Unrestricted Subsidiaries. All accounting terms, financial terms or components of such terms not specifically or completely defined herein shall be construed in conformity with GAAP to the extent GAAP defines such term or a component of such term. To the extent GAAP does not define such term or a component of such term, such term shall be calculated by the Borrower in good faith. For purposes of calculating any consolidated amounts necessary to determine compliance by any Person and, if applicable, its Restricted Subsidiaries with any ratio or other financial covenant in this Agreement, Unrestricted Subsidiaries shall be excluded. Unless the context indicates otherwise, any reference to a “fiscal year” shall refer to a fiscal year of the Borrower ending December 31, and any reference to a “fiscal quarter” shall refer to a fiscal quarter of the Borrower ending March 31, June 30, September 30 or December 31.

Section 1.04 Rounding. Any financial ratios required to be satisfied in order for a specific action to be permitted under this Agreement or any other Loan Document shall be calculated by dividing the appropriate component by the other component, carrying the result to one decimal place more than the number of decimal places by which such ratio is expressed herein (the “**applicable decimal place**”) and rounding the result up or down to the applicable decimal place.

Section 1.05 References to Agreements, Laws, Etc. Unless otherwise expressly provided herein, (a) references to Organization Documents, agreements (including the Loan Documents) and other contractual instruments shall be deemed to include all subsequent amendments, restatements, extensions, supplements and other modifications thereto, but only to the extent that such amendments, restatements, extensions, supplements and other modifications are not prohibited by any Loan Document; and (b) references to any Law shall include all statutory and regulatory provisions consolidating, amending, replacing, supplementing or interpreting such Law.

Section 1.06 Times of Day. Unless otherwise specified, all references herein to times of day shall be references to New York City time (daylight or standard, as applicable).

Section 1.07 [Reserved].

Section 1.08 Pro Forma Calculations; Limited Condition Transactions; Basket and Ratio Compliance.

(a) Notwithstanding anything to the contrary herein, the Total Net Leverage Ratio and the Fixed Charge Coverage Ratio shall be calculated in the manner prescribed by this Section 1.08.

(b) For purposes of calculating the Total Net Leverage Ratio and the Fixed Charge Coverage Ratio, in addition to the adjustments provided for in the definition of “Consolidated Adjusted EBITDA” and “Fixed Charge Coverage Ratio” (including any QSC and Stacking Adjustment), (i) any transaction or series of related transactions that results in a Person becoming a Restricted Subsidiary, (ii) any designation of a Subsidiary as a Restricted Subsidiary or an Unrestricted Subsidiary, (iii) any transaction or series of related transactions that results in a Restricted Subsidiary ceasing to be a Subsidiary of the Borrower, (iv) any acquisition or disposition of any assets constituting a business unit, line of business or division of another Person or a facility or an acquisition or disposition of any Vessel, (v) any incurrence or repayment of Indebtedness and (vi) any payment or Investment permitted by Section 7.06 that have been made or occurred (i) during the applicable Test Period or (ii) (other than for purposes of calculating the Financial Covenants pursuant to Section 8.01), subsequent to such Test Period and prior to or simultaneously with the event for which the calculation of any such ratio is made shall be calculated on a *pro forma* basis assuming that all such transactions (and any increase or decrease in Consolidated Adjusted EBITDA and the component financial definitions used therein attributable to any such transaction) had occurred on the first day of the applicable Test Period.

(c) In the event that the Borrower or any Restricted Subsidiary incurs (including by assumption or guarantees) or repays (including by redemption, repayment, retirement or extinguishment) any Indebtedness included in the calculations of the Fixed Charge Coverage Ratio and the Total Net Leverage Ratio, as the case may be (in each case, other than, except for purposes of Article VIII), (i) during the applicable Test Period or (ii) subsequent to the end of the applicable Test Period and prior to or simultaneously with the event for which the calculation of any such ratio is made, then the Fixed Charge Coverage Ratio and the Total Net Leverage Ratio shall be calculated giving *pro forma* effect to such incurrence or repayment of Indebtedness, to the extent required, as if the same had occurred on the last day of the applicable Test Period with respect to leverage ratios or the first day of such Test Period with respect to the Fixed Charge Coverage Ratio.

(d) Notwithstanding anything to the contrary in this Agreement or any classification under GAAP of any Person, business, assets or operations in respect of which a definitive agreement for the disposition thereof has been entered into as discontinued operations, no *pro forma* effect shall be given to any discontinued operations (and the Consolidated Adjusted EBITDA attributable to any such Person, business, assets or operations shall not be excluded for any purposes hereunder) until such disposition shall have been consummated.

(e) Notwithstanding anything in this Agreement or any Loan Document to the contrary,

(i) the Borrower may rely on more than one basket or exception hereunder (including both ratio-based and non-ratio based baskets and exceptions, and including partial reliance on different baskets that, collectively, permit the entire proposed transaction) at the time of any proposed transaction, and the Borrower may, in its sole discretion, at any later time divide, classify or reclassify such transaction (or any portion thereof) in any manner that complies with the available baskets and exceptions hereunder at such later time (*provided* that with respect to reclassification of Specified Debt and Liens, any such reclassification shall be subject to the parameters of Sections 7.01 and 7.03, as applicable),

(ii) unless the Borrower elects otherwise, if the Borrower or its Restricted Subsidiaries in connection with any transaction or series of related transactions (A) incurs Indebtedness, creates Liens, makes Dispositions, makes Investments, designates any Subsidiary as restricted or unrestricted or repays any Indebtedness or takes any other action under or as permitted by a ratio-based basket and (B) incurs Indebtedness, creates Liens, makes Dispositions, makes Investments, designates any Subsidiary as restricted or unrestricted or repays any Indebtedness or takes any other action under a non-ratio-based basket (which shall occur within five (5) Business Days of the events in clause (A) above), then the applicable ratio will be calculated with respect to any such action under the applicable ratio-based basket without regard to any such action under such non-ratio-based basket made in connection with such transaction or series of related transactions,

(iii) if the Borrower or its Restricted Subsidiaries enters into any revolving, delayed draw or other committed debt facility, the Borrower may elect by written notice to the Administrative Agent to determine compliance of such debt facility (including the incurrence of Indebtedness and Liens from time to time in connection therewith) with this Agreement and each other Loan Document on the date commitments with respect thereto are first received, assuming the full amount of such facility is incurred (and any applicable Liens are granted) on such date, in which case such committed amount may thereafter be borrowed or reborrowed, in whole or in part, from time to time, without further compliance with such applicable ratio-based basket hereunder, in lieu of determining such compliance on any subsequent date (including any date on which Indebtedness is incurred pursuant to such facility); *provided* that, in each case, any future calculation of such ratio-based basket shall only include amounts borrowed and outstanding as of such date of determination, and

(iv) if the Borrower or any Restricted Subsidiary incurs Indebtedness under a ratio-based basket, such ratio-based basket (together with any other ratio-based basket utilized in connection therewith, including in respect of other Indebtedness, Liens, Dispositions, Investments, Permitted Payments or other transactions permitted by Section 7.06) will be calculated excluding the cash proceeds of such Indebtedness for netting purposes (i.e., such cash proceeds shall not reduce the Borrower's Consolidated Net Debt pursuant to clause (b) of the definition of such term), *provided* that the actual application of such proceeds may reduce Indebtedness for purposes of determining compliance with any such applicable ratio-based basket.

(f) Notwithstanding anything in this Agreement or any Loan Document to the contrary, when calculating the availability under any basket or ratio under this Agreement or compliance with any provision of this Agreement in connection with any Limited Condition Transaction and any actions or transactions related thereto (including acquisitions, Investments, the incurrence, issuance or assumption of Indebtedness and the use of proceeds thereof, the incurrence or creation of Liens, repayments, Restricted Payments and Dispositions), in each case, at the option of the Borrower (the Borrower's election to exercise such option, an "**LCT Election**"), the date of determination for availability under any such basket or ratio and whether any such action or transaction is permitted (or any requirement or condition therefor is complied with or satisfied (including as to the absence of any continuing Default or Event of Default)) under this Agreement shall be deemed to be the date (the "**LCT Test Date**") the definitive agreement for such Limited Condition Transaction is entered into (or, if applicable, the date of delivery of an irrevocable declaration of a Restricted Payment or similar event) in respect of a target of a Limited Condition Transaction and, in each case, if, after giving pro forma effect to the Limited Condition Transaction and any actions or transactions related thereto (including acquisitions, Investments, the incurrence, issuance or assumption of Indebtedness and the use of proceeds thereof, the incurrence or creation of Liens, repayments, Restricted Payments and Dispositions) and any related pro forma adjustments, the Borrower or any of its Restricted Subsidiaries would have been permitted to take such actions or consummate such transactions on the relevant LCT Test Date in compliance with such ratio, test or basket (and any related requirements and conditions), such ratio, test or basket (and any related requirements and conditions) shall be deemed to have been complied with (or satisfied) for all purposes (in the case of Indebtedness, for example, whether such Indebtedness is committed, issued, assumed or incurred at the LCT Test Date or at any time thereafter); *provided*, that (a) if financial statements for one or more fiscal quarters shall have subsequently become available, the Borrower may elect, in its sole discretion, to redetermine all such ratios, tests or baskets on the basis of such financial statements, in which case, such date of redetermination shall thereafter be the applicable LCT Test Date for purposes of such ratios, tests or baskets, (b) except as contemplated in the foregoing clause (a), compliance with such ratios, test or baskets (and any related requirements and conditions) shall not be determined or tested at any time after the applicable LCT Test Date for such Limited Condition Transaction and any actions or transaction related thereto (including acquisitions, Investments, the incurrence, issuance or assumption of Indebtedness and the use of proceeds thereof, the incurrence or creation of Liens, repayments, Restricted Payments and Dispositions) and (c) Consolidated Interest Expense for purposes of the Fixed Charge Coverage Ratio will be calculated using an assumed interest rate as reasonably determined by the Borrower.

(g) For purposes of determining the maturity date of any Indebtedness, customary bridge loans that are subject to customary conditions (including no payment or bankruptcy event of default) that would either automatically be extended as, converted into or required to be exchanged for permanent refinancing shall be deemed to have the maturity date as so extended, converted or exchanged.

Section 1.09 Currency Equivalents Generally.

(a) For purposes of determining compliance with Sections 7.01 and 7.03 with respect to any amount of Lien, Specified Debt or Investment in a currency other than Dollars, no Default or Event of Default shall be deemed to have occurred solely as a result of changes in rates of currency exchange occurring after the time such Lien, Specified Debt or Investment is incurred (so long as such Indebtedness or Investment, at the time incurred, made or acquired, was permitted hereunder).

(b) For purposes of this Agreement and the other Loan Documents, where the permissibility of a transaction or determinations of required actions or circumstances depend upon compliance with, or are determined by reference to, amounts stated in Dollars, any requisite currency translation shall be based on the rate of exchange between the applicable currency and Dollars as reasonably determined by the Borrower, in each case in effect on the Business Day immediately preceding the date of such transaction or determination (subject to clauses (c) and (d) below) and shall not be affected by subsequent fluctuations in exchange rates. For the avoidance of doubt, the Financial Covenants, the Total Net Leverage Ratio and the Fixed Charge Coverage Ratio, including Consolidated Adjusted EBITDA, shall not be recalculated following any such fluctuation in exchange rate to provide for additional Dollar-equivalent principal amount of Indebtedness to be incurred or otherwise affected by subsequent fluctuations in exchange rates to provide for additional basket capacity.

(c) For purposes of determining compliance with any Dollar-denominated restriction on the incurrence of Indebtedness, the Dollar-equivalent principal amount of Indebtedness denominated in a foreign currency shall be calculated based on the Exchange Rate in effect on the date such Indebtedness was incurred, in the case of term debt, or first committed, in the case of revolving credit debt (or, in the case of an LCT Election, on the date of the applicable LCT Test Date); *provided* that, if such Indebtedness is incurred to refinance other Indebtedness denominated in a foreign currency, and such refinancing would cause the applicable Dollar-denominated restriction to be exceeded if calculated at the Exchange Rate in effect on the date of such refinancing, such Dollar-denominated restriction shall be deemed not to have been exceeded so long as the principal amount of such Indebtedness so refinanced does not exceed the principal amount of such Indebtedness being refinanced. Notwithstanding the foregoing, the principal amount of any Indebtedness incurred to refinance other Indebtedness, if incurred in a different currency from the Indebtedness being refinanced, shall be calculated based on the Exchange Rate that is in effect on the date of such refinancing.

(d) For purposes of determining the Total Net Leverage Ratio and the Fixed Charge Coverage Ratio, including Consolidated Adjusted EBITDA when calculating such ratios, all amounts denominated in a currency other than Dollars will be converted to Dollars for any purpose (including testing the any financial maintenance covenant) at the effective rate of exchange in respect thereof reflected in the consolidated financial statements of the Borrower for the applicable Test Period for which such measurement is being made, and will reflect the currency translation effects, determined in accordance with GAAP, of Hedge Agreements permitted hereunder for currency exchange risks with respect to the applicable currency in effect on the date of determination of the Dollar equivalent of such Indebtedness.

ARTICLE II

THE COMMITMENTS AND LOANS

Section 2.01 Loans.

(a) Term Loan Commitment. Subject to the terms and conditions hereof, each Lender severally agrees to make term loans to the Borrower on the Closing Date in Dollars (“**Loans**”) in an aggregate amount up to but not exceeding such Lender’s Commitment. The initial aggregate principal amount of the Loans deemed made on the Closing Date shall be equal to the aggregate amount of the Commitments set forth on Schedule 2.01. Upon the deemed making of the Loans pursuant to this Section 2.01(a), the Commitments shall terminate in full. Any amounts paid or prepaid in respect of the Loans may not be reborrowed.

(b) Borrowing Mechanics for Loans.

(i) To request a Borrowing, the Borrower shall deliver to the Administrative Agent, for distribution to the Lenders, a written Borrowing Request signed by the Borrower, not later than 10:00 a.m., Eastern time, on the Closing Date (or such later time as agreed to by the Administrative Agent).

(ii) Any Lender may request that the Loans made by it be evidenced by a promissory note. In such event, the Borrower shall prepare, execute and deliver to such Lender a promissory note payable to such Lender or its registered assigns, substantially in the form of Exhibit B (with a copy to the Administrative Agent) dated (i) the Closing Date or (ii) the effective date of an Assignment and Assumption pursuant to Section 10.06(b), in a principal amount equal to its Commitment as originally in effect and otherwise duly completed and such substitute Term Loan Notes as required by Section 10.06(b). The date, amount, and interest rate of each Loan made by each Lender and all payments made on account of the principal thereof, shall be recorded by such Lender on its books and maintained in accordance with its usual practice. Failure to make such recordation shall not affect any Lender's or the Borrower's rights or obligations in respect of such Loans. In the event that one or more Term Loan Notes shall be issued after the Closing Date, it shall not be necessary to tender or present any such Note to the Administrative Agent for any payment hereunder, including on the Maturity Date.

(iii) Each Loan made shall be made as part of a Borrowing consisting of Loans made by the Lenders ratably in accordance with their respective Commitments. The failure of any Lender to make any Loan required to be made by it shall not relieve any other Lender of its obligations hereunder, it being understood and agreed that the Commitments are several and no Lender shall be responsible for any other Lender's failure to make Loans as required.

Section 2.02 Availability. Unless the Administrative Agent shall have received notice from a Lender prior to the Closing Date that such Lender will not make available to the Administrative Agent such Lender's Pro Rata Share of the Loans, the Administrative Agent may, in its sole discretion, assume that such Lender has made such Pro Rata Share available to the Administrative Agent on the Closing Date, and the Administrative Agent may in its sole discretion, in reliance upon such assumption, make available to the Borrower on such date a corresponding amount. If the Administrative Agent shall have so made funds available, then, to the extent that such Lender shall not have made such portion available to the Administrative Agent, each of such Lender and the Borrower severally agrees to repay to the Administrative Agent forthwith on demand such corresponding amount together with interest thereon, for each day from the date such amount is made available to the Borrower until the date such amount is repaid to the Administrative Agent at (a) in the case of the Borrower, the interest rate applicable at the time to such Loans and (b) in the case of such Lender, the Overnight Rate *plus* any administrative, processing, or similar fees customarily charged by the Administrative Agent in accordance with the foregoing. A certificate of the Administrative Agent submitted to any Lender with respect to any amounts owing under this Section 2.02 shall be conclusive in the absence of manifest error. If the Borrower and such Lender shall pay such interest to the Administrative Agent for the same or an overlapping period, the Administrative Agent shall promptly remit to the Borrower the amount of such interest paid by the Borrower for such period. If such Lender pays its share of the applicable Borrowing to the Administrative Agent, then the amount so paid shall constitute such Lender's applicable Loan included in such Borrowing. Any payment by the Borrower shall be without prejudice to any claim the Borrower may have against a Lender that shall have failed to make such payment to the Administrative Agent. A notice of the Administrative Agent to any Lender or the Borrower with respect to any amount owing under this Section 2.02 shall be conclusive, absent manifest error.

Section 2.03 Prepayments; Vessel Substitutions.

(a) Optional.

(i) The Borrower may, upon written notice to the Administrative Agent in the form of a Prepayment Notice, at any time or from time to time, voluntarily prepay the Loans in whole but not in part (except as expressly set forth below); *provided* that:

(A) such Prepayment Notice must be received by the Administrative Agent not later than 1:00 p.m. thirty (30) days prior to any date of prepayment;

(B) any prepayment shall be accompanied by the applicable Prepayment Fee;

(C) any prepayment shall be paid in Dollars and shall be paid on a Payment Date;

(D) the Borrower shall be permitted a one-time option prior to June 30, 2026, to prepay an amount between \$50,000,000 and \$100,000,000 in connection with an initial public offering (directly or indirectly) of the Borrower; and

(E) the Borrower shall be permitted to make additional prepayments not to exceed \$100,000,000 in the aggregate during the term of the Loans.

Each Prepayment Notice shall specify the date and amount to be prepaid, and the payment amount specified in each Prepayment Notice and the applicable Prepayment Fee shall be due and payable on the date specified therein. The Administrative Agent will promptly notify each Lender of its receipt of a Prepayment Notice and of the amount of such Lender's Pro Rata Share of such prepayment (including any Prepayment Fee). Any prepayment of Loans shall be subject to Section 2.03(c). Loans prepaid pursuant to this subsection (a) may not be reborrowed.

(ii) Notwithstanding anything to the contrary contained in this Agreement, the Borrower may rescind, in whole or in part, any notice of prepayment under Section 2.03(a)(i), if such prepayment would have resulted from a refinancing of all or a portion of the Term Loan Facility, which refinancing shall not be consummated or shall otherwise be delayed.

(iii) The principal amount of voluntary prepayments of Loans permitted hereunder shall be applied to future Loan payments in inverse order of maturity. Any Prepayment Fees shall be retained by the Lenders as liquidated damages as a result of such prepayment.

(b) Mandatory.

(i) Upon the occurrence of any Total Loss, the Borrower shall promptly notify the Administrative Agent thereof, whether or not then covered by insurance. Upon the earlier to occur of (i) the date of receipt of insurance proceeds by the Borrower as a result of such Total Loss and (ii) the date that is 120 days following the date of such Total Loss, the Borrower or a Guarantor shall (x) designate a Substitute Vessel (or Substitute Vessels) with a Vessel Collateral Value Amount of equal or greater value to the Vessel Collateral Value Amount for such Vessel that suffers a Total Loss pursuant to the terms in Section 2.03(f) hereof, (y) pay to the Administrative Agent (for the benefit of the Lenders) an amount equal to the Release Value of such Vessel that suffers a Total Loss, plus the applicable Prepayment Fee on the amount so paid to the Administrative Agent; *provided however*, if an Event of Default shall have occurred and be continuing, the Borrower shall pay to the Administrative Agent an amount equal to the greater of (A) the insurance proceeds received by the Borrower for such Vessel (only to the extent such insurance proceeds have been received by the Borrower) and (B) the Release Value of such Vessel, in each case, plus the applicable Prepayment Fee on the amount so paid to the Administrative Agent or (z) do a combination of clauses (y) and (x) such that the Payment Percentage and Substitution Percentage equal at least 100% (plus the applicable Prepayment Fee on the amount so paid to the Administrative Agent); *provided, further*, that to the extent such Vessel that suffers a Total Loss is a Low-Spec Vessel, the Administrative Agent may waive (with email confirmation being sufficient) any prepayment or designation of a Substitute Vessel which would otherwise be required pursuant to the foregoing. Any amounts received by the Borrower pursuant to this Section 2.03(b)(i) shall be promptly delivered to the Administrative Agent for application as set forth in Section 2.03(d).

(ii) Upon the reflagging, sale, transfer, conveyance, designation of an Unrestricted Subsidiary under Section 6.13 or other similar Disposition of a Vessel constituting Vessel Collateral (including any sale permitted under Section 7.05(c) or any Permitted Reflagging Transaction) or upon a Guaranty Release Event involving the release of any Vessel Collateral from any Vessel Mortgage, the Borrower shall (x) designate a Substitute Vessel (or Substitute Vessels) with a Vessel Collateral Value Amount of equal or greater value to the Vessel Collateral Value Amount for such Vessel so reflagged, sold, transferred, conveyed, designated as owned by an Unrestricted Subsidiary or similarly Disposed or released, in each case, pursuant to the terms in Section 2.03(f) hereof, (y) pay to the Administrative Agent (for the benefit of the Lenders) an amount equal to the Release Value of such Vessel so reflagged, sold, transferred, conveyed, designated as owned by an Unrestricted Subsidiary or similarly Disposed or released, in each case, plus the applicable Prepayment Fee on the amount so paid to the Administrative Agent or (z) do a combination of clauses (y) and (x) such that the Payment Percentage and Substitution Percentage equal at least 100% (plus the applicable Prepayment Fee on the amount so paid to the Administrative Agent); *provided*, that to the extent such Vessel reflagged, sold, transferred conveyed, designated as owned by an Unrestricted Subsidiary or similarly Disposed or released is a Low-Spec Vessel, the Administrative Agent may waive (with email confirmation being sufficient) any prepayment or designation of a Substitute Vessel which would otherwise be required pursuant to the foregoing. Any amounts received by the Borrower pursuant to this Section 2.03(b)(ii) shall be promptly delivered to the Administrative Agent for application as set forth in Section 2.03(d).

(iii) The Administrative Agent may reappraise the Vessel Collateral, at Borrower's expense, at any time prior to the payment in full of the Loans to determine the ratio of the outstanding principal balance of the Loans to the OLV of the Vessel Collateral ("**LTV**"); *provided, however*, that so long as no Event of Default has occurred and is continuing, (a) the Administrative Agent shall not conduct any reappraisal prior to the first anniversary of the Closing Date, (b) the Borrower shall not be obligated to pay for more than one reappraisal in any 12-month period and (c) the value of the Vessel Collateral shall be determined by VesselsValue™ or a Specified Qualified Appraiser. If the LTV is greater than 50%, the Borrower shall make a payment to the Administrative Agent promptly upon request, or otherwise increase the OLV by adding additional Vessels (which Vessels must be acceptable to the Administrative Agent in its reasonable discretion) to the Vessel Collateral, in order to reduce the outstanding principal balance of the Loans to an amount that would result in an LTV of 50% (it being agreed and understood that such additional Vessels can be added as Vessel Collateral within thirty (30) days thereafter (or by such later date as the Administrative Agent may agree)). Any prepayment made pursuant to the terms of this Section 2.03(b)(iii) shall not require payment of a Prepayment Fee outlined above. All amounts received by the Administrative Agent pursuant to this Section 2.03(b)(iii) shall be paid on a pro rata basis to the Lenders and applied as set forth in Section 2.03(d).

(iv) [Reserved]

(v) The Borrower shall give notice to the Administrative Agent of any mandatory prepayment of the Loans pursuant to Section 2.03(b)(i), Section 2.03(b)(ii) or Section 2.03(b)(iv) by 11:00 a.m. at least ten (10) Business Days prior to the date on which such payment is due. Such notice shall state that the Borrower is offering to make or will make such mandatory prepayment on or before the date specified in Section 2.03(b)(i), Section 2.03(b)(ii) or Section 2.03(b)(iv) (a "**Prepayment Date**"). Once given, such notice shall be irrevocable (*provided* that the Borrower may rescind any notice of prepayment if such prepayment would have resulted from a refinancing of all or any portion of the Loans or been made in connection with a Disposition, which refinancing or Disposition shall not be consummated or shall otherwise be delayed) and all amounts subject to such notice shall be due and payable on the Prepayment Date (except as otherwise provided in the last sentence of this Section 2.03(b)(v)). Upon receipt by the Administrative Agent of such notice, the Administrative Agent shall immediately give notice to each Lender of the prepayment, the Prepayment Date and of such Lender's Pro Rata Share of the prepayment. Each Lender may elect (in its sole discretion) to decline all (but not less than all) of its Pro Rata Share of any mandatory prepayment by giving notice of such election in writing to the Administrative Agent by 11:00 a.m., on the date that is one Business Day prior to such prepayment. If a Lender fails to deliver a notice of election declining receipt of its Pro Rata Share of such mandatory prepayment to the Administrative Agent within the time frame specified above, any such failure will be deemed to constitute an acceptance of such Lender's Pro Rata Share of the total amount of such mandatory prepayment of Loans. Upon receipt by the Administrative Agent of such notice, the Administrative Agent shall immediately notify the Borrower of such election. Any amount so declined by any Lender shall be retained by the Borrower and the Restricted Subsidiaries and/or applied by the Borrower or any of the Restricted Subsidiaries in any manner not inconsistent with the terms of this Agreement.

(c) Interest; Prepayment Fees. All prepayments under this Section 2.03 shall be accompanied by all accrued interest thereon plus any applicable Prepayment Fee.

(d) Application of Prepayment Amounts. In the event that the Borrower elects to prepay the Loans pursuant to subsection (a) above or the obligations of the Borrower to prepay the Loans arise pursuant to subsection (b) above the Borrower shall prepay the outstanding principal amount of the Loans in the inverse order of maturity. Each payment or prepayment pursuant to the provisions of this Section 2.03(d) shall be applied ratably among the Lenders being prepaid, in proportion to the principal amount held by each. Any Prepayment Fees payable in connection with any such prepayment shall be retained by the Lenders as liquidated damages as a result of such prepayment.

(e) Recalculation of Loan Payments. On any Payment Date upon thirty (30) days prior written notice to the Administrative Agent, the Borrower shall have the right to request that the Administrative Agent recalculate the Loan payments to maintain the initial amortization profile of the Loan, *provided, however,* that any such recalculation may not be requested more than twice during the term of the Loans and the Borrower shall pay the Administrative Agent a fee of \$250,000 in connection with any recalculation.

(f) Vessel Substitutions.

(i) Provided that no Event of Default shall have occurred and be continuing, the Borrower may replace one or more Vessels (a “**Vessel Substitution**”) constituting Vessel Collateral for another/other substitute vessel(s) (each, a “**Substitute Vessel**”) by delivering a written notice to the Administrative Agent (the “**Substitution Notice**”). Each Substitution Notice shall be accompanied by (i) such information as the Administrative Agent may reasonably request, (ii) a statement whether the addition of the Substitute Vessel (or Substitute Vessels) will occur simultaneously with the release of the substituted Vessel(s) and, if not, the proposed date on which the Substitute Vessel (or Substitute Vessels) will be added as Vessel Collateral, which shall be a date which is not more than thirty (30) days after the proposed date of the release of the substituted Vessel(s) and (iii) a non-refundable \$25,000 administrative fee per Substitution Notice, payable to the Administrative Agent. In addition, the Borrower shall pay the Administrative Agent upon demand for all of the Administrative Agent’s reasonable and documented out-of-pocket fees, costs and expenses incurred in connection with such Substitution Notice.

(ii) In the case of a Total Loss of a Vessel or the simultaneous release of a Vessel constituting Vessel Collateral and the substitution of a Substitute Vessel (or Substitute Vessels) therefor, such Substitute Vessel (or Substitute Vessels) shall (i) be duly documented in the name of the Borrower or a Guarantor under the laws and flag of the United States and, where eligible to be so, properly endorsed for use in the United States’ coastwise trade or another Approved Flag Jurisdiction, (ii) be subject to a Vessel Mortgage (or equivalent under local law), (iii) be free and clear of all Liens and other encumbrances (other than the Vessel Mortgage) and any Permitted Maritime Liens, (iv) (A) have a Vessel Collateral Value Amount as determined by a Specified Qualified Appraiser selected by the Administrative Agent (so long as such Specified Qualified Appraiser shall not cause an unreasonable delay in such substitution and, if such Specified Qualified Appraiser shall cause an unreasonable delay, the Borrower shall be permitted to rely on the Vessel Collateral Value Amount as determined by VesselsValue™ and, if the Vessel Collateral Value Amount as subsequently determined by such other Specified Qualified Appraiser is lower than VesselsValue™, the Borrower shall promptly make a mandatory prepayment in the amount that would have been required based on the determination of such other Specified Qualified Appraiser, after giving effect to any prepayments or substitutions previously made in connection therewith in accordance with this clause (ii)) at least equal to the Vessel Collateral Value Amount of such Vessel subject to such Total Loss or otherwise released or (B) have a Vessel Collateral Value Amount less than the Vessel Collateral Value Amount of such Vessel subject to such Total Loss or otherwise released, so long as the Borrower causes a prepayment of the Loans to the Administrative Agent in accordance with Section 2.03(b)(ii) such that the Payment Percentage and Substitution Percentage equal at least 100% (plus the applicable Prepayment Fee on the amount so paid to the Administrative Agent) and (v) be reasonably acceptable to the Administrative Agent.

(iii) If the substitution of the Substitute Vessel (or Substitute Vessels) is not to occur simultaneously with the release of the Collateral Trustee's Lien on the substituted Vessel, concurrently with the Collateral Trustee's release of its Lien on the substituted Vessel (or, in the case of a Total Loss, within 120 days after the occurrence of the Total Loss), the Administrative Agent shall have received an amount equal to the Release Value, plus (A) all accrued interest then due thereon, and (B) the applicable Prepayment Fee, if any (hereinafter, collectively the "**Release Fee**"). The Administrative Agent shall deposit the Release Fee in a non-interest-bearing account maintained by the Administrative Agent and the Administrative Agent shall hold such Release Fee until the date on which a Substitute Vessel (or Substitute Vessels) becomes subject to a Vessel Mortgage, at which time the Administrative Agent shall return the Release Fee to the Borrower.

Section 2.04 Repayment of Loans.

(a) The Loans shall be repaid (i) in twelve (12) consecutive equal monthly installments of interest, each payable on the first day of each month commencing on January 1, 2025 and continuing on the same day of each consecutive month thereafter (each a "**Payment Date**"), (ii) followed by eighty-four (84) consecutive equal monthly installments of principal and interest each payable on the first day of each consecutive month, and (iii) together with the ninety-sixth (96th) payment, a final balloon payment in the amount of all unpaid principal, accrued but unpaid interest and other amounts due hereunder on the Maturity Date. The repayment terms of the Loans shall be as further set forth in the Term Loan Notes.

(b) The Borrower shall repay to the Administrative Agent, for the ratable account of the Lenders, the remaining outstanding principal amount of the Loans, all accrued but unpaid interest then due thereon and all other amounts then due and payable hereunder or under the other Loan Documents on the Maturity Date.

Section 2.05 Interest.

(a) Subject to the provisions of Section 2.05(b), each Loan shall bear interest on the outstanding principal amount thereof at a rate *per annum* equal to 9.25%.

(b) If any amount of principal of any Loan is not paid when due (without regard to any applicable grace periods), whether at stated maturity, by acceleration or otherwise, such amount shall thereafter bear interest at an interest rate *per annum* at all times equal to the Default Rate to the fullest extent permitted by applicable Laws.

(c) If any amount (other than principal of any Loan) payable by the Borrower under any Loan Document is not paid when due (without regard to any applicable grace periods), whether at stated maturity, by acceleration or otherwise, then upon the request of the Required Lenders (or, after the occurrence of an actual or deemed entry of an order for relief with respect to the Borrower under any Debtor Relief Law, automatically and without further action by the Administrative Agent or any Lender) such amount shall thereafter bear interest at a fluctuating interest rate *per annum* at all times equal to the Default Rate to the fullest extent permitted by applicable Laws.

(d) Accrued and unpaid interest on the principal amount of all outstanding past due Obligations (including interest on past due interest) shall be due and payable upon demand (or, after the occurrence of an actual or deemed entry of an order for relief with respect to the Borrower under any Debtor Relief Law, automatically and without further action by the Administrative Agent or any Lender).

Section 2.06 Fees. The Borrower shall pay to the Agents such fees as shall have been separately agreed upon in writing (including pursuant to the Fee Letter) in the amounts and at the times so specified. Such fees shall be fully earned when paid and shall not be refundable for any reason whatsoever (except as expressly agreed between the Borrower and the applicable Agent).

Section 2.07 Computation of Interest and Fees.

(a) All computations of fees and interest shall be made on the basis of a 360-day year and actual days elapsed (which results in more fees or interest, as applicable, being paid than if computed on the basis of a 365-day year). Interest shall accrue on each Loan for the day on which the Loan is made.

(b) [Reserved].

Section 2.08 Evidence of Indebtedness.

(a) The Loans made by each Lender shall be evidenced by one or more accounts or records maintained by such Lender and evidenced by one or more entries in the Register maintained by the Administrative Agent, acting solely for purposes of Treasury Regulation Section 5f.103-1(c), as non-fiduciary agent for the Borrower, in each case in the ordinary course of business. The accounts or records maintained by the Administrative Agent and each Lender shall be *prima facie* evidence absent manifest error of the amount of the Loans made by the Lenders to the Borrower and the interest and payments thereon. Any failure to so record or any error in doing so shall not, however, limit or otherwise affect the obligation of the Borrower hereunder to pay any amount owing with respect to the Obligations. In the event of any conflict between the accounts and records maintained by any Lender and the accounts and records of the Administrative Agent in respect of such matters, the accounts and records of the Administrative Agent shall control in the absence of manifest error.

Upon the request of any Lender, the Borrower shall execute and deliver to such Lender (through the Administrative Agent) a Term Loan Note payable to such Lender, which shall evidence such Lender's Loans in addition to such accounts or records. Each Lender may attach schedules to its Term Loan Note and endorse thereon the date, amount and maturity of its Loans and payments with respect thereto.

(b) Entries made in good faith by the Administrative Agent in the Register pursuant to Section 2.8(a), and by each Lender in its account or accounts pursuant to Section 2.8(a), shall be *prima facie* evidence of the amount of principal and interest due and payable or to become due and payable from the Borrower to, in the case of the Register, each Lender and, in the case of such account or accounts, such Lender, under this Agreement and the other Loan Documents, absent manifest error; *provided* that the failure of the Administrative Agent or such Lender to make an entry, or any finding that an entry is incorrect, in the Register or such account or accounts shall not limit or otherwise affect the obligations of the Borrower under this Agreement and the other Loan Documents.

Section 2.09 Payments Generally.

(a) All payments to be made by the Borrower shall be made on the date when due, in immediately available funds without condition or deduction for any counterclaim, defense, recoupment or setoff. Except as otherwise expressly provided herein, all payments by the Borrower hereunder shall be made to the Administrative Agent, for the account of the respective Lenders to which such payment is owed, at the applicable Administrative Agent's Office for payment and in Same Day Funds not later than 1:00 p.m. (unless otherwise agreed by the Administrative Agent) on the date specified herein. The Administrative Agent will promptly distribute to each Lender its Pro Rata Share (or other applicable share as provided herein) of such payment in like funds as received by wire transfer to such Lender's Lending Office. All payments received by the Administrative Agent after 1:00 p.m. (or such other time as agreed by the Administrative Agent) may in each case be deemed received on the next succeeding Business Day and any applicable interest or fee shall continue to accrue.

(b) If any payment to be made by the Borrower shall come due on a day other than a Business Day, payment shall be made on the next following Business Day, and such extension of time shall be reflected in computing interest or fees, as the case may be.

(c) Unless the Borrower has notified the Administrative Agent, prior to the date any payment is required to be made by the Borrower to the Administrative Agent hereunder for the account of any Lender, that the Borrower will not make such payment, the Administrative Agent may assume that the Borrower has timely made such payment and may (but shall not be so required to), in reliance thereon, make available a corresponding amount to such Lender. If and to the extent that such payment was not in fact made to the Administrative Agent in Same Day Funds, then such Lender shall forthwith on demand repay to the Administrative Agent the portion of such assumed payment that was made available to such Lender in Same Day Funds, together with interest thereon in respect of each day from and including the date such amount was made available by the Administrative Agent to such Lender to the date such amount is repaid to the Administrative Agent in Same Day Funds at the applicable Overnight Rate from time to time in effect.

(d) If any Lender makes available to the Administrative Agent funds for any Loan to be made by such Lender as provided in the foregoing provisions of this Article II, and such funds are not made available to the Borrower by the Administrative Agent because the conditions to the Loans set forth in Article IV are not satisfied or waived in accordance with the terms hereof, the Administrative Agent shall return such funds (in like funds as received from such Lender) to such Lender, without interest.

(e) The obligations of the Lenders hereunder to make Loans and to make payments pursuant to Section 10.07 are several and not joint. The failure of any Lender to make any Loan on any date required hereunder shall not relieve any other Lender of its corresponding obligation to do so on such date, and no Lender shall be responsible for the failure of any other Lender to so make its Loan or purchase its participation.

(f) Nothing herein shall be deemed to obligate any Lender to obtain the funds for any Loan in any particular place or manner or to constitute a representation by any Lender that it has obtained or will obtain the funds for any Loan in any particular place or manner.

(g) Whenever any payment received by the Administrative Agent under this Agreement or any of the other Loan Documents is insufficient to pay in full all amounts due and payable to the Administrative Agent and the Lenders under or in respect of this Agreement and the other Loan Documents on any date, such payment shall be distributed by the Administrative Agent and applied by the Administrative Agent and the Lenders in the order of priority set forth in Section 9.03. If the Administrative Agent receives funds for application to the Obligations of the Loan Parties under or in respect of the Loan Documents under circumstances for which the Loan Documents do not specify the manner in which such funds are to be applied, the Administrative Agent may, but shall not be obligated to, elect to distribute such funds to each of the Lenders in accordance with such Lender's Pro Rata Share of such of the outstanding Loans or other Obligations then owing to such Lender.

(h) If any Lender shall fail to make any payment required to be made by it pursuant to Section 2.02, 2.10 or 10.07, then the Administrative Agent may, in its discretion and notwithstanding any contrary provision hereof, (i) apply any amounts thereafter received by the Administrative Agent for the account of such Lender for the benefit of the Administrative Agent to satisfy such Lender's obligations to the Administrative Agent until all such unsatisfied obligations are fully paid and/or (ii) hold any such amounts in a segregated account as cash collateral for, and application to, any future funding obligations of such Lender under any such Section, in the case of each of clauses (i) and (ii) above, in any order as determined by the Administrative Agent in its discretion.

Section 2.10 Sharing of Payments, Etc. If, other than as expressly provided elsewhere herein, any Lender shall obtain payment in respect of any principal of or interest on account of the Loans made by it (whether voluntary, involuntary, through the exercise of any right of setoff, or otherwise) in excess of its ratable share (or other share contemplated hereunder) thereof, such Lender shall immediately (a) notify the Administrative Agent of such fact, and (b) purchase from the other Lenders such participations in the Loans made by them as shall be necessary to cause such purchasing Lender to share the excess payment in respect of such Loans, pro rata with each of them; *provided* that if all or any portion of such excess payment is thereafter recovered from the purchasing Lender under any of the circumstances described in Section 11.06 (including pursuant to any settlement entered into by the purchasing Lender in its discretion), such purchase shall to that extent be rescinded and each relevant Lender shall repay to the purchasing Lender the purchase price paid therefor, together with an amount equal to such paying Lender's ratable share (according to the proportion of (i) the amount of such paying Lender's required repayment to (ii) the total amount so recovered from the purchasing Lender) of any interest or other amount paid or payable by the purchasing Lender in respect of the total amount so recovered, without further interest thereon. The provisions of this paragraph shall not be construed to apply to (A) any payment made by the Borrower pursuant to and in accordance with the express terms of this Agreement as in effect from time to time (including 11.07), (B) any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Loans to any assignee or participant permitted hereunder or (C) any payment received by such Lender not in its capacity as a Lender. The Borrower agrees that any Lender so purchasing a participation from another Lender may, to the fullest extent permitted by applicable Law, exercise all its rights of payment (including the right of setoff, but subject to Section 11.09) with respect to such participation as fully as if such Lender were the direct creditor of the Borrower in the amount of such participation. The Administrative Agent will keep records (which shall be conclusive and binding in the absence of manifest error) of participations purchased under this Section 2.10 and will in each case notify the Lenders following any such purchases or repayments. Each Lender that purchases a participation pursuant to this Section 2.10 shall from and after such purchase have the right to give all notices, requests, demands, directions and other communications under this Agreement with respect to the portion of the Obligations purchased to the same extent as though the purchasing Lender were the original owner of the Obligations purchased.

Section 2.11 Defaulting Lenders.

(a) Defaulting Lender Adjustments. Notwithstanding anything to the contrary contained in this Agreement, if any Lender becomes a Defaulting Lender, then, until such time as such Lender is no longer a Defaulting Lender, to the extent permitted by applicable law:

(i) Defaulting Lender Waterfall. Any payment of principal, interest, fees or other amounts received by the Administrative Agent for the account of such Defaulting Lender (whether voluntary or mandatory, at maturity, pursuant to Article IX or otherwise) or received by the Administrative Agent from a Defaulting Lender pursuant to Section 11.09 shall be applied at such time or times as may be determined by the Administrative Agent as follows: *first*, to the payment of any amounts owing by such Defaulting Lender to the Administrative Agent hereunder; *second*, as the Borrower may request (so long as no Default or Event of Default exists), to the funding of any Loan in respect of which such Defaulting Lender has failed to fund its portion thereof as required by this Agreement, as determined by the Administrative Agent; *third*, if so determined by the Administrative Agent and the Borrower, to be held in a deposit account and released pro rata in order to satisfy such Defaulting Lender's potential future funding obligations with respect to Loans under this Agreement (solely to the extent any such obligation exists); *fourth*, to the payment of any amounts owing to the Lenders as a result of any judgment of a court of competent jurisdiction obtained by any Lender against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; *fifth*, so long as no Event of Default shall have occurred and be continuing, to the payment of any amounts owing to the Borrower as a result of any judgment of a court of competent jurisdiction obtained by the Borrower against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; and *sixth*, to such Defaulting Lender or as otherwise directed by a court of competent jurisdiction; *provided* that if (1) such payment is a payment of the principal amount of any Loans in respect of which such Defaulting Lender has not fully funded its appropriate share, and (2) such Loans were made at a time when the conditions set forth in Sections 4.01 and 4.02 were satisfied or waived, such payment shall be applied solely to pay the Loans of all Non-Defaulting Lenders on a *pro rata* basis prior to being applied to the payment of any Loans of such Defaulting Lender until such time as all Loans are held by the Lenders pro rata in accordance with the applicable Commitments. Any payments, prepayments or other amounts paid or payable to a Defaulting Lender that are applied (or held) to pay amounts owed by a Defaulting Lender pursuant to this Section 2.11(a)(i) shall be deemed paid to and redirected by such Defaulting Lender, and each Lender irrevocably consents hereto.

(ii) [Reserved].

(iii) [Reserved].

(b) Defaulting Lender Cure. If the Borrower and the Administrative Agent agree in writing that a Lender is no longer a Defaulting Lender, the Administrative Agent will so notify the parties hereto, whereupon as of the effective date specified in such notice and subject to any conditions set forth therein (which may include arrangements with respect to any cash collateral), that Lender will, to the extent applicable, purchase at par that portion of outstanding Loans of the other Lenders or take such other actions as the Administrative Agent may determine to be necessary to cause the Loans to be held pro rata by the Lenders in accordance with the applicable Commitments whereupon such Lender will cease to be a Defaulting Lender; *provided* that except to the extent otherwise expressly agreed by the affected parties, no change hereunder from Defaulting Lender to Lender will constitute a waiver or release of any claim of any party hereunder arising from that Lender having been a Defaulting Lender.

Section 2.12 Judgment Currency.

(a) If, for the purpose of obtaining judgment in any court, it is necessary to convert a sum owing hereunder in one currency into another currency, each party hereto agrees, to the fullest extent that it may effectively do so, that the rate of exchange used shall be that at which, in accordance with normal banking procedures in the relevant jurisdiction, the first currency could be purchased with such other currency on the Business Day immediately preceding the day on which final judgment is given.

(b) The obligations of the Borrower in respect of any sum due to any party hereto or any holder of the obligations owing hereunder (the “**Applicable Creditor**”) shall, notwithstanding any judgment in a currency (the “**Judgment Currency**”) other than the currency in which such sum is stated to be due hereunder (the “**Agreement Currency**”), be discharged only to the extent that, on the Business Day following receipt by the Applicable Creditor of any sum adjudged to be so due in the Judgment Currency, the Applicable Creditor may in accordance with normal banking procedures in the relevant jurisdiction purchase the Agreement Currency with the Judgment Currency; if the amount of the Agreement Currency so purchased is less than the sum originally due to the Applicable Creditor in the Agreement Currency, the Borrower as a separate obligation and notwithstanding any such judgment, agree to indemnify the Applicable Creditor against such loss. The obligations of the Borrower contained in this Section shall survive the termination of this Agreement and the payment of all other amounts owing hereunder.

ARTICLE III

TAXES, INCREASED COSTS PROTECTION AND ILLEGALITY

Section 3.01 Taxes.

(a) Except as required by applicable Law, any and all payments by the Borrower or any Guarantor to or for the account of any Agent or Lender under any Loan Document shall be made free and clear of and without deduction for any and all present or future taxes, duties, levies, imposts, deductions, assessments, fees, withholdings or similar charges imposed by any Governmental Authority, and all additions to tax, penalties and interest with respect thereto (“**Taxes**”). If an applicable Withholding Agent is required to deduct any Taxes from or in respect of any sum payable under any Loan Document to any Agent or Lender, (i) if such Taxes are Indemnified Taxes, the sum payable shall be increased as necessary so that after making all required deductions (including deductions applicable to additional sums payable under this Section 3.01(a)(i)), each of such Agent or Lender receives an amount equal to the sum it would have received had no such deductions for Indemnified Taxes been made, (ii) the applicable Withholding Agent shall make such deductions, (iii) the applicable Withholding Agent shall pay the full amount deducted to the relevant taxing authority, and (iv) as soon as practicable after any such payment by the Borrower or any Guarantor, the Borrower or applicable Guarantor shall furnish to such Agent or Lender (as the case may be) the original or a facsimile copy of a receipt evidencing payment thereof to the extent such a receipt has been made available to the Borrower or applicable Guarantor (or other evidence of payment reasonably satisfactory to the Administrative Agent).

(b) Each Agent or Lender (including an Eligible Assignee to which a Lender assigns its interest in accordance with Section 11.07, unless such Eligible Assignee is already a Lender hereunder) that is entitled to an exemption from or reduction of withholding Tax with respect to payments made under any Loan Document shall deliver to the Borrower and Administrative Agent, at the time or times reasonably requested by the Borrower and Administrative Agent, such properly completed and executed documentation reasonably requested by the Borrower and Administrative Agent as will permit such payments to be made without withholding or at a reduced rate of withholding. In addition, any such Agent, Lender or Eligible Assignee, if reasonably requested by the Borrower and Administrative Agent, shall deliver such other documentation prescribed by applicable law or reasonably requested by the Borrower and Administrative Agent as will enable the Borrower and Administrative Agent to determine whether or not such Lender is subject to backup withholding or information reporting requirements. Notwithstanding anything to the contrary in the preceding two sentences, the completion, execution and submission of such documentation (other than such documentation set forth in Sections 3.01(b)(i), (d) and (e), below) shall not be required if in such Lender's, Agent's or Eligible Assignee's reasonable judgment such completion, execution or submission would subject such Agent, Lender or Eligible Assignee to any material unreimbursed cost or expense or would materially prejudice the legal or commercial position of such Lender.

(i) Without limiting the generality of the foregoing, to the extent it is legally able to do so, each Agent or Lender (including an Eligible Assignee to which a Lender assigns its interest in accordance with Section 11.07, unless such Eligible Assignee is already a Lender hereunder) that is not a "United States person" within the meaning of Section 7701(a)(30) of the Code (each, a "**Foreign Lender**") agrees to complete and deliver to the Borrower and the Administrative Agent on or prior to the date on which the Foreign Lender becomes a party hereto (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), two accurate, complete and duly executed copies of whichever of the following is applicable:

(A) in the case of a Foreign Lender claiming the benefits of an income tax treaty to which the United States is a party, (1) with respect to the payments of interest under any Loan Document, IRS Form W-8BEN or Form W-8BEN-E establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the "interest" article of such tax treaty, and (2) with respect to any other applicable payments under any Loan Document, IRS Form W-8BEN or IRS Form W-8BEN-E establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the "business profits" or "other income" article of such tax treaty;

(B) IRS Form W-8ECI certifying that the income receivable pursuant to any Loan Document is effectively connected with the conduct of a trade or business in the United States;

(C) in the case of a Foreign Lender claiming the benefits of the exemption for portfolio interest under Section 881(c) of the Code, (1) a certificate substantially in the form of Exhibit G-1 to the effect that such Foreign Lender is not a "bank" within the meaning of Section 881(c)(3)(A) of the Code, a "10 percent shareholder" of the Borrower within the meaning of Section 871(h)(3)(B) of the Code, or a "controlled foreign corporation" related to the Borrower as described in Section 881(c)(3)(C) of the Code (a "**U.S. Tax Compliance Certificate**") and (2) an IRS Form W-8BEN or Form W-8BEN-E, certifying that the Foreign Lender is not a United States person;

(D) to the extent a Foreign Lender is not the beneficial owner for U.S. federal income tax purposes, IRS Form W-8IMY (or any successor forms) of the Foreign Lender, accompanied by, as and to the extent applicable, an IRS Form W-8BEN, Form W-8BEN-E, Form W-8ECI, a U.S. Tax Compliance Certificate substantially in the form of Exhibit G-2 or Exhibit G-3, Form W-9, Form W-8IMY (or other successor forms) and any other required supporting information from each beneficial owner; provided that if the Foreign Lender is a partnership and one or more direct or indirect partners of such Foreign Lender are claiming the portfolio interest exemption, such Foreign Lender may provide a U.S. Tax Compliance Certificate substantially in the form of Exhibit G-4 on behalf of each such direct and indirect partner

(ii) Without limiting the generality of the foregoing, any Foreign Lender shall, to the extent it is legally entitled to do so, deliver to Borrower and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or about the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), accurate, complete and duly executed copies of any other form prescribed by applicable requirements of applicable Law as a basis for claiming exemption from or a reduction in U.S. federal withholding Tax, together with such supplementary documentation as may be prescribed by applicable requirements of law to permit the Borrower and the Administrative Agent to determine the withholding or deduction required to be made.

(c) In addition, each Agent, Lender or Eligible Assignee shall, to the extent it is legally entitled to do so, (i) promptly submit to the Borrower and the Administrative Agent two accurate, complete and duly executed copies of such other or additional forms or certificates (or such successor forms or certificates as shall be adopted from time to time by the relevant taxing authorities) as may then be applicable or available to secure an exemption from or reduction in the rate of withholding Tax (1) on or before the date that such Agent's, Lender's or Eligible Assignee's most recently delivered form, certificate or other evidence expires or becomes obsolete or inaccurate in any material respect, (2) after the occurrence of a change in such Agent's, Lender's or Eligible Assignee's circumstances requiring a change in the most recent form, certificate or evidence previously delivered by it to the Borrower and the Administrative Agent, and (3) from time to time thereafter if reasonably requested by the Borrower or the Administrative Agent, and (ii) promptly notify the Borrower and the Administrative Agent of any change in such Agent's, Lender's or Eligible Assignee's circumstances that would modify or render invalid any claimed exemption or reduction. This Section 3.01(c) shall not apply to any reporting requirements under FATCA.

(d) If a payment made to a Lender under any Loan Document would be subject to Tax imposed by FATCA if such Lender were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code, as applicable), such Lender shall deliver to the Borrower and the Administrative Agent at the time or times prescribed by Law and at such time or times reasonably requested by the Borrower or the Administrative Agent such documentation prescribed by applicable Law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by the Borrower or the Administrative Agent as may be necessary for the Borrower and the Administrative Agent to comply with their obligations under FATCA and to determine whether such Lender has complied with such Lender's obligations under FATCA or to determine the amount to deduct and withhold from such payment. Solely for purposes of this Section 3.01(d), "FATCA" shall include any amendments made to FATCA after the date of this Agreement. Each Lender agrees that if any form or certification it previously delivered expires or becomes obsolete or inaccurate in any respect, it shall update such form or certification or promptly notify Borrower and Administrative Agent in writing of its legal inability to do so.

(e) Without limiting the generality of Section 3.01(b), each Agent and Lender that is a "United States person" (within the meaning of Section 7701(a)(30) of the Code) (each, a "U.S. Lender") agrees to complete and deliver to the Borrower and the Administrative Agent two copies of accurate, complete and duly executed IRS Form W-9 or successor form certifying that such U.S. Lender is not subject to U.S. federal backup withholding Tax (i) on or prior to the Closing Date (or on or prior to the date it becomes a party to this Agreement), (ii) on or before the date that such form expires or becomes obsolete or inaccurate in any material respect, (iii) after the occurrence of a change in the U.S. Lender's circumstances requiring a change in the most recent form previously delivered by it to the Borrower and the Administrative Agent, and (iv) from time to time thereafter if reasonably requested by the Borrower or the Administrative Agent.

(f) Without duplication of any amounts payable under Sections 3.01(a) or 3.01(g), the Borrower agrees to pay any and all present or future stamp, court or documentary intangible, recording, filing, mortgage recording or similar Taxes that arise from any payment made under any Loan Document or from the execution, delivery, performance, enforcement or registration of, or otherwise with respect to, any Loan Document excluding, in each case, such amounts that are Other Connection Taxes imposed in connection with an Assignment and Assumption, grant of a participation, transfer or assignment to or designation of a new applicable Lending Office or other office for receiving payments under any Loan Document, except to the extent that any such change is requested in writing by the Borrower (all such Taxes described in this Section 3.01(f), other than Excluded Taxes, being hereinafter referred to as "**Other Taxes**").

(g) Without duplication of any amounts payable under Sections 3.01(a) or 3.01(f), if any Indemnified Taxes are directly asserted against any Agent or Lender with respect to any payment received by such Agent or Lender in respect of any Loan Document, such Agent or Lender may pay such Indemnified Taxes and the Borrower will promptly indemnify and hold harmless such Agent or Lender for the full amount of such Indemnified Taxes imposed on amounts payable under this Section 3.01, and any reasonable expenses arising therefrom or with respect thereto (other than any expenses or penalties determined by a court of competent jurisdiction by a final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of such Recipient), whether or not such Indemnified Taxes were correctly or legally imposed or asserted. Payments under this Section 3.01(g) shall be made within ten (10) days after the date the Borrower receive written demand for payment from such Agent or Lender.

(h) A Participant shall comply with the provisions of Sections 3.01(b), 3.01(c), 3.01(d) and 3.01(e) hereof and shall not be entitled to receive any greater payment under this Section 3.01 than the applicable Lender would have been entitled to receive with respect to the participation sold to such Participant, unless the sale of the participation to such Participant is made with the Borrower's prior written consent or such entitlement to a greater payment results from a Change in Law that occurs after the Participant acquired the participation.

(i) If any Agent, Lender or Participant determines, in its sole discretion, exercised in good faith, that it has received a refund in respect of any Taxes as to which it has been indemnified by the Borrower or any Guarantor, as the case may be, or with respect to which the Borrower or any Guarantor, as the case may be, has paid additional amounts pursuant to this Section 3.01, it shall promptly pay to the indemnifying party an amount equal to such refund (but only to the extent of indemnity payments made, or additional amounts paid, by the indemnifying party under this Section 3.01 with respect to the Taxes giving rise to such refund), net of all reasonable out-of-pocket expenses incurred by such indemnified party and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund), *provided* that the Borrower or applicable Guarantor, as the case may be, upon the request of such indemnified party, agrees to repay the amount paid over to the Borrower or applicable Guarantor, as the case may be (*plus* any penalties, interest or other charges imposed by the relevant Governmental Authority) to such indemnified party in the event such indemnified party is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary in this Section 3.01(i), in no event will such indemnified party be required to pay any amount to the Borrower or applicable Guarantor pursuant to this Section 3.01(i) the payment of which would place such indemnified party in a less favorable net after-Tax position than the indemnified party would have been in if the Tax subject to indemnification and giving rise to such refund had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts with respect to such Tax had never been paid. Such Agent or Lender, as the case may be, shall provide the Borrower upon request with a copy of any notice of assessment or other evidence reasonably available of the requirement to repay such refund received from the relevant Governmental Authority (*provided* that such Lender or Agent may delete any information therein that such Lender or Agent deems confidential or not relevant to such refund in its reasonable discretion). This subsection shall not be construed to require any indemnified party to make available its tax returns (or any other information relating to its Taxes that it reasonably deems confidential) to the Borrower, any Guarantor or any other Person.

(j) Each Lender agrees that, upon the occurrence of any event giving rise to the operation of Section 3.01(a) or (g) with respect to such Lender, it will, if requested by the Borrower in writing, use reasonable efforts to mitigate the effect of any such event, including by designating another Lending Office for any Loan affected by such event and by completing and delivering or filing any Tax-related forms that such Lender is legally able to deliver and that would reduce or eliminate any amount of Indemnified Taxes required to be deducted or withheld or paid by the Borrower; *provided* that such efforts are made at the Borrower's expense and are on terms that, in the reasonable judgment of such Lender, do not cause such Lender or any of its Lending Offices to suffer any economic, legal or regulatory disadvantage, and *provided further* that nothing in this Section 3.01(j) shall affect or postpone any of the Obligations of the Borrower or the rights of such Lender pursuant to Section 3.01(a) or (g).

(k) Notwithstanding any other provision of this Agreement, the Borrower and the Administrative Agent may deduct and withhold any Taxes required by any applicable Law to be deducted and withheld from any payment under any of the Loan Documents, subject to the provisions of this Section 3.01.

(l) Each Agent or Lender, as applicable, shall severally indemnify the Administrative Agent, within ten (10) days after demand therefor, for (i) any Taxes attributable to such Agent or Lender (but only to the extent that the Borrower have not already indemnified the Administrative Agent for such Taxes and without limiting the obligation of the Borrower to do so), (ii) any Taxes attributable to such Lender's failure to comply with the provisions of Section 11.07(e) relating to the maintenance of a Participant Register and (iii) any Excluded Taxes attributable to such Agent or Lender, in each case, that are payable or paid by the Administrative Agent in connection with any Loan Document, and any reasonable expenses arising therefrom or with respect thereto, whether or not such Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to any Agent or Lender by the Administrative Agent shall be conclusive absent manifest error. Each Agent and Lender hereby authorizes the Administrative Agent to set off and apply any and all amounts at any time owing to such Agent or Lender under any Loan Document or otherwise payable by the Administrative Agent to such Agent or Lender from any other source against any amount due to the Administrative Agent under this Section 3.01(l).

(m) The agreements in this Section 3.01 shall survive the resignation or replacement of the Administrative Agent, termination of this Agreement and the payment of the Loans and all other amounts payable hereunder and any assignment of rights by, or replacement of, any Lender.

(n) For purposes of this Section, the term "applicable Law" includes FATCA.

Section 3.02 [Reserved].

Section 3.03 [Reserved].

Section 3.04 Increased Cost and Reduced Return; Capital Adequacy; Reserves on S Rate Loans.

(a) Increased Costs Generally. If any Change in Law shall:

(i) impose, modify or deem applicable any reserve, special deposit, compulsory loan, insurance charge or similar requirement against assets of, deposits with or for the account of, or credit extended or participated in by, any Lender;

(ii) subject any Lender to any tax of any kind whatsoever with respect to this Agreement or any Loan made by it, or change the basis of taxation of payments to such Lender in respect thereof (except, in each case, for (A) Indemnified Taxes, (B) Taxes described in clauses (ii) through (v) of the definition of Excluded Taxes, and (C) Connection Income Taxes); or

(iii) impose on any Lender any other condition, cost or expense affecting this Agreement or any Loans made by such Lender (other than with respect to Taxes) that is not otherwise accounted for in this clause (a);

and the result of any of the foregoing shall be to increase the cost to such Lender with respect to Taxes, making or maintaining any Loan (or of maintaining its obligation to make any such Loan), or to increase the cost to such Lender, or to reduce the amount of any sum received or receivable by such Lender (whether of principal, interest or any other amount) then, from time to time within ten (10) days after demand by such Lender setting forth in reasonable detail such increased costs or reduced amounts (with a copy of such demand to the Administrative Agent) (provided that such calculation will not in any way require disclosure of confidential or price-sensitive information or any other information the disclosure of which is prohibited by law), the Borrower will pay to such Lender such additional amount or amounts as will compensate such Lender for such additional costs incurred or reduction suffered. No Lender shall request that the Borrower pay any additional amount pursuant to this Section 3.04(a) unless it shall concurrently make similar requests to other borrowers similarly situated and affected by such Change in Law and from whom such Lender is entitled to seek similar amounts.

(b) Capital Requirements. If any Lender reasonably determines that any Change in Law affecting such Lender or any Lending Office of such Lender or such Lender's holding company, if any, regarding liquidity or capital requirements has or would have the effect of reducing the rate of return on such Lender's capital or on the capital of such Lender's holding company, if any, as a consequence of this Agreement, the Commitments of such Lender or the Loans made by it to a level below that which such Lender or such Lender's holding company could have achieved but for such Change in Law (taking into consideration such Lender's policies and the policies of such Lender's holding company with respect to liquidity or capital adequacy), then from time to time upon demand of such Lender setting forth in reasonable detail the charge and the calculation of such reduced rate of return (with a copy of such demand to the Administrative Agent) (provided that such calculation will not in any way require disclosure of confidential or price-sensitive information or any other information the disclosure of which is prohibited by law), the Borrower will pay to such Lender such additional amount or amounts as will compensate such Lender or such Lender's holding company for any such reduction suffered.

(c) Certificates for Reimbursement. A certificate of a Lender setting forth the amount or amounts necessary to compensate such Lender or its holding company, as the case may be, as specified in subsection (a) or (b) of this Section 3.04 and delivered to the Borrower shall be conclusive absent manifest error. The Borrower shall pay such Lender the amount shown as due on any such certificate within ten (10) days after receipt thereof.

(d) Delay in Requests. Failure or delay on the part of any Lender to demand compensation pursuant to the foregoing provisions of this Section 3.04 shall not constitute a waiver of such Lender's right to demand such compensation, *provided* that the Borrower shall not be required to compensate a Lender pursuant to the foregoing provisions of this Section 3.04 for any increased costs incurred or reductions suffered more than one hundred and eighty (180) days prior to the date that such Lender notifies the Borrower of the Change in Law giving rise to such increased costs or reductions and of such Lender's intention to claim compensation therefor (except that, if the Change in Law giving rise to such increased costs or reductions is retroactive, then the 180-day period referred to above shall be extended to include the period of retroactive effect thereof).

(e) [Reserved].

Section 3.05 [Reserved]

Section 3.06 Matters Applicable to All Requests for Compensation

(a) Designation of a Different Lending Office. If any Lender requests compensation under Section 3.04, or the Borrower are required to pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 3.01, or if any Lender gives a notice pursuant to Section 3.02, then such Lender shall use reasonable efforts to designate a different Lending Office for funding or booking its Loans hereunder or to assign its rights and obligations hereunder to another of its offices, branches or affiliates, if, in the judgment of such Lender, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Section 3.01 or 3.04, as the case may be, in the future, or eliminate the need for the notice pursuant to Section 3.02, as applicable, and (ii) in each case, would not subject such Lender to any unreimbursed cost or expense and would not otherwise be disadvantageous to such Lender in any material economic, legal or regulatory respect.

(b) [Reserved].

(c) [Reserved].

Section 3.07 Replacement of Lenders Under Certain Circumstances. If (i) any Lender requests compensation under Section 3.04, (ii) the Borrower is required to pay any Taxes or additional amounts to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 3.01 and such Lender has declined or is unable to designate a different Lending Office in accordance with Section 3.01(j), (iii) any Lender is a Non-Consenting Lender, (iv) [reserved], (v) [reserved], or (vi) (A) any Lender shall become and continue to be a Defaulting Lender and (B) such Defaulting Lender shall fail to cure the default pursuant to Section 2.11(b) within five (5) Business Days after the Borrower's request that it cure such default, or (vi) any other circumstance exists hereunder that gives the Borrower the right to replace a Lender (other than a Disqualified Lender) as a party hereto, then the Borrower may, at their sole expense and effort, upon notice to such Lender and the Administrative Agent, require such Lender to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in, and consents required by, Section 11.07), all of its interests, rights and obligations under this Agreement and the related Loan Documents (other than its existing rights to payments pursuant to Section 3.01 or Section 3.04) to one or more Eligible Assignees that shall assume such obligations (any of which assignee may be another Lender, if a Lender accepts such assignment), *provided* that:

(a) the Borrower shall have paid to the Administrative Agent the assignment fee specified in Section 11.07(b)(iv);

(b) such Lender shall have received payment of an amount equal to the outstanding principal of its Loans, accrued interest thereon, accrued fees and all other amounts payable to it hereunder and under the other Loan Documents (including any amounts payable under Section 3.05) from the assignee (to the extent of such outstanding principal and accrued interest and fees) or the Borrower (in the case of all other amounts);

(c) such Lender being replaced pursuant to this Section 3.07 shall (i) execute and deliver an Assignment and Assumption with respect to such Lender's Commitment and outstanding Loans and participations in Letters of Credit, and (ii) deliver any Term Loan Notes evidencing such Loans to the Borrower or Administrative Agent (or a lost or destroyed note indemnity in lieu thereof); *provided* that the failure of any such Lender to execute an Assignment and Assumption or deliver such Term Loan Notes evidencing such Loans shall not render such sale and purchase (and the corresponding assignment) invalid and such assignment shall be recorded in the Register and the Term Loan Notes evidencing such Loans shall be deemed to be canceled upon such failure;

(d) the Eligible Assignee shall become a Lender hereunder and the assigning Lender shall cease to constitute a Lender hereunder with respect to such assigned Loans, Commitments and participations, except with respect to indemnification provisions under this Agreement, which shall survive as to such assigning Lender;

(e) in the case of any such assignment resulting from a claim for compensation under Section 3.04 or payments required to be made pursuant to Section 3.01, such assignment will result in a reduction in such compensation or payments thereafter;

(f) in the case of any such assignment resulting from a Lender being a Non-Consenting Lender, the Eligible Assignee shall consent, at the time of such assignment, to each matter in respect of which such Lender being replaced was a Non-Consenting Lender; and

(g) such assignment does not conflict with applicable Laws.

In the event that (i) the Borrower or the Administrative Agent has requested that the Lenders consent to a departure or waiver of any provisions of the Loan Documents or agree to any amendment thereto, (ii) the consent, waiver or amendment in question requires the agreement of each Lender and (iii) the Required Lenders have agreed to such consent, waiver or amendment, then any Lender who does not agree to such consent, waiver or amendment shall be deemed a “**Non-Consenting Lender.**”

A Lender shall not be required to make any such assignment or delegation if, prior thereto, as a result of a waiver by such Lender or otherwise, the circumstances entitling the Borrower to require such assignment and delegation cease to apply.

Section 3.08 Survival. All of the Borrower’s obligations under this Article III shall survive termination of the Aggregate Commitments, repayment of all other Obligations hereunder and resignation of the Administrative Agent or the Collateral Trustee.

ARTICLE IV

CONDITIONS PRECEDENT TO THE CLOSING DATE AND LOANS

Section 4.01 Conditions to the Closing Date. This Agreement shall become effective on the date on which each of the following conditions is satisfied or waived in accordance with Section 11.01:

(a) The Administrative Agent’s receipt of the following, each of which shall be originals or copies in .pdf format, unless otherwise specified:

(i) The Collateral Trust Agreement duly executed by the Borrower, the Guarantors, DNB Bank ASA, New York Branch, as administrative agent under the First Lien RCF Credit Agreement, Stonebriar Commercial Finance LLC, as Administrative Agent under this Agreement and Wilmington Trust, National Association, as Collateral Trustee.

(ii) this Agreement duly executed by the Borrower;

(iii) the Collateral Agreement (pursuant to which the Administrative Agent is authorized to file customary “all asset” UCC-1 financing statements) duly executed by the Borrower and the Loan Parties;

(iv) [reserved]

(v) (A) certificates of good standing from the secretary of state or other applicable office of the state of organization or formation or provincial or territorial corporate registry of the Borrower and each other Loan Party, (B) organizational documents of each Loan Party, certified by the secretary (or equivalent officer) of such Loan Party, (C) resolutions or other applicable action of each Loan Party, as certified by the secretary (or equivalent officer) of such Loan Party, (D) an incumbency certificate and/or other certificate of Responsible Officers of each Loan Party, in each case evidencing the identity, authority and capacity of each Responsible Officer thereof authorized to act as a Responsible Officer in connection with this Agreement and the other Loan Documents to which it is a party or is to be a party on the Closing Date, and (E) a certificate of a Responsible Officer of the Borrower that the conditions specified in clause (c), below have been satisfied;

- (vi) an opinion from Kirkland & Ellis LLP, counsel to the Loan Parties, with respect to matters of New York law and certain aspects of Delaware law; and
- (vii) a certificate from the chief financial officer or other officer with equivalent duties of the Borrower as to the Solvency (after giving effect to the Transactions on the Closing Date) of the Borrower and their Subsidiaries substantially in the form attached hereto as Exhibit I; and
- (viii) the following Loan Documents required to be entered into pursuant to the terms of this Agreement: (A) the Junior Lien Intercreditor Agreement by and among the Administrative Agent, the First Lien Agent, the Collateral Trustee and the Borrower, (B) the Term Loan Notes (which shall be originals), (C) [reserved], (D) the Collateral Trustee Fee Letter, and (E) the Fee Letter.
- (b) [Reserved]
- (c) No Default or Event of Default shall have occurred and be continuing.
- (d) The Administrative Agent's receipt of certificates or abstracts of title, as applicable, in .pdf format, issued by the relevant Approved Flag Jurisdiction demonstrating that Vessel Collateral is registered in the name of the relevant Loan Party under the relevant Approved Flag Jurisdiction, free of Liens other than Permitted Liens;
- (e) The Lenders shall have received at least three (3) Business Days prior to the Closing Date (i) all documentation and other information about the Loan Parties in order to comply with applicable "know your customer" and anti-money laundering rules and regulations, including the USA PATRIOT Act, and (ii) to the extent the Borrower qualifies as a "legal entity customer" a customary FinCEN beneficial ownership certificate, that in each case has been requested in writing at least ten (10) Business Days prior to the Closing Date.
- (f) The Administrative Agent shall have received appraisals evidencing the Vessel Collateral Value Amount, as determined by VesselsValue™, such valuations to be dated within thirty (30) days of the Closing Date (or such earlier or later date as agreed by the Administrative Agent in its reasonable discretion), which evidence demonstrates that on a pro forma basis that upon the Closing Date (giving effect to the amount of the then outstanding obligations under the First Lien RCF Credit Agreement and any Loans under this Agreement requested on the Closing Date), the Collateral Coverage Ratio shall not be less than 2.00:1.00.

(g) The Administrative Agent shall have received financing statement searches under the Uniform Commercial Code in such jurisdictions as it may reasonably require relating to the Borrower and the Restricted Subsidiaries, demonstrating that the Collateral is (or will be on the Closing Date) free of Liens other than Permitted Liens.

(h) The Administrative Agent and the Lenders shall have received (i) an audited balance sheet and related statements of income (or operations) and cash flows of the Borrower and its Subsidiaries as of and for the year ended December 31, 2023, (ii) the unaudited financial statements of the Borrower and its Subsidiaries for the fiscal quarter ended September 30, 2024, (iii) consolidated forecast of the Borrower and its Subsidiaries for the fiscal year ending December 31, 2025 in form and substance consistent with the forecast customarily prepared by management for internal use and (iv) a duly completed compliance certificate in form and substance satisfactory to the Administrative Agent and the Lenders demonstrating compliance with the Financial Covenants on a proforma basis as of the Closing Date.

Without limiting the generality of the provisions of the last paragraph of Section 11.01, for purposes of determining compliance with the conditions specified in this Section 4.01, each Lender that has signed this Agreement shall be deemed to have consented to, approved or accepted or to be satisfied with, each document or other matter required hereunder to be consented to or approved by or acceptable or satisfactory to a Lender, unless the Administrative Agent shall have received notice from such Lender prior to the proposed Closing Date specifying its objection thereto.

Section 4.02 Conditions to the Extension of the Loans. The obligation of each Lender to extend the Loans to the Borrower hereunder on the Closing Date is subject to the satisfaction, or waiver in accordance with Section 11.01, of each of the following conditions precedent, except as otherwise agreed between the Borrower and the Required Lenders or as set forth herein:

(a) The Administrative Agent's receipt of the following, each of which shall be originals or copies in .pdf format, unless otherwise specified:

(i) a Borrowing Request duly executed by the Borrower, in accordance with the requirements hereof;

(ii) [reserved];

(iii) each Vessel Mortgage in recordable form, together with documentary evidence that each such Vessel Mortgage has been duly filed for recordation as a valid amendment to each such Vessel Mortgage with respect to each Vessel constituting Vessel Collateral as of the Closing Date, in accordance with the laws of the Approved Flag Jurisdiction on which the Vessel Collateral is registered;

(iv) a certificate from the chief financial officer or other officer with equivalent duties of the Borrower as to the Solvency (after giving effect to the Transactions on the Closing Date) of the Borrower and its Subsidiaries substantially in the form attached hereto as Exhibit I;

(v) [reserved];

(vi) evidence that each Vessel constituting Vessel Collateral (excluding any Stacked Vessels) maintains the highest class for a vessel of its type with its classification society, free of any overdue recommendations or conditions affecting class, which status shall be established by a confirmation of class certificate or functional equivalent printout issued by the classification society and dated a date no earlier than thirty (30) days prior to the Closing Date (or such longer period as the Administrative Agent may agree);

(vii) [reserved];

(viii) to the extent applicable to any Vessel constituting Vessel Collateral, a copy of a valid United States Coast Guard Certificate of Financial Responsibility (or such other state equivalent);

(ix) with respect to any Vessel constituting Vessel Collateral that is subject to a bareboat, demise or other similar charter (other than time charters) or any similar agreement, a copy of such charter and such subordination agreements as the Administrative Agent may require;

(x) a copy of the current Certificate of Documentation for each Vessel constituting Vessel Collateral (including for Stacked Vessels) and, to the extent applicable, a copy of the current Certificate of Inspection for each such Vessel (other than any Stacked Vessels);

(xi) for each Vessel (other than for Stacked Vessels) constituting Vessel Collateral, to the extent applicable, a copy of the Load Line Certificate(s) for such Vessel and the ISM Code Documentation and ISPS Code Documentation for such Vessel;

(xii) [reserved];

(xiii) [reserved]; and

(xiv) satisfactory payoff letters evidencing that all obligations under the Existing Second Lien Term Loan Agreement have been or concurrently with the Closing Date are being terminated and all Liens securing the obligations under the Existing Second Lien Term Loan Agreement are being released, together with all Lien releases, UCC-3 termination or partial release statements, account control agreement terminations, satisfactions of mortgages and all other termination statements and Lien releases and mortgage satisfactions reasonably required by the Administrative Agent.

provided, that any specific time periods described in this clause (a) may be modified as consented to by the Administrative Agent.

(b) All fees and expenses required to be paid hereunder on the Closing Date (and all fees and expenses required to be paid under the Fee Letter on the Closing Date) and, with respect to expenses and legal fees, to the extent invoiced in reasonable detail at least two (2) Business Days before the Closing Date (except as otherwise reasonably agreed to by the Borrower) shall have been paid in full in cash (or, with respect to amounts due on the Closing Date, will have been paid on the Closing Date from the proceeds of the Loans).

(c) The representations and warranties of the Borrower and the Guarantors set forth in this Agreement and in the other Loan Documents shall be true and correct in all material respects on and as of the Closing Date, except to the extent any such representations and warranties are expressly limited to an earlier date (in which case such representations and warranties shall be true and correct on and as of such earlier date); *provided*, that any representation and warranty that is qualified as to “materiality,” “Material Adverse Effect” or similar language shall be true and correct in all respects on such respective dates.

(d) The Administrative Agent shall have received such other certificates, assignments, documents and instruments relating to the transactions contemplated by this Agreement as may have been reasonably requested by the Administrative Agent.

Without limiting the generality of the provisions of the last paragraph of Section 11.01, for purposes of determining compliance with the conditions specified in this Section 4.02, each Lender that has funded Loans hereunder on the Closing Date shall be deemed to have consented to, approved or accepted or to be satisfied with, each document or other matter required hereunder to be consented to or approved by or acceptable or satisfactory to a Lender, unless the Administrative Agent shall have received notice from such Lender prior to the proposed Closing Date specifying its objection thereto.

ARTICLE V

REPRESENTATIONS AND WARRANTIES

The Borrower represents and warrants with respect to each of the following to the Lenders, the Administrative Agent and the Collateral Trustee, in each case, to the extent and, unless otherwise specifically agreed by the Borrower, only on the dates required by Section 4.01 or 4.02.

Section 5.01 Existence, Qualification and Power; Compliance with Laws. Each Loan Party and each Restricted Subsidiary that is not an Immaterial Subsidiary,

(a) is duly organized or formed, validly existing and in good standing under the Laws of the jurisdiction of its incorporation or organization (to the extent such concepts exist in such jurisdiction);

(b) has all corporate or other organizational power and authority to (i) own its assets and carry on its business as currently conducted and (ii) in the case of the Loan Parties, execute, deliver and perform its obligations under the Loan Documents to which it is a party and consummate the Transactions;

(c) is duly qualified and in good standing (to the extent such concepts exist in such jurisdiction) under the Laws of each jurisdiction where its ownership, lease or operation of properties or the conduct of its business requires such qualification;

(d) is in compliance with all applicable Laws; and

(e) has all requisite governmental licenses, authorizations, consents and approvals to operate its business as currently conducted;

except in each case referred to in clauses (a) (other than with respect to the Borrower), (c), (d) or (e), to the extent that failure to do so has not resulted in, or is not reasonably expected, individually or in the aggregate, to result in a Material Adverse Effect.

Section 5.02 Authorization; No Contravention

(a) The execution, delivery and performance by each Loan Party of each Loan Document to which it is a party has been duly authorized by all necessary corporate or other organizational action.

(b) Neither the execution, delivery and performance by each Loan Party of each Loan Document to which it is a party nor the consummation of the Transactions will,

(i) contravene the terms of any of its Organization Documents;

(ii) result in any breach or contravention of, or the creation of any Lien (other than a Permitted Lien) upon any of the property or assets of such Loan Party or any of the Restricted Subsidiaries under (A) any contractual obligation relating to Material Indebtedness or (B) any order, injunction, writ or decree of any Governmental Authority or any arbitral award to which such Loan Party or its property is subject;

(iii) violate any applicable Law; or

(iv) require any approval of stockholders, members or partners or any approval or consent of any Person under any contractual obligation relating to Material Indebtedness, except for such approvals or consents which will be obtained on or before the Closing Date;

except with respect to any breach, contravention or violation (but not creation of Liens) referred to in clauses (ii), (iii) and (iv), to the extent that such breach, contravention or violation has not resulted in, or is not reasonably expected, individually or in the aggregate, to result in a Material Adverse Effect.

Section 5.03 Governmental Authorization No material approval, consent, exemption, authorization, or other action by, or notice to, or filing with, any Governmental Authority is necessary or required in connection with the execution, delivery or performance by, or enforcement against, any Loan Party of this Agreement or any other Loan Document, except for,

(a) filings necessary to perfect the Liens on the Collateral granted by the Loan Parties in favor of the Secured Parties;

(b) the approvals, consents, exemptions, authorizations, actions, notices and filings that have been duly obtained, taken, given or made and are in full force and effect (except to the extent not required to be obtained, taken, given or made or in full force and effect pursuant to the Collateral Documents); and

(c) those approvals, consents, exemptions, authorizations or other actions, notices or filings, the failure of which to obtain or make has not resulted in, or is not reasonably expected, individually or in the aggregate, to result in a Material Adverse Effect.

Section 5.04 Binding Effect This Agreement and each other Loan Document has been duly executed and delivered by each Loan Party that is party hereto and thereto. This Agreement and each other Loan Document constitutes a legal, valid and binding obligation of each Loan Party, enforceable against each Loan Party that is party thereto in accordance with its terms, except as such enforceability may be limited by Debtor Relief Laws and by general principles of equity and principles of good faith and fair dealing.

Section 5.05 Financial Statements; No Material Adverse Effect

(a) The Financial Statements fairly present in all material respects the financial condition of the Borrower and its Subsidiaries as of the dates thereof and their results of operations for the period covered thereby in accordance with GAAP (as in effect on the Closing Date (or the date of preparation)) consistently applied throughout the periods covered thereby, except as otherwise expressly noted therein.

(b) Since the Closing Date, there has been no event or circumstance, either individually or in the aggregate, that has resulted in, and is reasonably expected, individually or in the aggregate, to result in a Material Adverse Effect.

(c) The forecasts of consolidated balance sheets and statements of comprehensive income (loss) of the Borrower and its Subsidiaries which have been furnished to the Administrative Agent prior to the Closing Date, when taken as a whole, have been prepared in good faith on the basis of the assumptions stated therein, which assumptions were believed to be reasonable at the time made and at the time the forecasts are delivered, it being understood that (i) no forecasts are to be viewed as facts, (ii) any forecasts are subject to significant uncertainties and contingencies, many of which are beyond the control of the Loan Parties or the Sponsors, (iii) no assurance can be given that any particular forecasts will be realized and (iv) actual results may differ and such differences may be material.

Section 5.06 Litigation Except as set forth in Schedule 5.06, there are no actions, suits, proceedings, claims or disputes pending or, to the knowledge of the Borrower, overtly threatened in writing, at law, in equity, in arbitration or before any Governmental Authority, by or against the Borrower or any of the Restricted Subsidiaries that has resulted in or if determined adversely would reasonably be expected, individually or in the aggregate, to result in Material Adverse Effect.

Section 5.07 Labor Matters. Except as set forth on Schedule 5.07 or except as has not resulted in, or is not reasonably expected, individually or in the aggregate, to result in a Material Adverse Effect: (a) there are no strikes or other labor disputes against any of the Borrower or the Restricted Subsidiaries pending or, to the knowledge of the Borrower, threatened and (b) hours worked by and payment made based on hours worked to employees of the Borrower or a Restricted Subsidiary have not been in material violation of the Fair Labor Standards Act or any other applicable Laws dealing with wage and hour matters.

Section 5.08 Ownership of Property; Liens. Each Loan Party and each Restricted Subsidiary has good and valid record title in fee simple to, or valid leasehold interests in, or easements or other limited property interests in, all real property necessary in the ordinary conduct of its business, free and clear of all Liens except for Permitted Liens and except where the failure to have such title or other interest has not resulted in, or is not reasonably expected, individually or in the aggregate, to result in a Material Adverse Effect.

Section 5.09 Environmental Matters.

(a) Except as has not resulted in, or is not reasonably expected, individually or in the aggregate, to result in a Material Adverse Effect, (i) the Loan Parties and the Restricted Subsidiaries are in compliance with all applicable Environmental Laws (including having obtained all Environmental Permits) and (ii) none of the Loan Parties or any of the Restricted Subsidiaries is subject to any pending, or to the knowledge of the Loan Parties, threatened Environmental Claim or any other Environmental Liability.

(b) None of the Loan Parties or any of the Restricted Subsidiaries has used, released, treated, stored, transported or disposed of Hazardous Materials, at or from any currently or formerly owned or operated real estate or facility relating to its business, in violation of Environmental Law and in a manner that has resulted in, or is reasonably expected, individually or in the aggregate, to result in a Material Adverse Effect.

Section 5.10 Taxes. Except as has not resulted in, or is not reasonably expected, individually or in the aggregate, to result in a Material Adverse Effect, the Borrower and the Restricted Subsidiaries have timely filed all tax returns and reports required to be filed, and have paid all foreign, U.S. federal and state, and other Taxes, assessments, fees and other governmental charges levied or imposed on their properties, income or assets or otherwise due and payable, except those which are being contested in good faith by appropriate actions diligently conducted and for which adequate reserves have been provided in accordance with GAAP.

Section 5.11 ERISA Compliance.

(a) Except as set forth in Schedule 5.11(a) or has not resulted in, or would not reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect, each Plan is in compliance with the terms of such Plan and applicable provisions of ERISA, the Code and other applicable Laws.

(b) Except, as set forth in Schedule 5.11(b) or, with respect to each of the below clauses of this Section 5.11(b), as has not resulted in, or would not reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect:

(i) no ERISA Event or Foreign Plan Event has occurred;

(ii) no Pension Plan has failed to satisfy the minimum funding standards (within the meaning of Section 412 of the Code or Section 302 of ERISA) applicable to such Pension Plan;

(iii) neither the Borrower, nor any Guarantor nor any of their respective ERISA Affiliates has incurred, or would reasonably be expected to incur, any liability (and no event has occurred which, with the giving of notice under Section 4219 of ERISA, would result in such liability) under Sections 4201 et seq. of ERISA with respect to a Multiemployer Plan;

(iv) neither the Borrower, nor any Guarantor nor any of their respective ERISA Affiliates has engaged in a transaction that is subject to Sections 4069 or 4212(c) of ERISA; and

(v) neither the Borrower, nor any Guarantor nor any ERISA Affiliate has been notified in writing that a Multiemployer Plan is insolvent (within the meaning of Section 4245 of ERISA) or has been determined to be in “endangered” or “critical” status (within the meaning of Section 432 of the Code or Section 305 of ERISA) and no such Multiemployer Plan is expected to be insolvent or in endangered or critical status.

Section 5.12 Subsidiaries. As of the Closing Date, all of the outstanding Equity Interests in the Borrower and each Restricted Subsidiary have been validly issued and are fully paid and (if applicable) non-assessable, and all Equity Interests owned by the Borrower or any Guarantor in any of their respective direct Material Subsidiaries are owned free and clear of all Liens (other than Permitted Liens) of any Person. As of the Closing Date, Schedule 5.12 (i) sets forth the name and jurisdiction of each Subsidiary, (ii) sets forth the ownership interest of the Borrower and each Subsidiary in each Subsidiary, including the percentage of such ownership and (iii) identifies each Subsidiary that is a Subsidiary the Equity Interests of which are required to be pledged on the Closing Date pursuant to the Collateral Documents.

Section 5.13 Margin Regulations; Investment Company Act.

(a) As of the Closing Date, none of the Collateral is Margin Stock. No Loan Party is engaged nor will it engage, principally or as one of its important activities, in the business of purchasing or carrying Margin Stock (within the meaning of Regulation U issued by the FRB), or extending credit for the purpose of purchasing or carrying Margin Stock, and no proceeds of any Loan will be used for any purpose that violates Regulation U.

(b) Neither the Borrower nor any Guarantor is an “investment company” under the Investment Company Act of 1940.

Section 5.14 Disclosure. As of the Closing Date, none of the written information and written data heretofore or contemporaneously furnished in writing by or on behalf of the Borrower or any Guarantor to any Agent or any Lender on or prior to the Closing Date in connection with the transactions contemplated hereby and the negotiation of this Agreement or delivered hereunder or any other Loan Document on or prior to the Closing Date, when taken as a whole, contains any material misstatement of fact or omits to state any material fact necessary to make such written information and written data taken as a whole, in the light of the circumstances under which it was delivered, not materially misleading (after giving effect to all modifications and supplements to such written information and written data, in each case, furnished after the date on which such written information or such written data was originally delivered); it being understood that for purposes of this Section 5.14, such written information and written data shall not include projections, *pro forma* financial information, financial estimates, forecasts and forward-looking information or information of a general economic or general industry nature.

Section 5.15 Properties; Titles, Etc.

(a) The relevant Loan Parties have good title to all of the Vessel Collateral, free and clear of all Liens except (i) Liens pursuant to the Loan Documents, (ii) Permitted Liens of the type permitted under clauses (a), (d) and (oo) of Section 7.01 and (iii) Liens being released on the Closing Date. Set forth on Schedule 5.15 hereto is a complete and accurate list of all Vessel Collateral owned by each Loan Party as of the Closing Date and to be subject to the Vessel Mortgage on the Closing Date; as of the Closing Date all Vessel Collateral is duly documented in the name of the applicable Loan Party as shipowner under the laws and flag of the United States and, except as set forth on Schedule 5.15, eligible to operate in the coastwise trade of the United States. Each Loan Party that owns Vessel Collateral is (i) if such Vessel Collateral is one or more Vessels registered under the laws and flag of the United States, a citizen of the United States within the meaning of Section 2(c) of the Shipping Act, 1916, as amended (46 U.S.C. § 50501), eligible to own and operate vessels in the coastwise trade of the United States, or (ii) eligible to own and operate vessels in whatever jurisdiction and trade the Vessel Collateral is qualified, as applicable.

(b) Except as otherwise permitted under the Loan Documents including the last sentence of this Section 5.15(b), all filings and other actions on behalf of the Borrower or, as applicable, any Restricted Subsidiary of the Borrower necessary or desirable to perfect and protect the security interest in the Vessel Collateral created under the Vessel Mortgages have been duly made or taken (or arrangements reasonably satisfactory to the Lenders with respect thereto have been made) and such security interests are in full force and effect, and the Vessel Mortgages create in favor of the Collateral Trustee or trustee/mortgagee, as the case may be, for the benefit of the Secured Parties a valid and, together with such filings, recordings and other actions, when effected, perfected first priority security interest (except for Permitted Liens of the type permitted under clauses (a), (d), and (tt) of the Section 7.01) in the Vessel Collateral, securing the payment of the Indebtedness. To the extent that the Vessel Collateral is registered under the laws and flag of the United States, the Vessel Mortgage, executed and delivered, creates in favor of the Collateral Trustee, as trustee/mortgagee, a legal, valid, and enforceable first preferred mortgage lien over the whole of the Vessel Collateral therein named and when duly recorded shall constitute a perfected first "preferred mortgage" within the meaning of Section 31301(6)(B) of Title 46 of the United States Code, entitled to the benefits accorded to a first preferred mortgage on a vessel registered under the laws and flag of the United States.

(c) All of the material properties of the Borrower and its Restricted Subsidiaries that are reasonably necessary for the operation of their businesses (other than Stacked Vessels) are in good working condition, ordinary wear and tear excepted, and are maintained in accordance with reasonable commercial business standards, except (i) as set forth in Schedule 5.15 or (ii) where the failure to be in such condition or maintain such property could not reasonably be expected to have a Material Adverse Effect.

Section 5.16 Solvency. On the Closing Date after giving effect to the Transactions, the Borrower and its Subsidiaries, on a consolidated basis, are Solvent.

Section 5.17 Compliance with Anti-Corruption Laws and Sanctions.

(a) No Relevant Person is:

(i) a Restricted Party; or

(ii) to its knowledge the subject of any claim, proceeding, formal notice, investigation or other action by any regulatory or enforcement authority concerning any alleged violation of Sanctions.

(b) The Borrower has implemented and maintains in effect policies and procedures designed to ensure compliance by the Borrower, its Subsidiaries and their respective directors, officers, employees and agents with applicable Anti-Corruption Laws and Sanctions, and the Borrower, its Subsidiaries and their respective officers and directors and to the knowledge of the Borrower its employees and agents, are in compliance with applicable Anti-Corruption Laws and Sanctions in all material respects and are not knowingly engaged in any activity that would reasonably be expected to result in the Borrower being designated as a Sanctioned Person.

Section 5.18 Collateral Documents. Except as otherwise contemplated hereby or under any other Loan Documents, the provisions of the Collateral Documents, together with such filings and other actions required to be taken hereby or by the applicable Collateral Documents or contemplated by the Collateral Documents (including the delivery to the Collateral Trustee of any Pledged Collateral required to be delivered pursuant to the applicable Collateral Documents), are effective to create in favor of the Collateral Trustee for the benefit of the Secured Parties a legal, valid and enforceable perfected Lien (subject to Permitted Liens) with the applicable priority contemplated herein or in the other Loan Documents on all right, title and interest of the Borrower and the applicable Guarantors, respectively, in the Collateral described therein.

Section 5.19 Use of Proceeds. The Borrower has used the proceeds of the Loans only in compliance (and not in contravention of) applicable Laws and each Loan Document.

Section 5.20 Jones Act Vessels. As of the Closing Date, the Vessels on Schedule 5.20 (collectively, the “**Closing Date Jones Act Vessels**”) are duly documented under Chapter 121 of Title 46 of the United States Code, eligible for registry and the coastwise trade of the United States under Section 2(c) of the Shipping Act of 1916, as amended (46 USC § 50501 *et seq.*).

Section 5.21 Vessel Liens. As of the Closing Date, all Vessels constituting Vessel Collateral are free from all Liens, whether of record or arising under general maritime Law or as “hidden” lien claims, except Permitted Maritime Liens and the Vessel Mortgage. As of the Closing Date, without limiting the foregoing, no notice has been received by the Borrower or any Shipowner alleging that any such Vessel has been used in any manner that might subject such Vessel to any material penalty, fine, or forfeiture which would be reasonably expected to result in a Material Adverse Effect. As of the Closing Date, none of the Borrower nor any of Shipowners has committed any violation of any Laws giving rise to any Lien against any of the Vessels constituting Vessel Collateral (except Permitted Maritime Liens) or which would reasonably be expected to permit forfeiture of any of such Vessels or an in rem action against any of such Vessels by any Governmental Authority, in each case, reasonably expected to result in a Material Adverse Effect.

Section 5.22 Vessel Documentation. As of the Closing Date, all Vessels constituting Vessel Collateral have current Certificates of Documentation issued by the United States Coast Guard, and the Closing Date Jones Act Vessels are duly documented with coastwise endorsements, with other applicable required endorsements, and no event has occurred or is existing that would require the surrender or cancellation of, or render any such Vessel ineligible for, any such Certificate of Documentation or endorsement, except where such failure or event would not reasonably be expected to result in a Material Adverse Effect. As of the Closing Date, all Vessels (other than any Stacked Vessels) constituting Vessel Collateral required to be inspected by the United States Coast Guard have current Certificates of Inspection, and there are no outstanding CG-835 deficiencies requiring immediate correction or preventing operation of any such Vessel in her intended trade, except where such failure would not reasonably be expected to result in a Material Adverse Effect. As of the Closing Date, to the extent required by applicable Laws, the Borrower, each Shipowner, and the Vessels (other than any Stacked Vessels) constituting Vessel Collateral have validly issued and currently in force all required permits and other documentation required for operation of such Vessels as such Vessels are currently operated, except where failure to do so would not reasonably be expected to result in a Material Adverse Effect. As of the Closing Date, none of the Vessels (other than any Stacked Vessels) constituting Vessel Collateral have been operated in any manner that would impair or limit their current use in any material way, except where failure to do so would not reasonably be expected to result in a Material Adverse Effect. As of the Closing Date, there are no contractual restrictions on the operation of any of the Vessels constituting Vessel Collateral, other than through leases, charters, subcharters or contracts of affreightment, or restrictions that would not reasonably be expected to result in a Material Adverse Effect.

Section 5.23 Vessel Intellectual Property.

(a) **Intellectual Property Licenses.** Except as would not reasonably be expected to result in a Material Adverse Effect, as of the Closing Date, the Shipowners own or possess all licenses, proprietary software, and other intellectual property used in or necessary for the conduct of their respective businesses as currently conducted (including, without limitation, the ownership and operation of the Vessels constituting Vessel Collateral), and rights thereto, in each case without known conflict with the rights of others and free and clear of any Liens except for Permitted Liens and Liens granted under the Collateral Documents. Except as would not reasonably be expected to result in a Material Adverse Effect, as of the Closing Date, all such licenses and intellectual property are valid and subsisting and are in full force and effect.

(b) Related Party Intellectual Property. As of the Closing Date, neither the Borrower nor any of its Affiliates or Subsidiaries owns, controls or has any right, title or interest in or to, or has contributed, any material intellectual property, software, or other technology used in or necessary for the operation of the Vessels constituting Vessel Collateral, other than the intellectual property, technology, and systems licensed to the applicable Shipowners pursuant to an Intercompany License Agreement.

ARTICLE VI

AFFIRMATIVE COVENANTS

From the Closing Date until the principal of and interest on each Loan and all fees payable hereunder and all other amounts payable under the Loan Documents shall have been paid in full, the Borrower shall, and shall (except in the case of the covenants set forth in Sections 6.01, 6.02, 6.03 and 6.05) cause each of the Restricted Subsidiaries to:

Section 6.01 Financial Statements. Deliver to the Administrative Agent for prompt further distribution by the Administrative Agent to each Lender each of the following:

(a) Audited Annual Financial Statements. Within one hundred twenty (120) days after the end of each fiscal year (commencing with the fiscal year ending December 31, 2024) of the Borrower, a consolidated balance sheet of the Borrower and its Subsidiaries as at the end of such fiscal year, and the related consolidated statements of comprehensive income (loss), stockholders' equity and cash flows for such fiscal year together with related notes thereto, setting forth in each case in comparative form the figures for the previous fiscal year (if ending after the Closing Date), prepared in accordance with GAAP, audited and accompanied by a report and opinion of the Borrower's auditor on the Closing Date or any other accounting firm of nationally or regionally recognized standing or another accounting firm reasonably acceptable to the Administrative Agent, which report and opinion shall be prepared in accordance with generally accepted auditing standards and which financial statements shall be accompanied by management's discussion and analysis describing results of operations in the form customarily prepared by management of the Borrower.

(b) Quarterly Financial Statements. As soon as available, but in any event within sixty (60) days after the end of each of the first three fiscal quarters of each fiscal year of the Borrower (commencing with the fiscal quarter ended September 30, 2024), (i) an unaudited consolidated balance sheet of the Borrower and its Subsidiaries as at the end of such fiscal quarter, (ii) the related unaudited consolidated statements of comprehensive income (loss) for such fiscal quarter and for the portion of the fiscal year then ended and (iii) the related unaudited consolidated statement of cash flows for the portion of the fiscal year then ended, setting forth, in each case of clauses (ii) and (iii), in comparative form, the figures for the corresponding fiscal quarter of the previous fiscal year and the corresponding portion of the previous fiscal year, in each case if ended after the Closing Date, certified by a Responsible Officer of the Borrower as fairly presenting in all material respects the financial condition, results of operations and cash flows of the Borrower and its Subsidiaries in material compliance with GAAP, subject to year-end adjustments and the absence of footnotes, which financial statements, to the extent the Borrower (or Parent Entity or Qualified Reporting Subsidiary) is not required to file a 10-Q, shall be accompanied by management's discussion and analysis describing results of operations in the form customarily prepared by management of the Borrower. Notwithstanding the foregoing, the Borrower shall deliver to the Administrative Agent, when available, the financial statements described in this paragraph (b) in respect of the fiscal quarter ended June 30, 2024; *provided* that no Compliance Certificate shall be required to be delivered in connection with or in respect of such financial statements pursuant to Section 6.02(a).

(c) Budget; Projections. On or prior to the date financial statements are required to be delivered pursuant to Section 6.01(a) (commencing with the first fiscal year ending after the Closing Date), a consolidated budget for the following fiscal year on a quarterly basis in form and substance consistent with the budget customarily prepared by management of the Borrower for their internal use.

(d) Unrestricted Subsidiaries. Simultaneously with the delivery of each set of consolidated financial statements referred to in Sections 6.01(a) and 6.01(b) above, such supplemental financial information (which need not be audited) as is necessary to eliminate the accounts of Unrestricted Subsidiaries (if any) from such consolidated financial statements.

Notwithstanding the foregoing, the obligations in paragraphs (a) and (b) of this Section 6.01 may be satisfied by furnishing, at the Borrower's option, (i) the applicable financial statements of (1) any wholly-owned Restricted Subsidiary of the Borrower that, together with its combined and consolidated Restricted Subsidiaries, constitutes substantially all of the assets of the Borrower and its combined consolidated Subsidiaries (a "**Qualified Reporting Subsidiary**") or (2) any Person of which the Borrower is a Subsidiary (such Person, a "**Parent Entity**") or (ii) the Borrower or a Qualified Reporting Subsidiary's or Parent Entity's Form 10-K or 10-Q, as applicable, filed with the SEC (or equivalent form whether or not filed with the SEC consistent with the Borrower's practice as of the Closing Date); *provided* that with respect to each of clauses (i) and (ii), (A) to the extent such information relates to a Qualified Reporting Subsidiary, or a Parent Entity, such information is accompanied by customary consolidating information (which need not be audited) that explains in reasonable detail the material differences between the information relating to such Qualified Reporting Subsidiary or Parent Entity, on the one hand, and the information relating to the Borrower and its Subsidiaries, on the other hand; (B) (i) in the event that the Borrower (or any Qualified Reporting Subsidiary or Parent Entity) delivers to the Administrative Agent a Form 10K for any fiscal year (or similar filing in the Applicable Jurisdiction), as filed with the SEC or in such form as would have been suitable for filing with the SEC (or similar governing body in the Applicable Jurisdiction, in each case), within the time frames set forth in paragraph (a) of this Section 6.01, such Form 10-K shall satisfy all requirements of paragraph (a) of this Section 6.01 with respect to such fiscal year to the extent that it contains the information and report and opinion required by such paragraph (a) and (ii) in the event that the Borrower (or any Qualified Reporting Subsidiary or Parent Entity) delivers to the Administrative Agent a Quarterly Report on Form 10-Q for any fiscal quarter (or similar filing in the Applicable Jurisdiction), as filed with the SEC or in such form as would have been suitable for filing with the SEC (or similar governing body in the Applicable Jurisdiction, in each case), within the time frames set forth in paragraph (b) of this Section 6.01, such Form 10-Q shall satisfy all requirements of paragraph (b) of this Section 6.01 with respect to such fiscal quarter to the extent that it contains the information required by such paragraph (b), (C) any financial statements required to be delivered pursuant to this Section 6.01 shall not be required to contain purchase accounting adjustments and (D) following the consummation of an acquisition in the applicable period or the period thereafter, the obligations in paragraphs (a) and (b) of this Section 6.01 with respect to the target of such acquisition may be satisfied by, at the option of the Borrower, (1) furnishing management accounts for the target of such acquisition or (2) omitting the target of such acquisition from the required financial statements of the Borrower and its Subsidiaries for the applicable period and period thereafter.

Notwithstanding the foregoing, upon the request of the Borrower in connection with any material Permitted Investment or other acquisition permitted hereunder, the Administrative Agent may consent to a thirty-day extension to the deadlines in this Section 6.01.

Section 6.02 Certificates; Other Information. Deliver to the Administrative Agent for prompt further distribution by the Administrative Agent to each Lender each of the following:

(a) Compliance Certificate. No later than fifteen (15) Business Days after the delivery of the financial statements referred to in Sections 6.01(a) and 6.01(b), a duly completed Compliance Certificate.

(b) VesselsValueTM Statement. Provided that VesselsValueTM (or any successor thereof) exists at the time such written request is received by the Borrower, within thirty (30) days of the reasonable written request of the Administrative Agent (or by such later date as the Administrative Agent may agree), a statement of the fair market value of each Vessel that is Collateral, as determined by VesselsValueTM (or any successor thereof).

(c) SEC Filings. Concurrently with each Compliance Certificate, copies of all annual, regular, periodic and special reports, proxy statements and registration statements which the Borrower or any Restricted Subsidiary has filed with the SEC subsequent to the delivery of the immediately preceding Compliance Certificate (or, if prior to the delivery of the first Compliance Certificate, subsequent to the Closing Date) (other than amendments to any registration statement (to the extent such registration statement, in the form it became effective, is delivered to the Administrative Agent), exhibits to any registration statement and, if applicable, any registration statement on Form S-8), and in any case not otherwise required to be delivered to the Administrative Agent pursuant to any other clause of this Section 6.02; *provided* that notwithstanding the foregoing, the obligations in this Section 6.02(b) may be satisfied by causing such information to be publicly available on the SEC's EDGAR website, another publicly available reporting service or the applicable regulator's website.

(d) Information Regarding Collateral. The Borrower will furnish to the Administrative Agent concurrently with each Compliance Certificate or by such later date as reasonably agreed to by the Administrative Agent, written notice of any change (i) in any Loan Party's legal name (as set forth in its certificate of organization or like document) or (ii) in the location of any Loan Party's chief executive office or the jurisdiction of incorporation or organization of any Loan Party or in the form of its organization, in each case, occurring subsequent to the delivery of the immediately preceding Compliance Certificate (or, if prior to the delivery of the first Compliance Certificate, subsequent to the Closing Date), in each case to the extent such information is necessary to enable the Collateral Trustee to perfect or maintain the perfection or priority of its security interest in the Collateral of the relevant Loan Party.

(e) Lender Calls. Upon the reasonable request of the Administrative Agent, following delivery of the financial statements pursuant to Sections 6.01(a) and (b) above, the Borrower shall promptly hold a conference call (at a time selected by the Borrower and reasonably acceptable to the Administrative Agent) with all Lenders (including both “public” and “private” side lenders) who choose to attend such conference call, at which call shall be reviewed the financial information presented in such financial statements; *provided* that in no event shall more than one such conference call be requested in any fiscal quarter; *provided, further*, that the obligations of this Section 6.02(e) may be satisfied by (i) the Borrower holding a public earnings call in respect of such fiscal quarter or (ii) the Borrower inviting the Lenders to attend a conference call for such fiscal quarter with other holders of Indebtedness.

(f) Other Information. Such additional information (a) regarding the business operations of any Loan Party or any Restricted Subsidiary as the Administrative Agent may from time to time on its own behalf or on behalf of the Required Lenders reasonably request and (b) as may be reasonably requested by the Administrative Agent or any Lender through the Administrative Agent for purposes of compliance with applicable “know your customer” and anti-money laundering rules and regulations, including the USA PATRIOT Act and the Beneficial Ownership Regulation.

Documents required to be delivered pursuant to Section 6.01 or Section 6.02 may be delivered electronically and if so delivered, shall be deemed to have been delivered on the date (i) on which the Borrower (or any Qualified Reporting Subsidiary or Parent Entity) posts such documents, or provides a link thereto, on the Borrower’s (or any Qualified Reporting Subsidiary’s or Parent Entity’s) website on the Internet, or (ii) on which such documents are posted on the Borrower’s behalf on a website, if any, to which each Lender and the Administrative Agent have access (whether a commercial, third-party website or whether sponsored by the Administrative Agent). Each Lender shall be solely responsible for timely accessing posted documents or requesting delivery of paper copies of such documents from the Administrative Agent and maintaining its copies of such documents.

The Borrower hereby acknowledges that (a) the Administrative Agent may make available to the Lenders materials and/or information provided by or on behalf of the Borrower hereunder (collectively, “**Borrower Materials**”) by posting the Borrower Materials on an electronic system (the “**Platform**”) and (b) certain of the Lenders may have personnel who do not wish to receive any information with respect to the Borrower or its Subsidiaries, or the respective securities of any of the foregoing, that is not Public-Side Information, and who may be engaged in investment and other market-related activities with respect to such Person’s securities. The Borrower hereby agrees that (i) all Borrower Materials that are to be made available to Public Lenders shall be clearly and conspicuously marked “PUBLIC” which, at a minimum, shall mean that the word “PUBLIC” shall appear prominently on the first page thereof (and by doing so shall be deemed to have represented that such information contains only Public-Side Information); (ii) by marking Borrower Materials “PUBLIC,” the Borrower shall be deemed to have authorized the Administrative Agent and the Lenders to treat such Borrower Materials as containing only Public-Side Information (*provided, however*, that to the extent such Borrower Materials constitute Information, they shall be treated as set forth in Section 11.08); (iii) all Borrower Materials marked “PUBLIC” are permitted to be made available through a portion of the Platform designated “Public-Side Information”; and (iv) the Administrative Agent shall treat any Borrower Materials that are not marked “PUBLIC” as being suitable only for posting on a portion of the Platform not designated “Public-Side Information.”

For the avoidance of doubt, the foregoing shall be subject to the provisions of Section 11.08.

Section 6.03 Notices. Promptly after a Responsible Officer obtains actual knowledge thereof, notify the Administrative Agent for prompt further notification by the Administrative Agent to each Lender of:

(a) the occurrence and continuation of any Default or Event of Default; and

(b) (i) any dispute, litigation, investigation or proceeding between the Borrower or any Restricted Subsidiary and any arbitrator or Governmental Authority or (ii) the filing or commencement of, or any material development in, any litigation or proceeding affecting the Borrower or any Restricted Subsidiary, or (iii) the occurrence of any ERISA Event or Foreign Plan Event that, in any such case referred to in clause (i), (ii) or (iii) has resulted, or has a reasonable probability of being determined adversely and could reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect.

Each notice pursuant to this Section 6.03 shall be accompanied by a written statement of a Responsible Officer of the Borrower setting forth a summary description of the occurrence referred to therein and stating what action the Borrower has taken and proposes to take with respect thereto. For the avoidance of doubt, the foregoing shall be subject to the provisions of Section 11.08.

Section 6.04 Payment of Certain Taxes. Pay, discharge or otherwise satisfy, as the same shall become due and payable, all obligations and liabilities in respect of Taxes imposed upon it or upon its income or profits or in respect of its property, except, in each case, to the extent (a) any such Tax, assessment, charge or levy is being contested in good faith and by appropriate actions diligently conducted and for which appropriate reserves have been established in accordance with GAAP or (b) the failure to pay, discharge or otherwise satisfy the same has not resulted in, or is not reasonably expected, individually or in the aggregate, to result in a Material Adverse Effect.

Section 6.05 Preservation of Existence of the Borrower. Preserve, renew and maintain in full force and effect its legal existence under the Laws of the jurisdiction of its incorporation or organization, except as otherwise expressly permitted under this Agreement.

Section 6.06 Maintenance of Properties. Maintain, preserve and protect all of its material properties and equipment used in the operation of its business in good working order, repair and condition (ordinary wear and tear excepted and casualty or condemnation excepted), except to the extent the failure to do so has not resulted in, or is not reasonably expected, individually or in the aggregate, to result in a Material Adverse Effect.

Section 6.07 Maintenance of Insurance.

(a) Maintain or cause to be maintained with insurance companies that the Borrower believe (in the good faith judgment of their management) are financially sound and reputable at the time the relevant coverage is placed or renewed or with a Captive Insurance Subsidiary, insurance with respect to its properties and business against loss or damage of the kinds customarily insured against by Persons engaged in the same or similar business and of such types and in such amounts (after giving effect to any self-insurance) as are customarily carried under similar circumstances by such other Persons, and furnish to the Administrative Agent, which, absent a continuing Event of Default, shall not be made more than once in any twelve month period, upon reasonable written request from the Administrative Agent, information presented in reasonable detail as to the insurance so carried. Schedule 6.07 sets forth a true, complete and accurate description of all material insurance maintained by or on behalf of the Borrower or the other Loan Parties as of the Closing Date.

(b) Subject to Section 6.15, following the Closing Date, the Borrower shall use commercially reasonable efforts such that each such policy of insurance (as appropriate and is customary and with respect to jurisdictions outside the United States, to the extent available in such jurisdiction without undue cost or expense),

(i) (A) names the Collateral Trustee, on behalf of the Secured Parties, as an additional insureds thereunder (with respect to liability insurance) and/or (B) to the extent covering Collateral in the case of property insurance, contains a loss payable clause or endorsement that names the Collateral Trustee, on behalf of the Secured Parties, as the loss payee thereunder; and

(ii) provides that it shall not be cancelled, modified (such modification, to the extent causing a material impairment or otherwise adverse effect on the interests of the Lenders) or not renewed (x) by reason of nonpayment of premium except upon not less than ten (10) days' prior written notice thereof by the insurer to the Administrative Agent (giving the Administrative Agent the right to cure defaults in the payment of premiums) or (y) for any other reason except upon not less than thirty (30) days' prior written notice thereof by the insurer to the Administrative Agent. The Borrower shall deliver to the Administrative Agent, prior to the cancellation, modification (such modification, to the extent causing a material impairment or otherwise adverse effect on the interests of the Lenders) or non-renewal of any such policy of insurance, a copy of a renewal or replacement policy (or other evidence of renewal of a policy previously delivered to the Administrative Agent, including an insurance binder) together with evidence reasonably satisfactory to the Administrative Agent of payment of the premium therefor;

provided that (A) absent a Specified Event of Default that is continuing, any proceeds of any insurance shall be delivered by the insurer(s) to the Borrower or one of their Subsidiaries and applied in accordance with this Agreement and (B) this Section 6.07(b) shall not be applicable to (1) business interruption insurance, workers' compensation policies, employee liability policies, fiduciary policies, directors and officers policies and certain other policies as agreed between the Borrower and the Administrative Agent or (2) the extent unavailable from the relevant insurer after the Borrower's use of their commercially reasonable efforts.

Section 6.08 Compliance with Laws. Comply with the requirements of all Laws (including applicable ERISA-related laws and all Environmental Laws) and all orders, writs, injunctions and decrees of any Governmental Authority applicable to it or to its business or property, except to the extent the failure to comply therewith has not resulted in, or is not reasonably expected, individually or in the aggregate, to result in a Material Adverse Effect.

Section 6.09 Books and Records. Maintain proper books of record and account in which entries that are full, true and correct in all material respects shall be made of all material financial transactions and material matters involving the assets and business of the Borrower or such Restricted Subsidiary, as the case may be (it being understood and agreed that Foreign Subsidiaries may maintain individual books and records in conformity with generally accepted accounting principles in their respective countries of organization or operations and that such maintenance shall not constitute a breach of the representations, warranties or covenants hereunder), in each case, to the extent necessary to prepare the financial statements described in Sections 6.01(a) and 6.01(b).

Section 6.10 Inspection Rights. Subject to Section 6.19(h) in respect of Vessels, permit representatives of the Administrative Agent and the Required Lenders to visit and inspect any of their properties (subject to the rights of lessees or sublessees thereof and subject to any restrictions or limitations in the applicable lease, sublease or other written occupancy arrangement pursuant to which any such Subsidiary party), to examine its corporate, financial, and operating records, and make copies thereof or abstracts therefrom and to discuss its affairs, finances and accounts with its directors, officers, and independent public accountants (subject to such accountants' policies and procedures), all at the reasonable expense of the Borrower and at such reasonable times during normal business hours and as often as may be reasonably desired, upon reasonable advance written notice to the Borrower; *provided* that, (a) excluding any such visits and inspections during the continuation of an Event of Default, only the Administrative Agent on behalf of the Lenders may exercise rights under this Section 6.10 and the Administrative Agent shall not exercise such rights more often than two times during any calendar year absent the continuation of an Event of Default and one such time shall be at the Borrower's expense and (b) when an Event of Default is continuing, the Administrative Agent or the Required Lenders (or any of their respective representatives) may do any of the foregoing at the expense of the Borrower at any time during normal business hours and upon reasonable advance written notice. Notwithstanding anything to the contrary in this Section 6.10, none of the Loan Parties or their Restricted Subsidiaries will be required to disclose or permit the inspection or discussion of, any document, information or other matter (i) that constitutes non-financial trade secrets or non-financial proprietary information, (ii) in respect of which disclosure to the Administrative Agent or any Lender (or their respective representatives or contractors) is prohibited by Law or any binding agreement or (iii) that is subject to attorney client or similar privilege or constitutes attorney work product. The Administrative Agent shall give the Borrower the opportunity to participate in any discussions with the Borrower's independent public accountants. For the avoidance of doubt, the foregoing shall be subject to the provisions of Section 11.08.

Section 6.11 Covenant to Guarantee Obligations and Give Security. At the Borrower's expense, subject to any applicable limitation in any Loan Document (including Section 6.12), take the following actions:

(a) within forty-five (45) days of the occurrence of any Grant Event (or such longer period as the Administrative Agent may agree in its reasonable discretion),

(i) cause the Restricted Subsidiary subject of the Grant Event to execute and deliver the Guaranty (or a joinder thereto);

(ii) cause the Restricted Subsidiary subject of the Grant Event to execute and deliver the Collateral Agreement (or a supplement thereto, including a Collateral Agreement Supplement);

(iii) cause the Restricted Subsidiary subject of the Grant Event to execute and deliver, to the extent applicable, the Vessel Mortgage;

(iv) [reserved];

(v) cause the Restricted Subsidiary subject of the Grant Event (and any Loan Party of which such Restricted Subsidiary is a direct Subsidiary) to (A) if such Restricted Subsidiary has "opted into" Article 8 of the Uniform Commercial Code, deliver any and all certificates representing its Equity Interests (to the extent certificated) that constitute Collateral and are required to be pledged pursuant to the Collateral Agreement, accompanied by undated stock powers or other appropriate instruments of transfer executed in blank (or any other documents customary under local law), (B) [reserved] and (C) deliver all instruments evidencing Indebtedness held by such Restricted Subsidiary that constitute Collateral and are required to be pledged pursuant to the Collateral Agreement, endorsed in blank, to the Collateral Trustee; and

(vi) upon the reasonable request of the Administrative Agent, take and cause the Restricted Subsidiary the subject of the Grant Event and each direct or indirect parent of such Restricted Subsidiary that is required to become a Guarantor pursuant to the Collateral Agreement that holds Equity Interests in such Restricted Subsidiary to take such customary actions as may be necessary in the reasonable opinion of the Administrative Agent to vest in the Collateral Trustee (or in any representative of the Collateral Trustee designated by it) perfected Liens (subject to Permitted Liens) in the Equity Interests of such Restricted Subsidiary and the personal property of such Restricted Subsidiary to the extent required by the Loan Documents, enforceable against all third parties in accordance with their terms, except as such enforceability may be limited by Debtor Relief Laws and by general principles of equity (regardless of whether enforcement is sought in equity or at law).

(b) [Reserved].

(c) Control Agreements. Subject to Section 6.15 and other than with respect to Excluded Accounts, maintain at all times all cash and Cash Equivalents of the Borrower and any Loan Parties in Deposit Accounts or Securities Accounts with either (i) any financial institution that is a Lender or an Affiliate of a Lender or (ii) any financial institution that has entered into a Control Agreement; *provided, however*, this clause (c) shall not apply with respect to any Deposit Accounts or Securities Accounts of any Loan Party existing as of the Closing Date (or such longer period as the Administrative Agent may consent to in its sole discretion) and, in respect of any other Deposit Account or Securities Account opened or acquired after the Closing Date, for a period of sixty (60) days after the date of opening or acquisition thereof and, in respect of any Deposit Accounts or Securities Account of any Loan Party that cease to be held with a Lender or an Affiliate of a Lender on account of the applicable Lender ceasing to be a Lender, within sixty (60) days after the Borrower receives written notice that such Lender has ceased to be a Lender hereunder (each such bank account, a “**Blocked Account**”).

(d) Vessel Collateral.

(i) Except as otherwise set forth below, within thirty (30) days of the acquisition (including by way of construction or through a Vessel Substitution) (or by such later date as the Administrative Agent may agree to in its sole discretion) by the Borrower or any Restricted Subsidiary of any Vessel (excluding any Excluded Vessel) the Borrower or such Restricted Subsidiary shall mortgage, substantially on terms and conditions set forth in the Vessel Mortgage (or the applicable foreign law equivalent in form and substance reasonably acceptable to the Borrower, the Administrative Agent and Collateral Trustee), such Vessel so as to grant to the Collateral Trustee, for the ratable benefit of the Secured Parties, Vessel Mortgage Liens (or the foreign equivalent in form and substance reasonably acceptable to the Borrower, the Administrative Agent and Collateral Trustee) thereon and first priority (subject to Permitted Liens) security interests (or the foreign equivalent in form and substance reasonably acceptable to the Borrower, the Administrative Agent and Collateral Trustee) in all related property; *provided*, that notwithstanding anything to the contrary in Section 6.11(a), if the Restricted Subsidiary that has acquired any such Vessel that is required to become Collateral is not already a Guarantor, such Restricted Subsidiary of the Borrower shall become a Guarantor. No Loan Party shall be required to grant a Lien in any Excluded Vessel to the Collateral Trustee for the benefit of the Secured Parties; *provided*, however, any Loan Party or Restricted Subsidiary may elect to grant a Lien in any Excluded Vessel to the Collateral Trustee for the benefit of the Secured Parties. In the event any Loan Party or Restricted Subsidiary makes such election, such Loan Party or Restricted Subsidiary shall satisfy the requirements of this Section 6.11(d) in respect of such Vessels (assuming, for such purpose, that such Vessel does not constitute an Excluded Vessel).

(ii) (x) Promptly following the acquisition, substitution or release of any Vessel constituting Vessel Collateral, the Administrative Agent shall provide to the Borrower a revised Schedule 1.01(a), setting forth the new Allocated Dollar Values of the then existing Vessels constituting Vessel Collateral and (y) following any prepayment in accordance with Section 2.03, the Borrower may request from the Administrative Agent a revised Schedule 1.01(a), setting forth the new Allocated Dollar Values of the then existing Vessels constituting Vessel Collateral and in each case, such Schedule 1.01(a) shall be deemed to replace the then current Schedule 1.01(a) upon the Borrower’s written acknowledgment and agreement thereof on such replacement Schedule 1.01(a); *provided*, that, absent the consent of the Required Lenders, any amendment, supplement or modification may not be requested by the Borrower more than twice during the term of the Loans. Notwithstanding the release of any Vessel constituting Vessel Collateral, neither the Administrative Agent nor the Lenders shall be deemed to have waived the loan-to-value requirement in Section 2.03(b)(iii).

Section 6.12 Further Assurances. Subject to Section 6.11 and any applicable limitations in any Loan Document, and in each case at the expense of the Borrower, promptly upon the reasonable request by the Administrative Agent or Collateral Trustee (a) correct any material defect or error that may be discovered in the execution, acknowledgment, filing, publication or recordation of any Collateral Document or other document or instrument relating to any Collateral and (b) do, execute, acknowledge, deliver, record, re-record, file, re-file, register, re-register, publish and re-publish any and all such further acts, deeds, certificates, assurances and other instruments as the Administrative Agent or Collateral Trustee may reasonably request from time to time in order to carry out more effectively the purposes of the Collateral Documents.

Notwithstanding anything to the contrary in any Loan Document, unless otherwise expressly elected by the Borrower, none of the Borrower nor any Restricted Subsidiary will be required to, nor will the Administrative Agent or the Collateral Trustee be authorized,

(a) to perfect security interests in the Collateral other than by,

(i) “all asset” filings pursuant to the Uniform Commercial Code in the office of the secretary of state (or similar central filing office) of the relevant state(s) and filing and filings in the applicable real estate records with respect to any applicable real property pursuant to Section 6.11(b) (as applicable);

(ii) [reserved];

(iii) the Vessel Mortgage in respect of Vessel Collateral; and

(iv) delivery to the Administrative Agent or Collateral Trustee to be held in its possession of all Collateral consisting of (A) certificates representing Pledged Equity, and (B) all promissory notes and other instruments constituting Collateral; *provided* that promissory notes and instruments having an aggregate principal amount equal to or less than 5% of Consolidated Net Tangible Assets determined as of the most recently completed fiscal quarter need not be delivered to the Collateral Trustee; in each case, in the manner provided in the Collateral Documents;

(b) to enter into any control agreement, lockbox or similar arrangement with respect to any commodities account or other bank account (other than a Deposit Account or Securities Account to the extent required by Section 6.11(c)), or otherwise take or perfect a security interest with control;

(c) to take any action (i) outside of the United States with respect to any assets located outside of the United States, (ii) in any non-U.S. jurisdiction or (iii) required by the laws of any non-U.S. jurisdiction to create, perfect or maintain any security interest or otherwise (unless, in each case, expressly elected by the Borrower in respect of the Vessel Collateral); or

(d) to take any action with respect to perfecting a Lien with respect to letters of credit, letter of credit rights, commercial tort claims, chattel paper or assets subject to a certificate of title or similar statute (in each case, other than the filing of customary “all asset” UCC-1 financing statements) or to deliver landlord lien waivers, estoppels, bailee letters or collateral access letters, in each case, unless required by the terms of the applicable Collateral Agreement or the relevant Collateral Document.

Further, the Loan Parties shall not be required to perform any periodic collateral reporting, if any, with any frequency greater than once per fiscal year (*provided* that this clause shall not limit the obligation of the Loan Parties to comply with Section 6.02(c) or Section 6.11).

Section 6.13 Designation of Subsidiaries. The Borrower may by action of its Board of Directors, at any time designate any Restricted Subsidiary as an Unrestricted Subsidiary or designate (or re-designate, as the case may be) any Unrestricted Subsidiary as a Restricted Subsidiary; *provided* that:

(a) immediately before and after such designation (or re-designation), no Default or Event of Default shall have occurred and be continuing;

(b) the Investment resulting from the designation of such Restricted Subsidiary as an Unrestricted Subsidiary as described above is a Permitted Investment or other Investment permitted hereunder; and

(c) such designation shall not result in Vessel Collateral being owned by an Unrestricted Subsidiary (it being agreed and understood that in connection with the designation as an Unrestricted Subsidiary of any Subsidiary owning Vessel Collateral immediately before such designation, the Borrower shall make a mandatory prepayment and/or designate Substitute Vessel (or Substitute Vessels) pursuant to Section 2.03(b), and after doing so, such Vessel shall no longer be Vessel Collateral).

The designation of any Subsidiary as an Unrestricted Subsidiary shall constitute an Investment by the Borrower therein at the date of designation in an amount equal to the Fair Market Value of the Borrower’s or Restricted Subsidiary’s (as applicable) Investment therein. The designation of any Unrestricted Subsidiary as a Restricted Subsidiary shall constitute the incurrence at the time of designation of any Indebtedness and Liens of such Subsidiary existing at such time and a return on any Investment by the Borrower in Unrestricted Subsidiaries pursuant to the preceding sentence in an amount equal to the Fair Market Value at the date of such designation of the Borrower’s or Restricted Subsidiary’s (as applicable) Investment in such Subsidiary. Except as set forth in this paragraph, no Investment will be deemed to exist or have been made, and no Indebtedness or Liens shall be deemed to have been incurred or exist, by virtue of a Subsidiary becoming an Excluded Subsidiary or an Excluded Subsidiary becoming a Restricted Subsidiary.

Section 6.14 Compliance with Anti-Corruption Laws and Sanctions.

(a) No Loan Party shall (and the Borrower shall ensure that no other Relevant Person will) take any action, make any omission or use (directly or knowingly indirectly) any Loan:

(i) in furtherance of an offer, payment, promise to pay, or authorization of the payment or giving of money, or anything else of value, to any Person in violation of any Anti-Corruption Laws;

(ii) in breach of Sanctions;

(iii) in a manner that causes (or will cause) a breach of Sanctions by any Lender; or

(iv) for the purpose of funding, financing or facilitating any activities, business or transaction of or with any Restricted Party, except to the extent permitted for a Person required to comply with Sanctions.

(b) No Loan Party shall (and the Borrower shall ensure that no other Relevant Person will) take any action or make any omission that results, or is reasonably likely to result, in it or any Lender becoming a Restricted Party.

(c) The Borrower will maintain in effect and enforce policies and procedures designed to ensure compliance by the Borrower, its Subsidiaries and their respective directors, officers, employees and agents with applicable Anti-Corruption Laws and Sanctions.

(d) The requirements set forth in this Section 6.14, as they pertain to compliance by any Foreign Subsidiary with Anti-Corruption Laws and Sanctions are limited by any Law applicable to such Foreign Subsidiary in its relevant local jurisdiction.

Section 6.15 Post-Closing Matters.

(a) The Borrower will, and will cause each of the Restricted Subsidiaries to, take each of the actions set forth on Schedule 6.15 within the time period prescribed therefor on such schedule (as such time period may be extended by the Administrative Agent).

Section 6.16 Use of Proceeds. The proceeds of the Loans will be used for the purposes set forth in the Preliminary Statements hereto.

Section 6.17 Change in Nature of Business. Engage only in material lines of business that are substantially consistent with those lines of business conducted by the Borrower and the Restricted Subsidiaries on the Closing Date and lines of business that are reasonably similar, corollary, ancillary, incidental, synergistic, complementary or related to, or a reasonable extension, development or expansion of, the businesses conducted or proposed to be conducted by the Borrower and the Restricted Subsidiaries on the Closing Date, in each case as determined by the Borrower in good faith.

Section 6.18 Transactions with Affiliates. Conduct all transactions (including the purchase, sale, lease or exchange of any property or the rendering of any service) with any Affiliate of the Borrower (an “**Affiliate Transaction**”) involving aggregate value in excess of \$5.0 million, on terms which taken as a whole are not materially less favorable to the Borrower or such Restricted Subsidiary, as the case may be, than those that could be obtained in a comparable transaction at the time of such transaction or the execution of the agreement providing for such transaction in arm’s length dealings with a Person who is not such an Affiliate or, if in the good faith judgment of the Board of Directors of the Borrower no comparable transaction is available with which to compare such Affiliate Transaction, such Affiliate Transaction is otherwise fair to the Borrower or such Restricted Subsidiary from a financial point of view.

Any Affiliate Transaction shall be deemed to have satisfied the requirements set forth in this Section 6.18 if such Affiliate Transaction is approved by a majority of the Disinterested Directors of the Borrower, if any.

The provisions of the preceding paragraph will not apply to:

- (1) any Restricted Payment or any Permitted Investment;
- (2) any issuance, transfer or sale of (a) Equity Interests, options, other equity-related interests or other securities, or other payments, awards or grants in cash, securities or otherwise to any Parent Entity, Permitted Holder or future, current or former employee, director, officer, manager, contractor, consultant or advisor (or their respective Controlled Investment Affiliates or Immediate Family Members) of the Borrower, any of its Subsidiaries or any of its Parent Entities and (b) directors’ qualifying shares and shares issued to foreign nationals as required under applicable law;
- (3) any Management Advances and any waiver or transaction with respect thereto;
- (4) (a) any transaction between or among the Borrower and any Restricted Subsidiary (or entity that becomes a Restricted Subsidiary as a result of such transaction), or between or among Restricted Subsidiaries and (b) any merger, amalgamation or consolidation with any Parent Entity, *provided* that such Parent Entity shall have no material liabilities and no material assets other than cash, Cash Equivalents and the Equity Interests of the Borrower and such merger, amalgamation or consolidation is otherwise permitted under this Agreement;
- (5) the payment of compensation, fees, costs and expenses to, and indemnities (including under insurance policies) and reimbursements, employment and severance arrangements, and employee benefit and pension expenses provided on behalf of, or for the benefit of, future, current or former employees, directors, officers, managers, contractors, consultants, distributors or advisors (or their respective Controlled Investment Affiliates or Immediate Family Members) of the Borrower, any Parent Entity or any Restricted Subsidiary (whether directly or indirectly and including through their Controlled Investment Affiliates or Immediate Family Members);

(6) the entry into and performance of obligations of the Borrower or any of the Restricted Subsidiaries under the terms of any transaction arising out of, and any payments pursuant to or for purposes of funding, any agreement or instrument in effect as of or on the Closing Date, as these agreements and instruments may be amended, modified, supplemented, extended, renewed or refinanced from time to time in accordance with the other terms of this covenant or to the extent not disadvantageous in any material respect in the reasonable determination of the Borrower to the Lenders when taken as a whole as compared to the applicable agreement as in effect on the Closing Date;

(7) [reserved];

(8) transactions with customers, vendors, clients, joint venture partners, suppliers, contractors, distributors or purchasers or sellers of goods or services, in each case in the ordinary course of business or consistent with past practice, which are fair to the Borrower and the Restricted Subsidiaries, in the reasonable determination of the Borrower, or are on terms, taken as a whole, that are not materially less favorable as might reasonably have been obtained at such time from an unaffiliated party;

(9) any transaction between or among the Borrower or any Restricted Subsidiary and any Person (other than an Unrestricted Subsidiary) that is an Affiliate of the Borrower or an Associate or similar entity solely because the Borrower or a Restricted Subsidiary or any Affiliate of the Borrower or a Restricted Subsidiary or any Affiliate of any Permitted Holder owns an equity interest in or otherwise controls such Affiliate, Associate or similar entity;

(10) any issuance, sale or transfer of Equity Interests (other than Disqualified Equity Interests) of the Borrower, any Parent Entity or any of its Restricted Subsidiaries or options, warrants or other rights to acquire such Equity Interests and the granting of registration and other customary rights (and the performance of the related obligations) in connection therewith or any contribution to capital of the Borrower or any Restricted Subsidiary;

(11) (a) payments by the Borrower or any Restricted Subsidiary (or distributions or dividends by the Borrower in lieu of such payments) to any Permitted Holder (whether directly or indirectly), including to its affiliates or its designees, of management, consulting, monitoring, refinancing, transaction, advisory, indemnities and other fees, costs and expenses (plus any unpaid management, consulting, monitoring, transaction, advisory, indemnities and other fees, costs and expenses accrued in any prior year) and any exit and termination fees (including any such cash lump sum or present value fee upon the consummation of a corporate event, including an initial public offering) pursuant to any management or similar agreements or the management or other relevant provisions in an investor rights agreement, limited partnership agreement, limited liability company agreement or other equityholders' agreement, as the case may be, with terms reasonably consistent with the terms of similar agreements entered into by similar financial sponsors and portfolio companies as reasonably determined by the Borrower or any Parent Entity on behalf of the Borrower at the time such management or similar agreement is entered into by the Sponsors and the Borrower or any Parent Entity and (b) payments by the Borrower or any Restricted Subsidiary to any Permitted Holder (whether directly or indirectly, including through any Parent Entity) for financial advisory, financing, underwriting or placement services or in respect of other investment banking activities, including in connection with acquisitions or divestitures, which payments are approved in the reasonable determination of the Borrower;

(12) payment to any Permitted Holder of all out of pocket expenses incurred by such Permitted Holder in connection with its direct or indirect investment in the Borrower and its Subsidiaries;

(13) transactions in which the Borrower or any Restricted Subsidiary, as the case may be, delivers to the Administrative Agent a letter from an Independent Financial Advisor stating that such transaction is fair to the Borrower or such Restricted Subsidiary from a financial point of view or meets the requirements of clause (1) of the preceding paragraph;

(14) the existence of, or the performance by the Borrower or any Restricted Subsidiary of its obligations under the terms of, any equityholders, investor rights or similar agreement (including any registration rights agreement or purchase agreements related thereto) to which it is party as of the Closing Date and any similar agreement that it (or any Parent Entity) may enter into thereafter; *provided* that the existence of, or the performance by the Borrower or any Restricted Subsidiary (or any Parent Entity) of its obligations under any future amendment to any such existing agreement or under any similar agreement entered into after the Closing Date will only be permitted under this clause to the extent that the terms of any such amendment or new agreement are not otherwise, when taken as a whole, more disadvantageous to the Lenders in any material respect in the reasonable determination of the Borrower than those in effect on the Closing Date;

(15) any purchases by the Borrower's Affiliates of Indebtedness or Disqualified Equity Interests of the Borrower or any of the Restricted Subsidiaries the majority of which Indebtedness or Disqualified Equity Interests is purchased by Persons who are not the Borrower's Affiliates; *provided* that such purchases by the Borrower's Affiliates are on the same terms as such purchases by such Persons who are not the Borrower's Affiliates;

(16) (i) investments by Affiliates in securities or loans of the Borrower or any of the Restricted Subsidiaries (and payment of reasonable out-of-pocket expenses incurred by such Affiliates in connection therewith) so long as the investment is being offered by the Borrower or such Restricted Subsidiary generally to other non-affiliated third party investors on the same or more favorable terms and (ii) payments to Affiliates in respect of securities or loans of the Borrower or any of the Restricted Subsidiaries contemplated in the foregoing subclause (i) or that were acquired from Persons other than the Borrower and its Restricted Subsidiaries, in each case, in accordance with the terms of such securities or loans;

(17) the entering into of any Tax sharing agreement or arrangement and payments made with respect thereto, in each case between or among the Borrower, any Parent Entity or its Subsidiaries; *provided* that, in each case the amount of such payments in any taxable year does not exceed the amount that the Borrower, its Restricted Subsidiaries and its Unrestricted Subsidiaries (to the extent of amounts actually received from the Unrestricted Subsidiaries) would be required to pay in respect of foreign, federal, state and local Taxes for such taxable year were the Borrower, its Restricted Subsidiaries and its Unrestricted Subsidiaries (to the extent of amounts actually received from the Unrestricted Subsidiaries) to pay such Taxes separately from any such Parent Entity;

(18) payments, Indebtedness and Disqualified Equity Interests (and cancellation of any thereof) of the Borrower and its Restricted Subsidiaries and preferred stock (and cancellation of any thereof) of any Restricted Subsidiary to any future, current or former employee, director, officer, manager, contractor, consultant or advisor (or their respective Controlled Investment Affiliates or Immediate Family Members) of the Borrower, any of its Subsidiaries or any of its Parent Entities pursuant to any management equity plan, stock option plan, phantom equity plan or any other management, employee benefit or other compensatory plan or agreement (and any successor plans or arrangements thereto), employment, termination or severance agreement, or any stock subscription or equityholder agreement with any such employee, director, officer, manager, contractor, consultant or advisor (or their respective Controlled Investment Affiliates or Immediate Family Members) that are, in each case, approved by the Borrower in good faith;

(19) any management equity plan, stock option plan, phantom equity plan or any other management, employee benefit or other compensatory plan or agreement (and any successor plans or arrangements thereto), employment, termination or severance agreement, or any stock subscription or equityholder agreement between the Borrower or its Restricted Subsidiaries and any distributor, employee, director, officer, manager, contractor, consultant or advisor (or their respective Controlled Investment Affiliates or Immediate Family Members) approved by the reasonable determination of the Borrower;

(20) any transition services arrangement, supply arrangement or similar arrangement entered into in connection with or in contemplation of the disposition of assets or Equity Interests in any Restricted Subsidiary permitted under Section 7.05 or entered into with any Business Successor, in each case, that the Borrower determines in good faith is either fair to the Borrower or otherwise on customary terms for such type of arrangements in connection with similar transactions;

(21) any lease entered into between the Borrower or any Restricted Subsidiary, as lessee, and any Affiliate of the Borrower (other than an Unrestricted Subsidiary), as lessor and any operational services or other arrangement entered into between the Borrower or any Restricted Subsidiary and any Affiliate of the Borrower (other than an Unrestricted Subsidiary), in each case, which is approved by the reasonable determination of the Borrower;

(22) the payment of fees, costs and expenses related to registration rights and indemnities provided to equityholders pursuant to equityholders, investor rights, registration rights or similar agreements; and

(23) any Reorganization Transaction, Permitted Intercompany Activities, Intercompany License Agreements or related transactions.

In addition, if the Borrower or any of its Restricted Subsidiaries (i) purchases or otherwise acquires assets or properties from a Person which is not an Affiliate, the purchase or acquisition by an Affiliate of the Borrower of an interest in all or a portion of the assets or properties acquired shall not be deemed an Affiliate Transaction (or cause such purchase or acquisition by the Borrower or a Restricted Subsidiary to be deemed an Affiliate Transaction) or (ii) sells or otherwise disposes of assets or other properties to a Person who is not an Affiliate, the sale or other disposition by an Affiliate of the Borrower of an interest in all or a portion of the assets or properties sold shall not be deemed an Affiliate Transaction (or cause such sale or other disposition by the Borrower or a Restricted Subsidiary to be deemed an Affiliate Transaction).

Section 6.19 Vessel Collateral and the 2024 Newbuild Vessels Covenants.

Each Shipowner covenants and agrees as follows with respect to any Vessel Collateral and the 2024 Newbuild Vessels owned by it:

(a) Jones Act Compliance. Each Shipowner owning Vessel Collateral consisting of a Jones Act Vessel covenants that it is now, and shall so remain until any Vessel Mortgage granted pursuant to this Agreement is discharged, (i) a citizen of the United States pursuant to Section 2(c) of the Shipping Act of 1916, as amended (46 USC § 50501 *et seq.*), and the regulations in effect thereunder from time to time, as amended, and (ii) qualified to own and operate such Vessel for so long as it is documented under the laws of the United States and in the coastwise trade of the United States pursuant to 46 U.S.C. §§ 12102 and 12103, and the regulations in effect thereunder from time to time, as amended.

(b) Operation of Vessels. Except as has not resulted in, or is not reasonably expected, individually or in the aggregate, to result in, a Material Adverse Effect, each Shipowner will not cause or permit its Vessels to be operated in any manner contrary to applicable law, engage in any unlawful trade or operations or violate any applicable law or carry any cargo, in the case of any of the foregoing, that will unreasonably expose such Vessel to penalty, confiscation, forfeiture, capture or condemnation, and will not do, or suffer or permit to be done, anything that can or may injuriously affect the registration of such Vessel under the laws and regulations of the United States of America or, if applicable, its eligibility to engage in the coastwise trade of the United States and will at all times keep each United States-flagged Jones Act Vessel (including, without limitation, the Closing Date Jones Act Vessels) duly documented under Chapter 121 of Title 46 of the United States Code, eligible for registry and the coastwise trade of the United States under Section 2(c) of the Shipping Act of 1916, as amended; *provided*, that the foregoing shall not prohibit, and the Shipowner may enter into, Permitted Reflagging Transactions.

(c) Taxes, fees, etc. Each Shipowner will pay and discharge or cause to be paid and discharged, prior to delinquency, all claims and demands in respect of, and all taxes, assessments, governmental charges, levies, fees, fines and penalties imposed on, its Vessel, cargoes owned by such Shipowner or any income or profits therefrom and all lawful claims which, if unpaid, might become a lien or charge upon such Vessel or any income therefrom not constituting a Permitted Lien; provided that such Shipowner shall not be required to pay any such claim, demand, fee, tax, assessment, charge, fine, levy or penalty (1) which is being contested in good faith by appropriate actions and for which the Shipowner has maintained adequate accruals in accordance with GAAP, and such Vessel shall not have been arrested or detained therefor or (2) to the extent failure to do so could not reasonably be expected to result in a Material Adverse Effect, *provided, further*, that such contest shall not subject such Vessel, or any part thereof, to forfeiture or loss.

(d) Liens. None of the Shipowners, any charterer, the Master of any of the Vessels or any other Person shall have any right, power or authority to, and none of the same shall create, incur or permit to be placed or imposed or continued upon any of the Vessels, its freights, profits or hire, any Lien whatsoever other than for crew wages not overdue, salvage, the lien of any Vessel Mortgage and other Permitted Liens.

(e) Notice of Mortgage. Each Shipowner will place, and at all times and places will retain, a copy of the relevant Vessel Mortgage (however evidenced, whether in physical or electronic form) on board each relevant Vessel with her papers and will cause such copy (however evidenced, whether in physical or electronic form) and each such Vessel's marine document to be exhibited to any and all persons having business therewith which might give rise to any lien thereon other than liens for crew wages and salvage, and to any representative of the Administrative Agent and will place and prominently display in the chart room and in the Master's cabin of each such Vessel a framed printed notice in plain type reading as follows:

“NOTICE OF MORTGAGE

This Vessel is owned by [] (the “Owner”) and is subject to an Amended and Restated First Preferred [Fleet / Vessel] Mortgage (the “**Mortgage**”) in favor of [WILMINGTON TRUST, NATIONAL ASSOCIATION], as Collateral Trustee and Mortgagee. Under the terms of said Mortgage, neither the Owner, any charterer, the Master of this Vessel nor any other person has any right, power or authority to create, incur or permit to be imposed upon this Vessel any other lien whatsoever except Permitted Liens (as defined in the Mortgage).”

(f) Libel or Attachment. If a libel or complaint is filed against any of the Vessels *in rem* by virtue of any legal proceeding in any court or by a government or other authority, the relevant Shipowner will promptly notify the Administrative Agent thereof by facsimile as appropriate, confirmed by letter, at its address, as specified in Section 11.02, and within thirty (30) days of any arrest arising out of such libel or complaint, or fifteen (15) days after the request of the Administrative Agent (in each case, or by such later date as the Administrative Agent may agree to in its sole discretion), will cause such Vessel to be released and all Liens thereon (other than Permitted Liens) to be discharged and will promptly notify the Administrative Agent thereof in the manner aforesaid. In the event that the Shipowner does not appear in such action by filing a claim of owner or similar pleading within such thirty (30) day period (or such longer period) or otherwise provide replacement Vessel Collateral acceptable to the Administrative Agent in accordance with this Agreement, the relevant Shipowner does hereby authorize and empower the Administrative Agent, in the name of such Shipowner, or their successors or assigns, to apply for and receive possession of and to take possession of such Vessel (or authorize and empower the Administrative Agent to direct the Collateral Trustee to apply for and receive possession of and to take possession of such Vessel) with all the rights and powers that the Shipowner, or their successors or assigns, might have, possess or exercise in any such event; and this power of attorney shall be irrevocable and may be exercised not only by the Administrative Agent (or by the Collateral Trustee at the direction of the Administrative Agent) but also by any one such appointee or the appointees of the Administrative Agent, (or the Collateral Trustee) with full power of substitution, to the same extent as if the said appointee or appointees had been named as one of the attorneys above named by express designation. The relevant Shipowner will notify the Administrative Agent in writing within three (3) Business Days (or by such later date as the Administrative Agent may agree to in its sole discretion) after it has become known to the chief executive officer, the chief operating officer or the chief financial officer of the relevant Shipowner of any arrest, detention, average or salvage incurred by any of the Vessels.

(g) Maintenance of Vessel.

(i) Except while any Vessel constituting Vessel Collateral is undergoing repairs or maintenance or is a Stacked Vessel, the relevant Shipowner will keep each Vessel, or cause it to be kept in such condition as will entitle it to at least the current classification and rating for each Vessel in the American Bureau of Shipping, or other classification society of like standing, if such certification is applicable, with no overdue conditions or recommendations affecting any such Vessel's classification, except where the failure to do so, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect. Except for any Vessel that is stacked or in lay up, each Shipowner shall furnish annually, upon request by the Administrative Agent, a certificate from the American Bureau of Shipping or other applicable classification society confirming that such classification has been maintained.

(ii) Except where the failure to do so, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect, each Shipowner will make all necessary repairs, renewals, betterments and improvements necessary to keep its Vessels, insofar as due diligence can make them so, well maintained and in seaworthy condition, except while any such Vessel is undergoing repairs, maintenance or is stacked or in lay up.

(iii) Each Vessel which is a U.S. flag Vessel shall, and each relevant Shipowner covenants that it will, at all times comply in all material respects with all applicable laws, and all treaties and covenants to which the United States of America is a party, and rules and regulations issued thereunder, and shall have on board, when required, valid certificates required thereby, except where the failure to do so, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect.

(iv) No Shipowner will make, or permit to be made, any substantial change in the structure, rig or type of any Vessels that would be reasonably likely to materially diminish the value of the Vessel Collateral or the 2024 Newbuild Vessels, as a whole, without first receiving the written consent of the Administrative Agent, which consent shall not be unreasonably similarly, conditioned or delayed; *provided*, that any Shipowner may move or otherwise change the assets and other equipment from any of the Vessels to another Vessel (including to a Vessel owned by another direct or indirect Subsidiary of Borrower and including, for the avoidance of doubt, Excluded Vessels).

(h) Inspection; Attorney in Fact.

(i) Subject to the terms of Section 6.10, each Shipowner will at all reasonable times afford the Administrative Agent or its authorized representatives, in each case, to the extent such Person has agreed to and executed a vessel boarding agreement in form and substance reasonably satisfactory to the Borrower at their risk and expense full and complete access to each Vessel during normal business hours for the purpose of inspecting such Vessel and its papers, and such Shipowner will deliver for inspection copies of such contracts and documents relating to such Vessel, whether on board or not, as the Administrative Agent may request, *provided, however*, that (i) non-public information obtained by the Administrative Agent pursuant to any Loan Document concerning such Shipowner, any Vessel, any other assets of such Shipowner or such Shipowner's financial condition and prospects shall be kept confidential by the Administrative Agent in accordance with Section 11.08 (subject to the exceptions contained therein), and (ii) any inspection of any Vessel and its papers shall be subject to the requirements of any operators of such Vessel and any applicable Governmental Authority.

(ii) Each Shipowner hereby appoints the Administrative Agent as attorney-in-fact of the Shipowner to appear before governmental bodies, classification societies and insurers and to demand and receive to the same extent that such Shipowner itself might, all information and certificates respecting (i) the corporate status of such Shipowner under the laws of its jurisdiction of incorporation or any other jurisdiction in which it may have qualified to do business, (ii) the status of each Vessel under the laws and regulations of its country of registration and its compliance with the requirements thereof, and (iii) the state of the records of each Vessel or of the relevant Shipowner in respect of each Vessel in any classification society with which the Vessel may be classed or of any company, association or club by whom any Vessel or the relevant Shipowner in respect of any Vessel may be insured; and each Shipowner hereby agrees that the Administrative Agent may execute its powers as attorney-in-fact as aforesaid through its agents, representatives and attorneys, provided however, that, it is a condition of this power of attorney that the Administrative Agent may not act on the strength of this power of attorney unless an Event of Default has occurred and is continuing. This power of attorney is coupled with an interest and shall be irrevocable as long as the Obligations remain outstanding.

(i) Chartering. Except as permitted herein, no Shipowner will charter or similarly dispose of all or any part of any of the Vessels other than pursuant to agreements in the ordinary course of business or pursuant to agreements that would not materially diminish the value of the Vessel Collateral or the 2024 Newbuild Vessels, as a whole. The Borrower shall use commercially reasonable efforts to cause, or shall cause the applicable Shipowner to use commercially reasonable efforts to cause, any charter of a 2024 Newbuild Vessels to be subject and subordinate to the Vessel Mortgage covering such 2024 Newbuild Vessel.

(j) Insurances.

(i) Types and Coverage. Following the Closing Date, each Shipowner shall maintain required vessel insurances as consistent with past practice and as further described on Schedule 6.19(j).

(ii) [Reserved].

(k) Reimbursement. Each Shipowner will reimburse the Administrative Agent promptly, for any and all expenditures which the Administrative Agent may, from time to time, make, lay out or expend in providing such protection in respect of insurance, discharge or purchase of liens, taxes, dues, assessments, governmental charges, fines and penalties lawfully imposed (other than income, franchise or similar Taxes of the Collateral Trustee or its affiliates), repairs, attorneys' fees, translation fees for documents made in a language other than English and other matters as such Shipowner is obligated herein to provide, but fails to provide. Such obligation of such Shipowner to reimburse the Administrative Agent shall be an additional indebtedness due from the Shipowner, secured by the relevant Vessel Mortgage, and shall be payable by such Shipowner promptly upon presentation of documentation in form and detail consistent with the requirements under Section 11.08. The Administrative Agent, though privileged so to do, shall be under no obligation to the relevant Shipowner to make any such expenditures, nor shall the making thereof relieve such Shipowner of any default in that respect.

(l) Further Assurances. In the event that this Agreement or any provision hereof shall be deemed invalidated in whole or in part by reason of any present or future law or any decision of any authoritative court, or if the documents at any time held by the Administrative Agent or Collateral Trustee shall be deemed by the Administrative Agent for any reason insufficient to carry out the true intent and spirit of any Vessel Mortgage, then from time to time, the relevant Shipowner will execute, on its own behalf, such other and further assurances and documents as in the reasonable opinion of the Administrative Agent may be required more effectively to subject each relevant Vessel to the payment of the Obligations, as in the Vessel Mortgage provided, and the performance of the terms and provisions of the Vessel Mortgage and this Agreement.

(m) Intellectual Property. Excluding any Intellectual Property solely relating to the brand or branding of the Borrower or the Shipowners, the Shipowners shall at all times from and after the Closing Date own or have rights under applicable licenses, proprietary software, and other intellectual property used in or necessary for the conduct of their respective businesses as currently conducted (including, without limitation, the ownership and operation of the Vessels constituting Vessel Collateral) and no such license, proprietary software or other intellectual property shall be subject to restrictions on sale or assignment that would prevent any subsequent owner of any such Vessel constituting Vessel Collateral from operating such Vessel as any such Vessel is currently operated as of the Closing Date, except, in each case, where any such failure would not reasonably be expected to materially and adversely affect the operation of the Vessel.

(n) [Reserved].

(o) Ship Recycling. In the event that a Restricted Subsidiary undertakes to dismantle a Vessel (or to sell such Vessel with the intention of it being dismantled) to the extent permitted under the Loan Documents, the Restricted Subsidiary must comply with the Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships, 2009 and/or the EU Ship Recycling Regulations, 2013.

Section 6.20 Most Favored Lender Status. In the event that following the Closing Date, the Borrower or any of its Restricted Subsidiaries shall enter into any First Lien RCF Credit Agreement Refinancing Indebtedness (or shall modify the First Lien RCF Credit Agreement or any of the Loan Documents (as defined therein) related thereto) granting a Lien on additional collateral not covered by the Collateral Documents or shall agree to any additional financial reporting requirements, the terms of this Agreement shall, without any further action on the part of the Borrower, the Administrative Agent or the Lenders be deemed to be amended automatically to include each such additional collateral and financial reporting requirements contained in such instruments or agreements. The Borrower further covenants to promptly execute and deliver (and to cause its applicable Restricted Subsidiaries to execute and deliver) at the Borrower's expense (including the fees and expenses of the Administrative Agent's, Collateral Trustee's and/or each Lender's counsel) an amendment to this Agreement and such additional Collateral Documents, in each case, in form and substance satisfactory to the Administrative Agent evidencing the amendment of this Agreement to include the granting of a Lien on such additional collateral or the addition of such additional financial reporting requirements, *provided* that the execution and delivery of such amendment shall not be a precondition to the effectiveness of such amendment as provided for in this Section 6.20, but shall merely be for the convenience of the parties hereto.

ARTICLE VII

NEGATIVE COVENANTS

From the Closing Date until the principal of and interest on each Loan and all fees payable hereunder and all other amounts payable under the Loan Documents shall have been paid in full, the Borrower shall not, nor shall the Borrower permit any Restricted Subsidiary to:

Section 7.01 Liens. Create, incur, assume or suffer to exist any Lien upon any of its property, assets or revenues, whether now owned or hereafter acquired, that secures Indebtedness other than the following:

- (a) Liens securing obligations in respect of any Loan and any other Obligations and any Refinancing Indebtedness in respect of the foregoing;
- (b) Liens securing obligations under the First Lien RCF Credit Agreement and any First Lien RCF Credit Agreement Refinancing Indebtedness thereof;
- (c) Liens existing on the Closing Date (other than Liens incurred under Sections 7.01(a) and 7.01(b)) and listed on Schedule 7.01(c) hereto, together with any Liens securing any Refinancing Indebtedness of any Indebtedness secured by such Liens;
- (d) pledges, deposits or Liens (a) in connection with workmen's compensation laws, payroll Taxes, unemployment insurance laws, employers' health Tax and other social security laws or similar legislation or other insurance related obligations (including in respect of deductibles, self-insured retention amounts and premiums and adjustments thereto), (b) securing liability, reimbursement or indemnification obligations of (including obligations in respect of letters of credit or bank guarantees or similar instruments) for the benefit of insurance carriers under insurance or self-insurance arrangements or otherwise supporting the payments of items set forth in the foregoing clause (a), or (c) in connection with bids, tenders, completion guarantees, contracts, leases, utilities, licenses, public or statutory obligations, or to secure the performance of bids, trade contracts, government contracts and leases, statutory obligations, surety, stay, indemnity, warranty, release, judgment, customs, appeal, performance bonds, guarantees of government contracts, return of money bonds, bankers' acceptance facilities and obligations of a similar nature (including those to secure health, safety and environmental obligations), and obligations in respect of letters of credit, bank guarantees or similar instruments that have been posted to support the same, or as security for contested Taxes or import or customs duties or for the payment of rent, or other obligations of like nature, in each case incurred in the ordinary course of business or consistent with past practice;

(e) Liens with respect to outstanding motor vehicle fines and Liens imposed by law or regulation, including carriers', warehousemen's, mechanics', landlords', suppliers', materialmen's, repairmen's, architects', construction contractors' or other similar Liens, in each case for amounts not overdue for a period of more than sixty (60) days or, if more than sixty (60) days overdue, are unfiled and no other action has been taken to enforce such Liens or that are being contested in good faith by appropriate proceedings, provided that appropriate reserves required pursuant to GAAP have been made in respect thereof;

(f) Liens for Taxes, assessments or other governmental charges that are not overdue for a period of more than sixty (60) days or not yet payable or subject to penalties for nonpayment or that are being contested in good faith by appropriate proceedings; provided that appropriate reserves required pursuant to GAAP have been made in respect thereof, or for property Taxes on property of the Borrower or one of its Subsidiaries has determined to abandon if the sole recourse for such Tax is to such property;

(g) [reserved];

(h) Liens (i) securing Hedge Agreements, Cash Management Obligations and the costs thereof; (ii) that are rights of set-off, rights of pledge or other bankers' Liens (x) relating to treasury, depository and cash management services or any automated clearing house transfers of funds in the ordinary course of business or consistent with past practice, (y) relating to pooled deposit or sweep accounts to permit satisfaction of overdraft or similar obligations incurred in the ordinary course of business of the Borrower or any Subsidiary or consistent with past practice or (z) relating to purchase orders and other agreements entered into with customers of the Borrower or any Restricted Subsidiary in the ordinary course of business or consistent with past practice; (iii) on cash accounts securing Indebtedness and other obligations that do not constitute Specified Debt; (iv) encumbering reasonable customary initial deposits and margin deposits and similar Liens attaching to commodity trading accounts or other brokerage accounts incurred in the ordinary course of business or consistent with past practice and not for speculative purposes; and (v)(A) of a collection bank arising under Section 4-210 of the UCC or any comparable or successor provision on items in the course of collection and (B) in favor of a banking or other financial institution or electronic payment service providers arising as a matter of law encumbering deposits (including the right of set-off) arising in the ordinary course of business in connection with the maintenance of such accounts and (C) arising under customary general terms and conditions of the account bank in relation to any bank account maintained with such bank and attaching only to such account and the products and proceeds thereof, which Liens, in any event, do not secure any Indebtedness;

(i) leases, licenses, subleases and sublicenses of assets (including real property, intellectual property, software and other technology rights), in each case entered into in the ordinary course of business, consistent with past practice or, with respect to intellectual property, software and other technology rights, that are not material to the conduct of the business of the Borrower and its Restricted Subsidiaries, taken as a whole;

(j) Liens securing or otherwise arising out of judgments, decrees, attachments, orders or awards not giving rise to an Event of Default under Section 9.01(g);

(k) Liens (a) securing Capitalized Leases, or Purchase Money Obligations, or securing the payment of all or a part of the purchase price of, or securing Indebtedness or other obligations incurred to finance or refinance the acquisition, improvement or construction of, assets or property acquired or constructed in the ordinary course of business; provided that (i) the aggregate principal amount of Indebtedness secured by such Liens is otherwise permitted to be incurred under this Agreement and (ii) any such Liens may not extend to any assets or property of the Borrower or any Restricted Subsidiary other than assets and property affixed or appurtenant thereto and accessions, additions, improvements, proceeds, dividends or distributions thereof, including after-acquired property that is (A) affixed or incorporated into the property or assets covered by such Lien, (B) after-acquired property or assets subject to a Lien securing such Indebtedness, the terms of which Indebtedness require or include a pledge of after-acquired property or assets and (C) the proceeds and products thereof and (b) any interest or title of a lessor, sublessor, franchisor, licensor or sublicensor or secured by a lessor's, sublessor's, franchisor's, licensor's or sublicensor's interest under any Capitalized Lease Obligations or Non-Financing Lease Obligations;

(l) Liens arising from UCC financing statements, including precautionary financing statements (or similar filings) regarding operating leases or consignments entered into by the Borrower and its Restricted Subsidiaries;

(m) Liens on property, other assets or shares of stock of a Person at the time such Person becomes a Subsidiary (or at the time the Borrower or a Subsidiary acquires such property, other assets or shares of stock, including any acquisition by means of a merger, amalgamation, consolidation or other business combination transaction with or into the Borrower or any Restricted Subsidiary); provided, however, that such Liens are not created in anticipation of such other Person becoming a Subsidiary (or such acquisition of such property, other assets or stock); provided, further, that such Liens are limited to all or part of the same property, other assets or stock (plus property and assets affixed or appurtenant thereto and additions, improvements, accessions, proceeds, dividends or distributions thereof, including after-acquired property that is (i) affixed or incorporated into the property or assets covered by such Lien, (ii) after-acquired property or assets subject to a Lien securing such Indebtedness, the terms of which Indebtedness require or include a pledge of after-acquired property or assets and (iii) the proceeds and products thereof) that secured (or, under the written arrangements under which such Liens arose, could secure) the obligations relating to any Indebtedness or other obligations to which such Liens relate;

(n) Liens in favor of the Collateral Trustee;

(o) Liens securing any Refinancing Indebtedness incurred to refinance Indebtedness that was previously so secured, and permitted to be secured under this Agreement (other than Section 7.01(a)); provided that any such Lien is limited to all or part of the same property or assets (plus property and assets affixed or appurtenant thereto and additions, improvements, accessions, proceeds, dividends or distributions thereof, including after-acquired property that is (i) affixed or incorporated into the property or assets covered by such Lien, (ii) after-acquired property or assets subject to a Lien securing such Indebtedness, the terms of which Indebtedness require or include a pledge of after-acquired property or assets and (iii) the proceeds and products thereof) that secured (or, under the written arrangements under which the original Lien arose, could secure) the obligations relating to the Indebtedness or other obligations being refinanced or is in respect of property or assets that is or could be the security for or subject to a Permitted Lien hereunder;

(p) (i) mortgages, liens, security interests, restrictions, encumbrances or any other matters of record that have been placed by any government, statutory or regulatory authority, developer, landlord or other third party on property over which the Borrower or any Restricted Subsidiary has easement rights or on any leased property and subordination or similar arrangements relating thereto and (ii) any condemnation or eminent domain proceedings affecting any real property;

(q) any encumbrance or restriction (including put and call arrangements) with respect to Equity Interests of any joint venture securing financing arrangement, joint venture or similar arrangement pursuant to any joint venture securing financing agreement, joint venture or similar agreement;

(r) Liens on property or assets under construction (and related rights) in favor of a contractor or developer or arising from progress or partial payments by a third party relating to such property or assets;

(s) Liens arising out of conditional sale, title retention, hire purchase, consignment or similar arrangements for the sale or purchase of goods entered into in the ordinary course of business or consistent with past practice;

(t) Liens securing Indebtedness and other obligations in connection with encumbrances, charges, ground leases, easements (including reciprocal easement agreements), survey exceptions, restrictions, encroachments, protrusions, by-law, regulation, zoning restrictions or reservations of, or rights of others for, licenses, rights of way, servitudes, sewers, electric lines, drains, telegraph, telephone and cable television lines and other similar purposes, or zoning, building codes or other restrictions (including minor defects and irregularities in title and similar encumbrances) as to the use of real properties, exceptions on title policies insuring Liens granted on any mortgaged properties or any other collateral or Liens incidental to the conduct of the business of such Person or to the ownership of its properties, including servicing agreements, development agreements, site plan agreements, subdivision agreements, facilities sharing agreements, cost sharing agreements and other similar agreements, charges or encumbrances, which do not in the aggregate materially interfere with the ordinary course conduct of the business of the Borrower and its Restricted Subsidiaries, taken as a whole; *provided* that such Liens shall only be permitted if such Liens are limited to all or part of the same property or assets, including Equity Interests (plus property and assets affixed or appurtenant thereto and additions, improvements, accessions, proceeds, dividends or distributions thereof, including after-acquired property that is (i) affixed or incorporated into the property or assets covered by such Lien, (ii) after-acquired property or assets subject to a Lien securing such Indebtedness, the terms of which Indebtedness require or include a pledge of after-acquired property or assets and (iii) the proceeds and products thereof) acquired, or of any Person acquired or merged, consolidated or amalgamated with or into the Borrower or any Restricted Subsidiary, in any transaction to which such Indebtedness or other obligation relates;

(u) Liens on Equity Interests or other securities or assets of any Unrestricted Subsidiary that secure Indebtedness or other obligations of such Unrestricted Subsidiary;

(v) Liens deemed to exist in connection with Investments permitted under clause (e) of the definition of “Cash Equivalents”;

(w) Liens on (i) goods the purchase price of which is financed by a documentary letter of credit issued for the account of the Borrower or any Subsidiary or Liens on bills of lading, drafts or other documents of title arising by operation of law or pursuant to the standard terms of agreements relating to letters of credit, bank guarantees and other similar instruments and (ii) specific items of inventory or other goods and proceeds of any Person securing such Person’s obligations in respect of bankers’ acceptances or documentary letters of credit issued or created for the account of such Person to facilitate the purchase, shipment or storage of such inventory or other goods;

(x) Liens on vehicles or equipment of the Borrower or any Restricted Subsidiary in the ordinary course of business or consistent with past practice;

(y) Liens on assets or securities deemed to arise in connection with and solely as a result of the execution, delivery or performance of contracts to sell such assets or securities if such sale is otherwise not prohibited by this Agreement;

(z) (a) Liens on insurance policies and the proceeds thereof securing the financing of the premiums with respect thereto (but excluding any Liens on any insurance policies insuring the Vessel Collateral and the proceeds of such policies), and (b) Liens, pledges, deposits made or other security provided to secure liabilities to, or indemnification obligations of (including obligations in respect of letters of credit or bank guarantees for the benefits of), insurance carriers in the ordinary course of business or consistent with past practice;

(aa) Liens solely on any cash earned money deposits made in connection with any letter of intent or purchase agreement permitted under this Agreement;

(bb) Liens (i) on cash advances or escrow deposits in favor of the seller of any property to be acquired in an Investment permitted under this Agreement to be applied against the purchase price for such Investment or otherwise in connection with any escrow arrangements with respect to any such Investment (including any letter of intent or purchase agreement with respect to such Investment), and (ii) consisting of an agreement to sell, transfer, lease or otherwise dispose of any property in an asset sale, in each case, solely to the extent such Investment or sale, transfer, lease or other disposition, as the case may be, would have been permitted on the date of the creation of such Lien;

(cc) Liens securing Indebtedness and other obligations in an aggregate principal amount not to exceed at any time outstanding \$50.0 million;

(dd) Liens then existing with respect to assets of an Unrestricted Subsidiary on the day such Unrestricted Subsidiary is redesignated as a Restricted Subsidiary pursuant to Section 6.13;

(ee) [reserved];

(ff) Settlement Liens;

(gg) rights of recapture of unused real property in favor of the seller of such property set forth in customary purchase agreements and related arrangements with any government, statutory or regulatory authority;

(hh) the rights reserved to or vested in any Person or government, statutory or regulatory authority by the terms of any lease, license, franchise, grant or permit held by the Borrower or any Restricted Subsidiary or by a statutory provision, to terminate any such lease, license, franchise, grant or permit, or to require annual or periodic payments as a condition to the continuance thereof;

(ii) restrictive covenants affecting the use to which real property may be put and Liens or covenants restricting or prohibiting access to or from lands abutting on controlled access highways or covenants affecting the use to which lands may be put; provided that such Liens or covenants do not interfere with the ordinary conduct of the business of the Borrower or any Restricted Subsidiary;

(jj) Liens on property, assets or Permitted Investments used to defease or to satisfy or discharge Indebtedness; *provided* that such defeasance, satisfaction or discharge is not prohibited by this Agreement;

(kk) Liens relating to escrow arrangements securing Indebtedness, including (i) Liens on escrowed proceeds from the issuance of Indebtedness for the benefit of the related holders of debt securities or other Indebtedness (or the underwriters, arrangers, trustee or collateral agent thereof) and (ii) Liens on cash or Cash Equivalents set aside at the time of the incurrence of any Indebtedness, in either case to the extent such cash or Cash Equivalents prefund the payment of interest or premium or discount on such Indebtedness (or any costs related to the issuance of such Indebtedness) and are held in an escrow account or similar arrangement to be applied for such purpose;

(ll) Liens on assets securing any Indebtedness owed to any Captive Insurance Subsidiary by the Borrower or any Restricted Subsidiary;

(mm) Liens for the benefit of Borrower or any Restricted Subsidiary arising in connection with any Permitted Intercompany Activities and related transactions;

(nn) Permitted Maritime Liens; and

(oo) Liens on Vessels under or to be under construction (including, without limitation, liens granted to Builder pursuant to the Construction Contracts and materialmans' liens, suppliers' liens, mechanics' liens and other similar Liens arising by operation of law (but excluding any voluntary Liens granted to any other Person) in the case of the 2024 Newbuild Vessels) or conversion or otherwise not constituting Collateral and assets related thereto (including cash and Cash Equivalents held in one or more Excluded Accounts constituting the proceeds of any financing described under this clause (oo) or that are earmarked to fund such construction or conversion and costs and expenses ancillary thereto, including any downpayments in respect thereof ("**Subsidized Indebtedness Specified Cash**")) securing government or quasi-government provided, supported, guaranteed or subsidized Indebtedness in an aggregate principal amount not to exceed (i) in the case of Liens on Vessels registered under the laws and flag of the United States, the greater of \$40 million and an amount equal to 5% of the Borrower's Consolidated Net Tangible Assets as determined as of the end of the Borrower's most recently completed fiscal quarter for which internal financial statements are available and (ii) in the case of any Vessel not registered under the laws and flag of the United States, an amount equal to 75% of the aggregate cost and expenses associated with or otherwise anticipated by the Borrower to be incurred in connection with such acquisition, construction or conversion.

For purposes of determining compliance with this Section 7.01, in the event that any Lien (or any portion thereof) meets the criteria of more than one of the categories set forth above, the Borrower may, in their sole discretion, at the time of incurrence, divide, classify or reclassify, or at any later time divide, classify or reclassify, such Lien (or any portion thereof) in any manner that complies with this covenant on the date such Lien is incurred or such later time, as applicable. For the avoidance of doubt, a Lien may be reclassified at a time subsequent to the time it was originally incurred, so long as such Lien would have been able to have been incurred at the time of such reclassification pursuant to the provision to which such Lien is being reclassified.

Notwithstanding the foregoing, neither the Borrower nor any Restricted Subsidiary shall permit any Lien to exist on (x) Excluded Foreign Flag Vessels or (y) in the case of a FSHCO, a Foreign Subsidiary or a Restricted Subsidiary of any FSHCO or Foreign Subsidiary (in each case, which is not a Guarantor), any assets or properties thereof, which Liens are securing Indebtedness for Borrowed Money, excluding (i) Liens arising as a matter of law, (ii) Liens securing Purchase Money Obligations or Capitalized Lease Obligations, (iii) Liens securing Acquired Indebtedness, (iv) Liens securing insurance financings in respect of the financing of insurance premiums, (v) Liens securing Indebtedness incurred pursuant to Section 7.03(r), (vi) Liens which are not a mortgage Lien which secure Intercompany Indebtedness, and (vii) any permitted refinancings of each of the foregoing.

Notwithstanding the foregoing, neither the Borrower nor any Restricted Subsidiary (including any Guarantor) shall permit any Liens on any of the Vessel Collateral other than Liens permitted by Sections 7.01(a), (b), (f), and (nn), in each case, without the prior written consent of the Required Lenders.

Section 7.02 [Reserved].

Section 7.03 Indebtedness. Create, incur or assume any Specified Debt (including Acquired Indebtedness) other than the following Specified Debt (collectively, “**Permitted Debt**”):

(a) Specified Debt incurred under the Loan Documents;

(b) First Lien Indebtedness incurred by the Borrower or any Guarantor in an aggregate principal amount not to exceed \$125,000,000 at any time outstanding;

(c) Specified Debt existing on the Closing Date together with guarantee obligations thereunder (other than Specified Debt under the Existing Second Lien Term Loan Agreement, which Specified Debt is to be repaid and terminated in full with the Loans) and listed on Schedule 7.03(c) hereto and any Refinancing Indebtedness thereof;

(d) Guarantees by the Borrower or any Restricted Subsidiary of Specified Debt of the Borrower or any Restricted Subsidiary so long as the incurrence of such Specified Debt guaranteed pursuant hereto was not prohibited by the terms of this Agreement at the time it was incurred and, with respect to non-Guarantor Restricted Subsidiaries, could have been incurred by a non-Guarantor Restricted Subsidiary;

(e) [reserved];

(i) [reserved];

(ii) [reserved];

(f) Specified Debt of (x) the Borrower or any Restricted Subsidiary incurred or issued to finance an acquisition of equity interests or tangible assets of any Person on an arm’s length basis (“**Permitted Acquisition Indebtedness**”) or Investment or (y) Persons that are acquired by the Borrower or any Restricted Subsidiary or merged into, amalgamated or consolidated with the Borrower or a Restricted Subsidiary in accordance with the terms of this Agreement (including designating an Unrestricted Subsidiary as a Restricted Subsidiary); *provided* that at the time of such acquisition, merger, amalgamation or consolidation and after giving pro forma effect to the incurrence of such Specified Debt the Fixed Charge Coverage Ratio of the Borrower and its Restricted Subsidiaries would not be lower than it was immediately prior to such acquisition, merger, amalgamation or consolidation;

and in the case of the incurrence of Permitted Acquisition Indebtedness,

(x) the Lenders shall have been given an opportunity to finance such acquisition prior to the incurrence of such Permitted Acquisition Indebtedness in favor of any other party; and

(y) (1) if the Loans do not have a loan issue credit rating from S&P, Moody's or Fitch or if the Loans have a loan issue credit rating of less than BB- by S&P or Fitch or less than Ba3 by Moody's, such Permitted Acquisition Indebtedness would not increase Borrower's Total Net Leverage Ratio (after giving Pro Forma Effect to such Permitted Acquisition Indebtedness) above 2.5 to 1.0 nor decrease the Borrower's Fixed Charge Coverage Ratio below 1.5 to 1.0 or (2) if the Borrower obtains a loan issue credit rating on the Loans of BB- or higher by S&P or Fitch or Ba3 or higher by Moody's, the incurrence of such Permitted Acquisition Indebtedness would not be reasonably expected to reduce the Borrower's loan issue credit rating below BB- (by S&P or Fitch) or Ba3 (by Moody's).

(g) [reserved];

(h) Specified Debt represented by Capitalized Leases or purchase money obligations or Sale Leaseback Transactions, in each case not involving any Vessel Collateral in an aggregate outstanding principal amount which when taken together with the principal amount of all other Specified Debt incurred pursuant to this clause (h) and then outstanding, does not exceed \$25.0 million, and any Refinancing, Indebtedness in respect thereof;

(i) [reserved];

(j) [reserved];

(k) [reserved];

(l) [reserved];

(m) [reserved];

(n) [reserved];

(o) [reserved];

(p) [reserved];

(q) [reserved];

(r) other Specified Debt secured by Excluded Foreign Flag Vessels and related assets (but, not, for the avoidance of doubt, Vessel Collateral) in an aggregate outstanding principal amount which, when taken together with the principal amount of all other Specified Debt incurred pursuant to this clause (r) and then outstanding, does not exceed \$50.0 million, and any Refinancing Indebtedness in respect thereof;

(s) other Specified Debt not otherwise described in clauses (a) through (s) above in an aggregate outstanding principal amount which, when taken together with the principal amount of all other Specified Debt incurred pursuant to this clause (s) and then outstanding, does not exceed \$50.0 million, and any Refinancing Indebtedness in respect thereof; and

(t) to the extent constituting Specified Debt, all premiums (if any), interest (including post-petition interest), fees, expenses, charges and additional or contingent interest on obligations described in clauses (a) through (s) above.

For purposes of determining compliance with, and the outstanding principal amount of any particular Indebtedness incurred pursuant to and in compliance with, this covenant:

(1) in the event that all or any portion of any item of Indebtedness meets the criteria of more than one of the types of Permitted Debt, the Borrower, in its sole discretion, will classify, and may from time to time reclassify, such item of Indebtedness (or any portion thereof) and only be required to include the amount and type of such Indebtedness in the applicable Permitted Debt category;

(2) additionally, all or any portion of any item of Indebtedness may later be reclassified as having been incurred pursuant to any type of Indebtedness described as Permitted Debt so long as such Indebtedness is permitted to be incurred pursuant to such provision and any related Liens are permitted to be incurred at the time of reclassification;

(3) all outstanding Obligations shall be incurred under Section 7.03(a);

(4) in the case of any Refinancing Indebtedness and First Lien RCF Credit Agreement Refinancing Indebtedness, when measuring the outstanding amount of such Indebtedness, such amount shall not include the aggregate amount of accrued and unpaid interest, dividends, premiums (including tender premiums), defeasance costs, underwriting discounts, fees, costs and expenses (including original issue discount, upfront fees or similar fees) in connection with such refinancing;

(5) Guarantees of, or obligations in respect of letters of credit, bankers' acceptances or other similar instruments relating to, or Liens securing, Indebtedness that is otherwise included in the determination of a particular amount of Indebtedness shall not be included;

(6) [reserved];

(7) the principal amount of any Disqualified Equity Interests of the Borrower or a Restricted Subsidiary, or Preferred Stock of any Restricted Subsidiary, will be equal to the greater of the maximum mandatory redemption or repurchase price (not including, in either case, any redemption or repurchase premium) or the liquidation preference thereof;

(8) Specified Debt permitted by this Section 7.03 need not be permitted solely by reference to one provision permitting such Specified Debt but may be permitted in part by one such provision and in part by one or more other provisions of this Section 7.03 permitting such Specified Debt;

(9) for purposes of calculating ratio-based baskets and pro forma compliance with the Financial Covenants, as applicable, in connection with the incurrence, issuance or assumption of any Specified Debt pursuant to the Permitted Debt clauses above or the incurrence or creation of any Lien pursuant to Section 7.01, the Borrower may elect, at its option, to treat all or any portion of the committed amount of any Specified Debt (and the issuance and creation of letters of credit and bankers' acceptances thereunder) which is to be incurred (or any commitment in respect thereof) or secured by such Lien, as the case may be (any such committed amount elected until revoked as described below, the "**Reserved Indebtedness Amount**"), as being incurred as of such election date, and, if such ratio-based basket, Financial Covenant or other provision of this Agreement, as applicable, is complied with (or satisfied) with respect thereto on such election date, any subsequent borrowing or reborrowing thereunder (and the issuance and creation of letters of credit and bankers' acceptances thereunder) will be deemed to be permitted under this Section 7.03 or Section 7.01, as applicable, whether or not the ratio-based basket or pro forma compliance with the Financial Covenant, as applicable, at the actual time of any subsequent borrowing or reborrowing (or issuance or creation of letters of credit or bankers' acceptances thereunder) is complied with (or satisfied) for all purposes (including as to the absence of any continuing Default or Event of Default); *provided* that for purposes of subsequent calculations of the applicable ratio-based basket or Financial Covenant (including testing of the Financial Covenants pursuant to Section 8.01), as applicable, the Reserved Indebtedness Amount shall be deemed to be outstanding, whether or not such amount is actually outstanding, for so long as such commitments are outstanding or until the Borrower revokes an election of a Reserved Indebtedness Amount;

(10) [reserved];

(11) [reserved];

(12) the amount of Specified Debt issued at a price that is less than the principal amount thereof will be equal to the amount of the liability in respect thereof determined in accordance with GAAP; and

(13) [reserved].

Notwithstanding the foregoing:

(A) none of the Borrower nor any of its Restricted Subsidiaries may incur Material Indebtedness constituting Specified Debt under this Section 7.03 (or amend, modify or supplement the terms of any such Material Indebtedness) if such Specified Debt has (or, as a result of such amendment, modification or supplement, would have) a final stated maturity date any earlier than ninety-one (91) days after the Maturity Date; *provided, however*, that this paragraph shall not apply to (i) First Lien Debt, (ii) Purchase Money Obligations and Capitalized Lease Obligations (in each case, for *bona fide* equipment, vehicle or similar asset-specific financings as determined in good faith by a Responsible Officer), (iii) Acquired Indebtedness or (iv) insurance financings in respect of the financing of insurance premiums, (v) Intercompany Indebtedness, (vi) government or quasi-government provided, supported, guaranteed or subsidized financings or (vii) Refinancing Indebtedness in respect of any of the foregoing.

(B) no Excluded Subsidiary which is a FSHCO, a Foreign Subsidiary or a Restricted Subsidiary of any FSHCO or Foreign Subsidiary (unless such Subsidiary has become a Guarantor) shall be permitted to incur Indebtedness for Borrowed Money (excluding (i) Purchase Money Obligations and Capitalized Lease Obligations, (ii) Acquired Indebtedness, (iii) insurance financings in respect of the financing of insurance premiums, (iv) Specified Debt permitted pursuant to Section 7.03(r), (v) government or quasi-government provided, supported, guaranteed or subsidized financings, (vi) Indebtedness under the First Lien RCF Credit Agreement or, to the extent permitted thereunder, constituting First Lien RCF Credit Agreement Refinancing Indebtedness or (vii) Refinancing Indebtedness in respect of any of the foregoing), unless such Excluded Subsidiary is or becomes a Guarantor at the time of incurring such Indebtedness and would otherwise be permitted to incur such Indebtedness under this Agreement.

(C) neither the Borrower nor any Restricted Subsidiary shall incur any Specified Debt that is secured by a Lien on the Vessel Collateral (other than Permitted Maritime Liens and Indebtedness under the First Lien RCF Credit Agreement or First Lien RCF Credit Agreement Refinancing Indebtedness), in each case, without the prior written consent of all Lenders.

For purposes of determining compliance with this Section 7.03, in the event that an item of Specified Debt (or any portion thereof) meets the criteria of more than one of the categories set forth above, the Borrower may, in its sole discretion, at the time of incurrence, divide, classify or reclassify, or at any later time divide, classify or reclassify, such item of Specified Debt (or any portion thereof) in any manner that complies with this covenant on the date such Specified Debt is incurred or such later time, as applicable; *provided* that all Specified Debt created pursuant to the Loan Documents will be deemed to have been incurred in reliance on the exception in clause (a) above and will not be permitted to be reclassified pursuant to this paragraph; *provided, further*, all or any portion of any item of Indebtedness may later be reclassified as having been incurred pursuant to any type of Indebtedness described in clause (a) of this covenant so long as such Specified Debt is permitted to be incurred pursuant to such provision and any related Liens are permitted to be incurred at the time of reclassification. In the case of any Refinancing Indebtedness or First Lien RCF Credit Agreement Refinancing Indebtedness, when measuring the outstanding amount of such Specified Debt, such amount shall not include the aggregate amount of accrued and unpaid interest, dividends, premiums (including tender premiums), defeasance costs, underwriting discounts, fees, costs and expenses (including original issue discount, upfront fees or similar fees) in connection with such refinancing. The principal amount of any Disqualified Equity Interests of the Borrower or a Restricted Subsidiary, or preferred stock of any Restricted Subsidiary, will be equal to the greater of the maximum mandatory redemption or repurchase price (not including, in either case, any redemption or repurchase premium) or the liquidation preference thereof.

Specified Debt permitted by this covenant need not be permitted solely by reference to one provision permitting such Specified Debt but may be permitted in part by one such provision and in part by one or more other provisions of this covenant permitting such Specified Debt.

For purposes of determining compliance with any Dollar-denominated restriction on the incurrence of Specified Debt, the Dollar equivalent principal amount of Specified Debt denominated in a foreign currency shall be calculated based on the relevant currency exchange rate in effect on the date such Specified Debt was incurred, in the case of term debt, or first committed, in the case of revolving credit debt; provided that if such Specified Debt is incurred to refinance other Specified Debt denominated in a foreign currency, and such refinancing would cause the applicable Dollar-denominated restriction to be exceeded if calculated at the relevant currency exchange rate in effect on the date of such refinancing, such Dollar-denominated restriction shall be deemed not to have been exceeded so long as the principal amount of such refinancing Specified Debt does not exceed (a) the principal amount of such Specified Debt being refinanced *plus* (b) the aggregate amount of accrued and unpaid interest, dividends, premiums (including tender premiums), defeasance costs, underwriting discounts, fees, costs and expenses (including original issue discount, upfront fees or similar fees) in connection with such refinancing.

Notwithstanding any other provision of this covenant, the maximum amount of Specified Debt that the Borrower or a Restricted Subsidiary may incur pursuant to this covenant shall not be deemed to be exceeded solely as a result of fluctuations in the exchange rate of currencies. The principal amount of any Specified Debt incurred to refinance other Specified Debt, if incurred in a different currency from the Specified Debt being refinanced, shall be calculated based on the currency exchange rate applicable to the currencies in which such respective Specified Debt is denominated that is in effect on the date of such refinancing.

The accrual of interest and the accretion of accreted value and the payment of interest in the form of additional Specified Debt shall not be deemed to be an incurrence of Specified Debt for purposes of this Section 7.03. The principal amount of any non-interest bearing Specified Debt or other discount security constituting Specified Debt at any date shall be the principal amount thereof that would be shown on a balance sheet of the Borrower dated such date prepared in accordance with GAAP.

Section 7.04 Fundamental Changes.

(a) With respect to the Borrower, consolidate with or merge with or into, or convey, transfer or lease all or substantially all of its assets in one transaction or a series of related transactions, to any Person, unless:

(i) (A) the Borrower is the surviving Person or (B) in the event of any Permitted Change of Control consummated through a merger transaction, if the Borrower is not the surviving Person, (v) the surviving Person is a customary merger sub entity (the “**Successor Company**”) organized or existing under the laws of the United States of America, any State of the United States or the District of Columbia or any territory thereof, (w) the Successor Company expressly assumes all the obligations of the Borrower under the Loans and this Agreement pursuant to customary documents; (x) the Guarantors have reaffirmed their guarantees of the Obligations and the Successor Company and Guarantors have reaffirmed the lien granted in the Collateral securing the Obligations pursuant to customary documents; (y) the surviving Person (whether the Borrower or the Successor Company) shall be a citizen of the United States pursuant to Section 2(c) of the Shipping Act of 1916, as amended (46 USC § 50501 *et seq.*), and the regulations in effect thereunder from time to time, as amended; and (z) the Successor Company shall satisfy the Administrative Agent’s customary KYC requirements (such satisfaction not to be unreasonably withheld, conditioned or delayed);

(ii) immediately after giving effect to such transaction, no Event of Default shall have occurred and be continuing;

(iii) other than in the case of a Permitted Change of Control consummated pursuant to a merger, immediately after giving pro forma effect to such transaction, the Fixed Charge Coverage Ratio of the Borrower, as applicable, and its Restricted Subsidiaries would not be lower than it was immediately prior to giving effect to such transaction;

(iv) the Borrower shall have delivered to the Administrative Agent an officer's certificate stating that such consolidation, merger or transfer and such supplemental indenture and other documents or instruments (if any) comply with this Agreement and Collateral Documents; and

(v) to the extent any assets of the Person which is merged or consolidated with or into the Borrower are assets of the type which would constitute Collateral under the Collateral Documents, the Borrower will take such action, if any, as may be reasonably necessary to cause such property and assets to be made subject to the Lien of the applicable Collateral Documents in the manner and to the extent required in this Agreement or the applicable Collateral Documents and shall take all reasonably necessary action so that such Lien is perfected to the extent required by the applicable Collateral Documents.

Notwithstanding any other provision of this covenant, (a) the foregoing shall not prohibit any sale of all or substantially all of the Borrower's assets that constitutes a Change of Control (or would constitute a Change of Control but for the second proviso in clause (b) of the definition thereof) so long as the Borrower makes a prepayment in accordance with Section 9.01(j), (b) the Borrower may consolidate or otherwise combine with, merge into or transfer all or part of its properties and assets to a Guarantor, (c) the Borrower may consolidate or otherwise combine with or merge into an Affiliate organized or existing under the laws of the United States of America, any State of the United States or the District of Columbia incorporated or organized for the purpose of changing the legal domicile of the Borrower, reincorporating the Borrower in another jurisdiction, or changing the legal form of the Borrower, (d) any Restricted Subsidiary may consolidate or otherwise combine with, merge into or transfer all or part of its properties and assets to the Borrower or a Guarantor, (e) any Restricted Subsidiary may consolidate or otherwise combine with, merge into or transfer all or part of its properties and assets to any other Restricted Subsidiary and (f) the Borrower and its Restricted Subsidiaries may complete any Reorganization Transaction.

Notwithstanding anything herein to the contrary, in the event of any merger, amalgamation, dissolution, liquidation, consolidation, amalgamation or Division of any Loan Party or a Restricted Subsidiary effected in accordance with this Section 7.04, the Borrower shall (x) promptly deliver or cause to be delivered to the Administrative Agent for further distribution by the Administrative Agent to each Lender (1) such information and documentation reasonably requested by the Administrative Agent or any Lender in order to comply with applicable “know your customer” and anti-money laundering rules and regulations, including the USA PATRIOT Act and (2) a Beneficial Ownership Certification and (y) do, execute, acknowledge, deliver, record, re-record, file, re-file, register, re-register, publish and re-publish any and all such further acts, deeds, certificates, assurances and other instruments as the Administrative Agent or Collateral Trustee may reasonably request in order to perfect or continue the perfection of the Liens granted or purported to be granted by the Collateral Documents in accordance with Section 6.11 and as promptly as practicable.

(b) With respect to the Guarantors, subject to certain limitations described in this Agreement governing release of a Guarantee upon the sale, disposition or transfer of a Guarantor, consolidate with or merge with or into, or convey, transfer or lease all or substantially all its assets, in one or a series of related transactions, to any Person, unless:

(i) Pursuant to such transaction:

(A) the other Person is the Borrower or any Restricted Subsidiary that is a Guarantor or becomes a Guarantor concurrently with the transaction; or either (x) the Borrower or a Guarantor is the continuing Person or (y) the resulting, surviving or transferee Person (the “**Successor Person**”) expressly assumes all the obligations of the Guarantor under its Guaranty and this Agreement;

(B) immediately after giving effect to the transaction, no Event of Default shall have occurred and be continuing; and

(C) to the extent any assets of the Person which is merged, consolidated or amalgamated with or into such Guarantor are assets of the type which would constitute Collateral under the Collateral Documents, such Guarantor or the Successor Person will take such action, if any, as may be reasonably necessary to cause such property and assets to be made subject to the Lien of the applicable Collateral Documents in the manner and to the extent required in this Agreement or the applicable Collateral Documents and shall take all reasonably necessary action so that such Lien is perfected to the extent required by the applicable Collateral Documents; or

(ii) the transaction constitutes a sale, disposition or transfer of the Guarantor or the conveyance, transfer or lease of all or substantially all of the assets of the Guarantor (in each case other than to the Borrower or a Restricted Subsidiary) otherwise not prohibited by this Agreement.

Notwithstanding any other provision of this covenant, (A) the foregoing shall not prohibit any sale of all or substantially all of any Guarantor's assets that constitutes a Change of Control (or would constitute a Change of Control but for the second proviso in clause (b) of the definition thereof) so long as the Borrower makes a prepayment in accordance with Section 9.01(j) and (B) any Guarantor may (a) consolidate or otherwise combine with, merge into or transfer all or part of its properties and assets to another Guarantor or the Borrower, (b) consolidate or otherwise combine with or merge into an Affiliate incorporated or organized for the purpose of changing the legal domicile of the Guarantor, reincorporating the Guarantor in another jurisdiction, or changing the legal form of the Guarantor, (c) convert into a corporation, partnership, limited partnership, limited liability company or trust organized or existing under the laws of the jurisdiction of organization of such Guarantor, (d) liquidate or dissolve or change its legal form if the Borrower determines in good faith that such action is in the best interests of the Borrower and (e) complete any Reorganization Transaction. Notwithstanding anything to the contrary in this covenant, the Borrower may contribute Equity Interests of any or all of its Subsidiaries to any Guarantor.

Any reference herein to a merger, consolidation, amalgamation, assignment, sale, disposition or transfer, or similar term, shall be deemed to apply to a division of or by a limited liability company, limited partnership or trust, or an allocation of assets to a series of a limited liability company, limited partnership or trust (or the unwinding of such a division or allocation), as if it were a merger, consolidation, amalgamation, assignment, sale, disposition or transfer, or similar term, as applicable, to, of or with a separate Person. Any division of a limited liability company, limited partnership or trust shall constitute a separate Person hereunder (and each division of any limited liability company, limited partnership or trust that is a Subsidiary, Restricted Subsidiary, Unrestricted Subsidiary, joint venture or any other like term shall also constitute such a Person or entity).

Section 7.05 Dispositions. Make any Disposition, unless:

(a) the Borrower or such Restricted Subsidiary, as the case may be, receives consideration (including by way of relief from, or by any other Person assuming responsibility for, any liabilities, contingent or otherwise) at least equal to the Fair Market Value (such Fair Market Value to be determined on the date of contractually agreeing to such Disposition), as determined in good faith by the Borrower, of the shares and assets subject to such Disposition (including, for the avoidance of doubt, if such Disposition is a Permitted Asset Swap);

(b) in any such Disposition, or series of related Dispositions (except to the extent the Disposition is a Permitted Asset Swap), at least 75% of the consideration from such Disposition, together with all other Dispositions since the Closing Date (on a cumulative basis), (including by way of relief from, or by any other Person assuming responsibility for, any liabilities, contingent or otherwise) received by the Borrower or such Restricted Subsidiary, as the case may be, is in the form of cash or Cash Equivalents; and

(c) with respect to any Disposition of Vessel Collateral, (i) no Event of Default has occurred and is continuing and (ii) the Borrower shall either (x) designate a Substitute Vessel (or Substitute Vessels) with a Vessel Collateral Value Amount equal to or greater than the Vessel Collateral Value Amount for such Vessel so Disposed pursuant to the terms in Section 2.03(f) hereof, (y) pay to the Administrative Agent (for the benefit of the Lenders) an amount equal to the Release Value of such Vessel so Disposed, plus the applicable Prepayment Fee on the amount so paid to the Administrative Agent or (z) do a combination of clauses (y) and (x) such that the Payment Percentage and Substitution Percentage equal to at least 100%.

For the purposes of clause (b) of this Section 7.05, the following will be deemed to be cash:

- (1) the assumption by the transferee of Indebtedness or other liabilities, contingent or otherwise, of the Borrower or a Restricted Subsidiary (other than any Junior Financing of the Borrower or a Guarantor) or the release of the Borrower or such Restricted Subsidiary from all liability on such Indebtedness or other liability in connection with such Disposition;
- (2) securities, notes or other obligations received by the Borrower or any Restricted Subsidiary from the transferee that are converted by the Borrower or such Restricted Subsidiary into cash or Cash Equivalents, or by their terms are required to be satisfied for cash and Cash Equivalents (to the extent of the cash or Cash Equivalents received), in each case, within one hundred eighty (180) days following the closing of such Disposition;
- (3) Indebtedness of any Restricted Subsidiary that is no longer a Restricted Subsidiary as a result of such Disposition, to the extent that the Borrower and each other Restricted Subsidiary are released from any Guarantee of payment of such Indebtedness in connection with such Disposition;
- (4) consideration consisting of Indebtedness of the Borrower or a Restricted Subsidiary (other than any Subordinated Indebtedness) received after the Closing Date from Persons who are not the Borrower or any Restricted Subsidiary; and
- (5) any Designated Non-Cash Consideration received by the Borrower or any Restricted Subsidiary in such Dispositions having an aggregate Fair Market Value, taken together with all other Designated Non-Cash Consideration received pursuant to this clause that is at that time outstanding, not to exceed the greater of (i) \$10.0 million and (ii) an amount equal to 1.25% of the Borrower's Consolidated Net Tangible Assets determined as of the end of the Borrower's most recently completed fiscal quarter for which internal financial statements are available (the "**Applicable Proceeds Threshold Amount**"), with the Fair Market Value of each item of Designated Non-Cash Consideration being measured at the time received and without giving effect to subsequent changes in value.

To the extent any Collateral is Disposed of as expressly permitted by this Section 7.05 or the definition of “Disposition” to any Person other than a Loan Party, such Collateral shall be sold free and clear of the Liens created by the Loan Documents, and, without limiting the provisions of Section 10.11, the Administrative Agent and the Collateral Trustee shall be authorized to, and shall, take any actions reasonably requested by the Borrower in order to effect the foregoing (and the Lenders hereby authorize and direct the Administrative Agent and the Collateral Trustee to conclusively rely on any such certification by the Borrower in performing its obligations under this sentence).

Section 7.06 Restricted Payments.

(a) Declare or pay any dividend or make any distribution on or in respect of the Borrower’s or any Restricted Subsidiary’s Equity Interests (including any such payment in connection with any merger or consolidation involving the Borrower or any of the Restricted Subsidiaries) except:

(i) dividends, payments or distributions payable to the Borrower or a Restricted Subsidiary (and, in the case of any such Restricted Subsidiary making such dividend or distribution, to holders of its Equity Interests other than the Borrower or another Restricted Subsidiary on no more than a pro rata basis), and;

(ii) dividends, payments or distributions payable in Equity Interests of the Borrower (other than Disqualified Equity Interests) or in options, warrants or other rights to purchase such Equity Interests of the Borrower;

(b) Purchase, repurchase, redeem, retire or otherwise acquire or retire for value any Equity Interests of the Borrower or any Parent Entity held by Persons other than the Borrower or a Restricted Subsidiary;

(c) Make any Junior Debt Repayment (other than a Permitted Junior Debt Repayment); or

(d) Make any Restricted Investment;

any such dividend, distribution, payment, purchase, redemption, repurchase, defeasance, other acquisition, retirement or Restricted Investment referred to in clauses (a) through (d) above are referred to herein as a “**Restricted Payment**”, if at the time the Borrower or such Restricted Subsidiary makes such Restricted Payment:

(i) an Event of Default shall have occurred and be continuing (or would immediately thereafter result therefrom); or

(ii) [reserved]; or

(iii) the Borrower would not be in pro forma compliance with the Financial Covenants upon giving effect thereto; or

(iv) [reserved]; or

(v) the aggregate amount of such Restricted Payment and all other Restricted Payments made subsequent to the Closing Date (and not returned or rescinded), but excluding any Permitted Payments and all other Restricted Payments permitted by the next succeeding paragraph would exceed the sum of (without duplication) (the “**Available Amount**”):

(A) 50% of Consolidated Net Income for the period (treated as one accounting period) beginning July 1, 2024 to the end of the most recent fiscal quarter ending prior to the date of such Restricted Payment for which consolidated financial statements are available (which may, at the Borrower’s election, be internal financial statements);

(B) 100% of the aggregate amount of cash, and the Fair Market Value of property or assets or marketable securities, received by the Borrower from the issue or sale of its Equity Interests (including, for the avoidance of doubt, any proceeds of an issuance or sale of Equity Interests in connection with or following a public offering of common stock, common equity interests or Jones Act Warrants) or as the result of a merger or consolidation with another Person subsequent to the Closing Date or otherwise contributed to the equity (in each case other than through the issuance of Disqualified Equity Interests) of the Borrower or a Restricted Subsidiary (including the aggregate principal amount of any Indebtedness of the Borrower or a Restricted Subsidiary contributed to the Borrower or a Restricted Subsidiary for cancellation) or that becomes part of the capital of the Borrower or a Restricted Subsidiary through consolidation or merger subsequent to the Closing Date (other than (x) net cash proceeds or property or assets or marketable securities received from an issuance or sale of such Equity Interests to a Restricted Subsidiary or an employee stock ownership plan or trust established by a Parent Entity, the Borrower or any Subsidiary of the Borrower for the benefit of their employees to the extent funded by the Borrower or any Restricted Subsidiary and (y) cash or property or assets or marketable securities to the extent that any Restricted Payment has been made from such proceeds in reliance on clause (6) of the next succeeding paragraph);

(C) 100% of the aggregate amount of cash, and the Fair Market Value of property or assets or marketable securities, received by the Borrower or any Restricted Subsidiary from the issuance or sale (other than to the Borrower or a Restricted Subsidiary or an employee stock ownership plan or trust established by a Parent Entity, the Borrower or any Subsidiary of the Borrower for the benefit of their employees to the extent funded by the Borrower or any Restricted Subsidiary) by the Borrower or any Restricted Subsidiary subsequent to the Closing Date of any Indebtedness or Disqualified Equity Interests that has been converted into or exchanged for Equity Interests of the Borrower (other than Disqualified Equity Interests) plus, without duplication, the amount of any cash, and the Fair Market Value of property or assets or marketable securities, received by the Borrower or any Restricted Subsidiary upon such conversion or exchange;

(D) 100% of the aggregate amount received in cash and the Fair Market Value, as determined in good faith by the Borrower, of marketable securities or other property received by means of: (i) the sale or other disposition (other than to the Borrower or a Restricted Subsidiary) of, or other returns on Investment from, Restricted Investments made by the Borrower or the Restricted Subsidiaries and repurchases and redemptions of, or cash distributions or cash interest received in respect of, such Investments from the Borrower or the Restricted Subsidiaries and repayments of loans or advances, and releases of guarantees, which constitute Restricted Investments by the Borrower or the Restricted Subsidiaries, in each case after the Closing Date; or (ii) the sale or other disposition (other than to the Borrower or a Restricted Subsidiary) of the Equity Interests of an Unrestricted Subsidiary or a dividend, payment or distribution from an Unrestricted Subsidiary (other than to the extent of the amount of the Investment that constituted a Permitted Investment or was made under clause (13) of the definition of "Permitted Payments" and will increase the amount available under the applicable clause of the definition of "Permitted Investment" or clause (13) of the definition of "Permitted Payments", as the case may be) or a dividend from a Person that is not a Restricted Subsidiary after the Closing Date;

(E) in the case of the redesignation of an Unrestricted Subsidiary as a Restricted Subsidiary or the merger, amalgamation or consolidation of an Unrestricted Subsidiary into the Borrower or a Restricted Subsidiary or the transfer of all or substantially all of the assets of an Unrestricted Subsidiary to the Borrower or a Restricted Subsidiary after the Closing Date, the Fair Market Value of the Investment in such Unrestricted Subsidiary (or the assets transferred), as determined in good faith by the Borrower at the time of the redesignation of such Unrestricted Subsidiary as a Restricted Subsidiary or at the time of such merger, amalgamation or consolidation or transfer of assets (after taking into consideration any Indebtedness associated with the Unrestricted Subsidiary so designated or merged, amalgamated or consolidated or Indebtedness associated with the assets so transferred), other than to the extent of the amount of the Investment that constituted a Permitted Investment or was made under clause (13) of the definition of "Permitted Payments" and will increase the amount available under the applicable clause of the definition of "Permitted Investment" or clause (13) of the definition of "Permitted Payments" as the case may be; and

The foregoing provisions shall not prohibit or otherwise restrict any Permitted Payment. Notwithstanding anything to the contrary contained herein or in any other provision of this Agreement or in any other Loan Document, in no event shall the Borrower or any Restricted Subsidiary be prohibited or restricted from repurchasing any Equity Interests (including any common stock, common equity interests or Jones Act Warrants or the issuance of any Jones Act Notes) of Borrower or any Restricted Subsidiary or to make a Restricted Payment or any other payment consisting of dividends, payments or distributions payable to the holders of Equity Interests (including any common stock, common equity interests or Jones Act Warrants or the issuance of any Jones Act Notes) of the Borrower or any Restricted Subsidiary as long as after giving Pro Forma Effect to such purchase or the making of any such dividend, payment or distribution, (i) (a) if the Loans do not have a loan issue rating from S&P, Moody's or Fitch or (b) if the Loans have a loan issue credit rating of less than BB- by S&P or Fitch or less than Ba3 by Moody's, the Borrower's Total Net Leverage Ratio would not be greater than 2.5 to 1.0 and the Borrower's Fixed Charge Coverage Ratio would not be less than 1.5 to 1.0 or (ii) if the Borrower obtains a loan issue credit rating on the Loans of BB- or higher by S&P or Fitch or Ba3 or higher by Moody's, the loan issue credit rating of the Loans would not be reasonably expected to decrease below BB- (by S&P or Fitch) or Ba3 (by Moody's).

The amount of any Investments, Permitted Payments, Junior Debt Repayments and other transactions permitted under this Section 7.06 at any time shall be the amount of cash and the Fair Market Value of other property subject to the Investments, Permitted Payments, Junior Debt Repayments or other transaction at the time payment is made. For purposes of determining compliance with this Section 7.06, in the event that any Investments, Permitted Payments, Junior Debt Repayments and other transactions permitted under Section 7.06 (or any portion of such payment made) meets the criteria of more than one of the categories set forth above, the Borrower may, in its sole discretion, at the time such Investments, Permitted Payments, Junior Debt Repayments and other transaction permitted under Section 7.06 is paid, divide, classify or reclassify, or at any later time divide, classify, or reclassify, such payment (or any portion thereof) in any manner that complies with this covenant on the date such payment is made or such later time, as applicable.

For the avoidance of doubt, a Restricted Payment, Investment or Junior Debt Repayment (or portion thereof) may be reclassified at a time subsequent to the time it was originally made, so long as such Restricted Payment, Investment or Junior Debt Repayment (or portion thereof) would have been able to have been made at the time of such reclassification pursuant to the provision to which such Restricted Payment, Investment or Junior Debt Repayment (or portion thereof) is being reclassified.

The amount of all Restricted Payments (other than cash) shall be the Fair Market Value on the date of such Restricted Payment of the asset(s) or securities proposed to be paid, transferred or issued by the Borrower or such Restricted Subsidiary, as the case may be, pursuant to such Restricted Payment. The Fair Market Value of any cash Restricted Payment shall be its face amount, and the Fair Market Value of any non-cash Restricted Payment, property or assets other than cash shall be determined conclusively by the Borrower acting in good faith.

Unrestricted Subsidiaries may use value transferred from the Borrower and its Restricted Subsidiaries in a Permitted Investment to purchase or otherwise acquire Indebtedness or Equity Interests of the Borrower, any Parent Entity or any of the Borrower's Restricted Subsidiaries, and to transfer value to the holders of the Equity Interests of the Borrower or any Restricted Subsidiary or any Parent Entity and to Affiliates thereof, and such purchase, acquisition, or transfer will not be deemed to be a "direct or indirect" action by the Borrower or its Restricted Subsidiaries.

If the Borrower or a Restricted Subsidiary makes a Restricted Payment which at the time of the making of such Restricted Payment would in the good faith determination of the Borrower be permitted under the provisions of this Agreement, such Restricted Payment shall be deemed to have been made in compliance with this Agreement notwithstanding any subsequent adjustments made in good faith to the Borrower's financial statements affecting Consolidated Net Income, Consolidated Adjusted EBITDA or Consolidated Net Tangible Assets of the Borrower for any period.

Section 7.07 [Reserved].

Section 7.08 Negative Pledge. Create or otherwise cause or permit to exist or become effective any consensual encumbrance or consensual restriction on the ability of any Restricted Subsidiary to:

(a) pay dividends or make any other distributions in cash or otherwise on its Equity Interests or pay any Indebtedness or other obligations owed to the Borrower or any Restricted Subsidiary;

(b) make any loans or advances to the Borrower or any Restricted Subsidiary; or

(c) sell, lease or transfer any of its property or assets to the Borrower or any Restricted Subsidiary; *provided* that (x) the priority of any preferred stock in receiving dividends or liquidating distributions prior to dividends or liquidating distributions being paid on common stock or Jones Act Warrants and (y) the subordination of (including the application of any standstill requirements to) loans or advances made to the Borrower or any Restricted Subsidiary to other Indebtedness incurred by the Borrower or any Restricted Subsidiary shall not be deemed to constitute such an encumbrance or restriction.

provided that this Section 7.08 shall not prohibit:

(i) any encumbrance or restriction pursuant to this Agreement or any other agreement or instrument, in each case, in effect at or entered into on the Closing Date;

(ii) any encumbrance or restriction pursuant to the Loan Documents;

(iii) any encumbrance or restriction pursuant to applicable law, rule, regulation or order;

(iv) any encumbrance or restriction pursuant to an agreement or instrument of a Person or relating to any Equity Interests or Indebtedness of a Person, entered into on or before the date on which such Person was acquired by or merged, consolidated or otherwise combined with or into the Borrower or any Restricted Subsidiary, or was designated as a Restricted Subsidiary or on which such agreement or instrument is assumed by the Borrower or any Restricted Subsidiary in connection with an acquisition of assets (other than Equity Interests or Indebtedness incurred as consideration in, or to provide all or any portion of the funds utilized to consummate, the transaction or series of related transactions pursuant to which such Person became a Restricted Subsidiary or was acquired by the Borrower or a Restricted Subsidiary or was merged, consolidated or otherwise combined with or into the Borrower or any Restricted Subsidiary or entered into in contemplation of or in connection with such transaction) and outstanding on such date;

(v) any encumbrance or restriction:

(A) that restricts in a customary manner the subletting, assignment or transfer of any property or asset that is subject to a lease, license or similar contract or agreement, or the assignment or transfer of any lease, license or other contract or agreement;

(B) contained in mortgages, pledges, charges or other security agreements permitted under this Agreement or securing Indebtedness of the Borrower or a Restricted Subsidiary permitted under this Agreement to the extent such encumbrances or restrictions restrict the transfer or encumbrance of the property or assets subject to such mortgages, pledges, charges or other security agreements;

(C) contained in any trading, netting, operating, construction, service, supply, purchase, sale or other agreement to which the Borrower or any of its Restricted Subsidiaries is a party entered into in the ordinary course of business or consistent with past practice; *provided* that such agreement prohibits the encumbrance of solely the property or assets of the Borrower or such Restricted Subsidiary that are subject to such agreement, the payment rights arising thereunder or the proceeds thereof and does not extend to any other asset or property of the Borrower or such Restricted Subsidiary or the assets or property of another Restricted Subsidiary; or

(D) pursuant to customary provisions restricting dispositions of real property interests set forth in any reciprocal easement agreements of the Borrower or any Restricted Subsidiary;

(vi) any encumbrance or restriction pursuant to Purchase Money Obligations and Capitalized Leases permitted under this Agreement, in each case, that impose encumbrances or restrictions on the property so acquired;

(vii) any encumbrance or restriction imposed pursuant to an agreement entered into for the direct or indirect sale or disposition to a Person of all or substantially all the Equity Interests or assets of the Borrower or any Restricted Subsidiary (or the property or assets that are subject to such restriction) pending the closing of such sale or disposition;

(viii) customary provisions in leases, licenses, equityholder agreements, joint venture agreements, organizational documents and other similar agreements and instruments;

(ix) encumbrances or restrictions arising or existing by reason of applicable law or any applicable rule, regulation or order, or required by any regulatory authority;

(x) any encumbrance or restriction on cash or other deposits or net worth imposed by customers under agreements entered into in the ordinary course of business or consistent with past practice;

(xi) any encumbrance or restriction pursuant to Hedge Agreements;

(xii) other Indebtedness of Foreign Subsidiaries permitted to be incurred or issued subsequent to the Closing Date pursuant to Section 7.03 that impose restrictions solely on the Foreign Subsidiaries party thereto or their Subsidiaries;

(xiii) [reserved];

(xiv) any encumbrance or restriction arising pursuant to an agreement or instrument relating to any Indebtedness permitted to be incurred subsequent to the Closing Date pursuant to Section 7.03 if the encumbrances and restrictions contained in any such agreement or instrument (i) taken as a whole, are not materially less favorable to the Lenders than the encumbrances and restrictions contained in this Agreement, together with the other Loan Documents, as in effect on the Closing Date, (ii) at the time of entry into such agreement or instrument, are determined by the Borrower in good faith to not adversely affect, in any material respect, the Borrower's ability to make principal or interest payments on the Loans or (iii) apply only during the continuance of a default in respect of a payment relating to such agreement or instrument;

(xv) any encumbrance or restriction existing by reason of any Lien permitted under Section 7.01; or

(xvi) any encumbrance or restriction pursuant to an agreement or instrument effecting a refinancing of Indebtedness incurred pursuant to, or that otherwise refinances, an agreement or instrument referred to in the clauses above or this clause (an "**Initial Agreement**") or contained in any amendment, supplement or other modification to an agreement referred to in the clauses above or this clause; *provided, however*, that the encumbrances and restrictions with respect to such Restricted Subsidiary contained in any such agreement or instrument (i) are no less favorable in any material respect to the Lenders taken as a whole than the encumbrances and restrictions contained in the Initial Agreement or Initial Agreements to which such refinancing or amendment, supplement or other modification relates (as determined in good faith by the Borrower) or (ii) are determined by the Borrower in good faith, at the time of entering into such refinancing, amendment, supplement or other modification, will not adversely affect, in any material respect, the Borrower's ability to make principal or interest payments on the Loans.

Section 7.09 Junior Debt Prepayments. Prepay, repay, redeem, repurchase, defease or otherwise acquire or satisfy prior to the date that is one year before the scheduled maturity thereof any principal amount in respect of a Junior Financing (any such prepayment, repayment, redemption, purchase, defeasance or satisfaction, a “**Junior Debt Repayment**”), except (each of the following, a “**Permitted Junior Debt Repayment**”):

(i) Junior Debt Repayments with the proceeds of, or in exchange for, any Junior Financing or Junior Debt permitted hereunder;

(ii) Junior Debt Repayments (A) made with Qualified Equity Interests of the Borrower or any Parent Entity, with the proceeds of an issuance of any such Equity Interests or with the proceeds of a contribution to the capital of the Borrower after the Closing Date or (B) consisting of the conversion of any Junior Financing Equity Interest;

(iii) Junior Debt Repayment of Indebtedness of the Borrower or any Restricted Subsidiary owed to the Borrower or a Restricted Subsidiary;

(iv) [reserved];

(v) Junior Debt Repayments within sixty (60) days of giving notice thereof if at the date of such notice, such payment would have been permitted hereunder;

(vi) [reserved];

(vii) Junior Debt Repayments consisting of the payment of regularly scheduled interest (including at the default rate) and principal payments, payments of fees, expenses, penalty interest and indemnification obligations in connection with Indebtedness permitted under Section 7.03 when due, other than payments prohibited by any applicable subordination provisions;

(viii) Junior Debt Repayments consisting of a payment to avoid the application of Section 163(e)(5) of the Code;

(ix) [reserved];

(x) any such purchase, repurchase, redemption, defeasance or other acquisition or retirement in anticipation of satisfying a sinking fund obligation, principal installment or final maturity, in each case, due within one year of the date of purchase, repurchase, redemption, defeasance or other acquisition or retirement;

(xi) any such purchase, repurchase, redemption, defeasance or other acquisition or retirement for value of any Indebtedness owing to the Borrower or a Guarantor;

(xii) Junior Debt Repayments in connection with any Conversion Settlement;

(xiii) [reserved];

(xiv) [reserved];

(xv) Junior Debt Repayments of Jones Act Notes; and

(xvi) The amount of any Junior Debt Repayment at any time shall be the amount of cash and the Fair Market Value of other property used to make the Junior Debt Repayment at the time such Junior Debt Repayment is made. For purposes of determining compliance with this Section 7.09(a), in the event that any prepayment, repayment, redemption, purchase, defeasance or satisfaction (or any portion thereof) meets the criteria of more than one of the categories set forth above, the Borrower may, in their sole discretion, at the time of such prepayment, repayment, redemption, purchase, defeasance or satisfaction is made, divide, classify, or reclassify, or at any later time divide, classify or reclassify, such prepayment, repayment, redemption, purchase, defeasance or satisfaction (or any portion thereof) in any manner that complies with this covenant on the date it was made or such later time, as applicable.

ARTICLE VIII

FINANCIAL COVENANT

Until the Commitments have expired or terminated and the principal of and interest on each Loan and all fees payable hereunder and all other amounts payable under the Loan Documents shall have been paid in full, the Borrower and each of the Restricted Subsidiaries covenant and agree that:

Section 8.01 Financial Covenants.

(a) [Reserved].

(b) [Reserved].

(c) [Reserved].

(d) Minimum Liquidity. Commencing with the Test Period ending on the last day of the first full fiscal quarter ended after the Closing Date, the Borrower shall not permit the Liquidity on the last day of each Test Period (each such date, a “**Measurement Date**”) to be less than \$25,000,000.

ARTICLE IX

EVENTS OF DEFAULT AND REMEDIES

Section 9.01 Events of Default. Each of the events referred to in clauses (a) through (j) of this Section 9.01 constitutes an “**Event of Default**”:

(a) Non-Payment. Any Loan Party fails to pay (i) when and as required to be paid pursuant to the terms of this Agreement, any amount of principal or interest of any Loan or any applicable Prepayment Fee, or (ii) within five (5) Business Days after the same becomes due, any fee or reimbursement obligation or other amount payable pursuant to the terms of a Loan Document; or

(b) Specific Covenants. The Borrower or any Guarantor fails to perform or observe any covenant contained in Section 6.03(a) (solely to the extent and only for so long as such notice has not been delivered), Section 6.05 (solely with respect to the Borrowers), Section 6.15, Section 8.01 and Article VII; or

(c) Other Defaults. A Loan Party fails to perform or observe any other covenant (not specified in Section 9.01(a) or (b) above) contained in any Loan Document on its part to be performed or observed and, (i) with respect to the covenants contained in Section 6.01, Sections 6.02(a) and 6.02(b), such failure continues for fifteen (15) days, and (ii) with respect to any other affirmative covenants hereunder which, when breached, are capable of being cured, such failure continues for thirty (30) days after receipt by the Borrower of written notice thereof from the Administrative Agent (it being acknowledged that a breach of Sections 6.14(a)(iii) and (b) is not capable of being cured); or

(d) Representations and Warranties. Any representation or warranty made or deemed by any Loan Party in any Loan Document, or in any document required to be delivered pursuant to the terms of a Loan Document shall be untrue in any material respect (or, with respect to any representation or warranty qualified by materiality or "Material Adverse Effect," shall be untrue in any respect) when made or deemed made; and in the case of any representation and warranty made or deemed made after the Closing Date, such representation or warranty shall remain untrue (in any material respect or in any respect, as applicable) for a period of thirty (30) days after written notice thereof from the Administrative Agent to the Borrower; or

(e) Cross-Default. A Loan Party:

(i) fails to make any payment of any principal or interest beyond the applicable grace period, if any, whether by scheduled maturity, required prepayment, acceleration, demand, or otherwise, in respect of its Material Indebtedness, the Indebtedness under the First Lien RCF Credit Agreement or the First Lien RCF Credit Agreement Refinancing Indebtedness; or

(ii) fails to perform or observe any covenant, agreement or condition relating to any Material Indebtedness, the Indebtedness under the First Lien RCF Credit Agreement or the First Lien RCF Credit Agreement Refinancing Indebtedness or any other event or condition occurs, the effect of which failure or event or condition is to cause such Material Indebtedness, such Indebtedness under the First Lien RCF Credit Agreement or the First Lien RCF Credit Agreement Refinancing Indebtedness (and, in the case of Indebtedness under the First Lien RCF Credit Agreement or the First Lien RCF Credit Agreement Refinancing Indebtedness, such failure or event or condition continues uncured or unwaived for ten (10) Business Days; *provided, however*, such ten (10) Business Day period shall not apply to any payment default under the First Lien RCF Credit Agreement or the First Lien RCF Credit Agreement Refinancing Indebtedness nor shall such ten (10) Business Day period alter the rights of the Administrative Agent or any Secured Party under the provisions of Section 5.7(a) of the Junior Lien Intercreditor Agreement) becoming due prior to its scheduled maturity or to enable or permit (with all applicable grace periods having expired) the holder or holders (with the giving of notice or the lapse of time or both) of such Material Indebtedness, such Indebtedness under the First Lien RCF Credit Agreement or the First Lien RCF Credit Agreement Refinancing Indebtedness or any trustee or any agent on its or their behalf to cause such Material Indebtedness, such Indebtedness under the First Lien RCF Credit Agreement or the First Lien RCF Credit Agreement Refinancing Indebtedness to become due, or to require the prepayment, repurchase, redemption or defeasance thereof, prior to its stated maturity, in each case pursuant to its terms;

provided that clause (e)(ii) shall not apply: (1) to any secured Indebtedness that becomes due as a result of the sale, transfer or other disposition (including as a result of a casualty or condemnation event) of the property or assets securing such Indebtedness or as a result of a "change of control" put right; (2) to the conversion of, or the satisfaction of any condition to the conversion of, any Indebtedness that is convertible or exchangeable for Equity Interests or to any Conversion Settlement; (3) to events of default, termination events or any other similar event under the documents governing Hedge Agreements or (4) to a refinancing of Indebtedness with other Indebtedness permitted by this Agreement; or

(f) Insolvency Proceedings, Etc. (i) Any Loan Party (A) institutes or consents to the institution of any proceeding under any Debtor Relief Law, (B) makes an assignment for the benefit of creditors or (C) applies for or consents to the appointment of any receiver, trustee, custodian, conservator, liquidator, rehabilitator, administrator, administrative receiver or similar officer for it or for all or any material part of its property; (ii) any receiver, trustee, custodian, conservator, liquidator, rehabilitator, administrator, administrative receiver or similar officer is appointed for a Loan Party or any material part of its property without the application or consent of such Loan Party and the appointment continues undischarged or unstayed for sixty (60) calendar days; (iii) any proceeding under any Debtor Relief Law relating to a Loan Party or to all or any material part of its property is instituted without the consent of such Loan Party and continues undismissed or unstayed for sixty (60) calendar days; or (iv) an order for relief is entered in any such proceeding; or

(g) Judgments. There is entered against a Loan Party a final, enforceable, and non-appealable judgment by a court of competent jurisdiction for the payment of money in an aggregate amount exceeding the Threshold Amount (to the extent not covered by independent third-party insurance or another indemnity obligation) and such judgment or order is not satisfied, vacated, discharged or stayed or bonded for a period of sixty (60) consecutive days; or

(h) Invalidity of Loan Documents. The material provisions of the Loan Documents, taken as a whole, at any time after their execution and delivery and for any reason cease to be in full force and effect, except (i) as expressly permitted by the Loan Documents (including as a result of a transaction permitted under Section 7.04 or 7.05), (ii) as a result of the satisfaction of the Obligations or (iii) resulting from acts or omissions of a Secured Party or the application of applicable law; or

(i) Collateral Documents and Guarantee. Any:

(i) Collateral Document (or any material provision thereof) with respect to a material portion of the Collateral with a Fair Market Value exceeding the Threshold Amount after its execution and delivery shall for any reason cease to create a valid and perfected or published, as applicable, Lien, except (A) as otherwise permitted by, or as a result of a transaction not prohibited by, the Loan Documents, (B) resulting from the failure of the Administrative Agent or the Collateral Trustee or any of their agents or bailees to maintain possession or control of Collateral, (C) resulting from the making of a filing, or the failure to make a filing, under the Uniform Commercial Code or other applicable law, (D) as to Collateral consisting of real property, to the extent that (1) such losses are covered by a lender's title insurance policy (unless the Borrower in good faith reasonably believe that payment thereunder will not be made by the applicable insurer) or (2) a deficiency arose through no fault of a Loan Party and such deficiency is corrected with reasonable diligence upon obtaining actual knowledge thereof or (E) resulting from acts or omissions of a Secured Party or the application of applicable law so long as such deficiency arose through no fault of a Loan Party and such deficiency is corrected with reasonable diligence upon obtaining actual knowledge thereof; or

(ii) Guarantee with respect to a Guarantor (other than an Excluded Subsidiary) shall for any reason cease to be in full force and effect, except (A) as otherwise permitted by, or as a result of a transaction not prohibited by, the Loan Documents, (B) upon the satisfaction in full of the Obligations, (C) upon the release of such Guarantor as provided for under the Loan Document or in accordance with its terms or (D) resulting from acts or omissions of a Secured Party or the application of applicable law; or

(j) Change of Control. There occurs any Change of Control; provided, however, if the Borrower repays the outstanding principal balance of the Loans, all accrued and unpaid interest, the applicable Prepayment Fee and all other outstanding Obligations in full within five (5) Business Days following any Change of Control, such Change of Control shall not constitute an Event of Default hereunder; or

(k) ERISA. (i) an ERISA Event or Foreign Plan Event shall have occurred, (ii) the PBGC shall institute proceedings (including giving notice of intent thereof) to terminate any Plan or Plans, (iii) the Borrower or any Guarantor or any ERISA Affiliate shall have been notified by the sponsor of a Multiemployer Plan that such Multiemployer Plan is being terminated, within the meaning of Title IV of ERISA, or (iv) the Borrower or any Guarantor shall engage in any non-exempt “prohibited transaction” (as defined in Section 406 of ERISA or Section 4975 of the Code) involving any Plan; and in each case in clauses (i) through (iv) above, such event or condition, together with all other such events or conditions, if any, would reasonably be expected to have a Material Adverse Effect.

Notwithstanding anything to the contrary in this Agreement, no Event of Default or breach of any representation or warranty in Article V or any covenant in Article VI or VII shall constitute a Default or Event of Default if such Event of Default or breach of such representation or warranty in Article V or such covenant in Article VI or VII would not have occurred but for a fluctuation (or other adverse change) in Exchange Rates.

Notwithstanding anything to the contrary in this Agreement, the words “exists,” “is continuing” or similar expressions with respect thereto shall mean (x) with respect to a Default, that the Default has not yet been cured in accordance with this Section 9.01 or waived by the Lenders in accordance with Section 11.01, and (y) with respect to an Event of Default, that the Event of Default has not yet been waived by the Lenders in accordance with Section 11.01.

Section 9.02 Remedies upon Event of Default.

(a) General. Except as otherwise provided in Section 9.02(b) below, if any Event of Default occurs and is continuing, the Administrative Agent may, and shall at the request of the Required Lenders, take any or all of the following actions:

(i) declare the Commitments of each Lender to be terminated, whereupon such Commitments and obligation shall be terminated; and

(ii) declare the unpaid principal amount of all outstanding Loans, all interest and premium accrued and unpaid thereon, and all other amounts owing or payable hereunder or under any other Loan Document to be immediately due and payable, without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived by the Borrower and each Guarantor; and

(iii) exercise on behalf of itself and the Lenders all rights and remedies available to it and the Lenders under the Loan Documents and/or under applicable Law;

provided that upon the occurrence of an actual or deemed entry of an order for relief with respect to any Loan Party under any Debtor Relief Law, the Commitments of each Lender shall automatically terminate, the unpaid principal amount of all outstanding Loans and all interest and other amounts as aforesaid shall automatically become due and payable, in each case without further act of the Administrative Agent or any Lender.

(b) Limitations on Remedies. Notwithstanding anything to the contrary in any Loan Document,

(i) [Reserved].

(ii) Net Short Representations. Any notice of Default, Event of Default or acceleration provided to the Borrower by the Administrative Agent on behalf of one or more Lenders that have expressly requested that such notice be given to the Borrower must be accompanied by a written Net Short Representation from any such Lender (other than an Unrestricted Lender) delivered to the Borrower (with a copy to the Administrative Agent); *provided* that (A) in the absence of any such written Net Short Representation, each such Lender shall be deemed to have represented and warranted to the Borrower and the Administrative Agent that it is not a Net Short Lender (it being understood and agreed that the Borrower and the Administrative Agent shall be entitled to rely conclusively on each such representation and deemed representation (including, with respect to the Administrative Agent, as provided in Section 11.28(f)(i))) and (B) no Net Short Representation shall be required to be delivered during the pendency of a Default or Event of Default caused by a bankruptcy or similar insolvency proceeding.

Section 9.03 Application of Funds. After the exercise of remedies provided for in Section 9.02 (or after the Loans have automatically become immediately due and payable as set forth in the proviso to Section 9.02(a)), all amounts received on account of the Obligations (and proceeds of Collateral), all payments or distributions of any kind or nature and all adequate protection payments or plan distributions in any insolvency or similar proceeding (in each case, whether received from any Loan Party, in connection with an exercise of remedies, a credit bid or otherwise) shall, subject to the Senior Lien Intercreditor Agreement and any other applicable Intercreditor Agreement, be applied by the Administrative Agent in the following order (the “**Priority Waterfall**”):

First, to payment of that portion of the Obligations constituting fees, indemnities, expenses and other amounts (other than principal and interest, but including Attorney Costs payable under Section 11.04 and amounts payable under Article III) payable to the Administrative Agent and the Collateral Trustee in their capacities as such;

Second, to payment in full of Unfunded Advances;

Third, to payment of that portion of the Obligations constituting fees, indemnities and other amounts (other than principal and interest) payable to the Lenders (including Attorney Costs payable under Section 11.04 and amounts payable under Article III) ratably among them in proportion to the amounts described in this clause Third payable to them;

Fourth, to payment of that portion of the Obligations constituting accrued and unpaid interest on the Loans, ratably among the Lenders in proportion to the respective amounts described in this clause Fourth held by them;

Fifth, to payment of that portion of the Obligations constituting unpaid principal of the Loans;

Sixth, to the payment of all other Obligations that are due and payable to the Lenders on such date, ratably based upon the respective aggregate amounts of all such Obligations owing to the Lenders on such date;

Seventh, to the payment of all other Obligations that are due and payable to the Administrative Agent and the other Secured Parties on such date, ratably based upon the respective aggregate amounts of all such Obligations owing to the Administrative Agent and other Secured Parties on such date; and

Last, the balance, if any, after all of the Obligations have been paid in full, to the Borrower or as otherwise required by Law.

ARTICLE X
ADMINISTRATIVE AGENT AND OTHER AGENTS

Section 10.01 Appointment and Authority of the Administrative Agent and Collateral Trustee.

(a) Each Lender hereby irrevocably appoints Stonebriar Commercial Finance LLC to act on its behalf as the Administrative Agent hereunder and under the other Loan Documents and authorizes the Administrative Agent to take such actions on its behalf and to exercise such powers as are delegated to the Administrative Agent by the terms hereof or thereof, together with such actions and powers as are reasonably incidental thereto. The provisions of this Article X (other than Sections 10.09 and 10.11) are solely for the benefit of the Administrative Agent and the Lenders, and neither the Borrower nor any Loan Party shall have any rights as a third party beneficiary of any such provision.

(b) Each Lender hereby irrevocably appoints Wilmington Trust, National Association to act on its behalf as the Collateral Trustee hereunder and under the other Loan Documents and authorizes the Collateral Trustee to take such actions on its behalf and to exercise such powers as are delegated to the Collateral Trustee by the terms hereof or thereof, together with such actions and powers as are reasonably incidental thereto. Wilmington Trust, National Association shall also irrevocably act as the “collateral agent” or “collateral trustee” and “security trustee” under the Loan Documents, and each of the Lenders hereby irrevocably appoints and authorizes the Collateral Trustee to act as the agent of (and to hold any security interest created by the Collateral Documents for and on behalf of or in trust for) such Lender for purposes of acquiring, holding and enforcing any and all Liens on Collateral granted by any of the Loan Parties to secure any of the Obligations, together with such powers and discretion as are reasonably incidental thereto. In this connection, the Collateral Trustee, as “collateral agent” or “collateral trustee” and “security trustee” (and any co-agents, sub-agents and attorneys-in-fact appointed by the Administrative Agent pursuant to Sections 10.05 and 10.12 for purposes of holding or enforcing any Lien on the Collateral (or any portion thereof) granted under the Collateral Documents, or for exercising any rights and remedies thereunder at the direction of the Administrative Agent), shall be entitled to the benefits of all provisions of this Article X (including Section 10.07, as though such co-agents, sub-agents and attorneys-in-fact were the “collateral agent” or “collateral trustee” and “security trustee” under the Loan Documents) as if set forth in full herein with respect thereto. Without limiting the generality of the foregoing, the Lenders hereby expressly authorize the Collateral Trustee to execute any and all documents (including releases) with respect to the Collateral and the rights of the Secured Parties with respect thereto (including the Senior Lien Intercreditor Agreement), as contemplated by and in accordance with the provisions of this Agreement and the Collateral Documents and acknowledge and agree that any such action by any Agent shall bind the Lenders.

Section 10.02 Rights as a Lender. Any Lender that is also serving as an Agent (including as Administrative Agent) hereunder shall have the same rights and powers (and no additional duties or obligations) in its capacity as a Lender as any other Lender and may exercise the same as though it were not an Agent, and the term “Lender” or “Lenders” shall, unless otherwise expressly indicated or unless the context otherwise requires, include each Lender (if any) serving as an Agent hereunder in its individual capacity. Any Person serving as an Agent and its Affiliates may accept deposits from, lend money to, own securities of, act as the financial advisor or in any other advisory capacity for and generally engage in any kind of banking, trust or other business with the Borrower or any Subsidiary or other Affiliate thereof as if such Person were not an Agent hereunder and without any duty to account therefor to the Lenders, and may accept fees and other consideration from the Borrower for services in connection herewith and otherwise without having to account for the same to the Lenders. The Lenders acknowledge that, pursuant to such activities, any Agent or its Affiliates may receive information regarding any Loan Party or any of its Affiliates (including information that may be subject to confidentiality obligations in favor of such Loan Party or such Affiliate) and acknowledge that no Agent shall be under any obligation to provide such information to them.

Section 10.03 Exculpatory Provisions. None of the Administrative Agent, the Collateral Trustee, any of the other Agents, any of their respective Affiliates, nor any of the officers, partners, directors, employees or agents of the foregoing shall have any duties or obligations except those expressly set forth in the Loan Documents. Without limiting the generality of the foregoing or Section 10.11, an Agent or any of their respective officers, partners, directors, employees or agents:

(a) shall not be subject to any fiduciary or other implied duties, regardless of whether a Default has occurred and is continuing and without limiting the generality of the foregoing, the use of the term “agent” herein and in the other Loan Documents with reference to any Agent is not intended to connote any fiduciary or other implied (or express) obligations arising under any agency doctrine of any applicable Law and instead, such term is used merely as a matter of market custom, and is intended to create or reflect only an administrative relationship between independent contracting parties;

(b) shall not have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated hereby or by the other Loan Documents that such Agent is required to exercise as directed in writing by the Required Lenders (or such other number or percentage of the Lenders as shall be expressly provided for herein or in the other Loan Documents), *provided* that, notwithstanding any direction by the Required Lenders to the contrary, no Agent shall be required to take any action that, in its opinion or the opinion of its counsel, may expose such Agent to liability, risk its own funds or incur any financial liability or that is contrary to any Loan Document or applicable Law, including for the avoidance of doubt refraining from any action that, in its opinion or the opinion of its counsel, may be in violation of the automatic stay under any Debtor Relief Law or that may effect a forfeiture, modification or termination of property of a Defaulting Lender in violation of any Debtor Relief Law;

(c) shall not, except as expressly set forth herein and in the other Loan Documents, have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to the Borrower or any of their Affiliates that is communicated to or obtained by any Person serving as an Agent or any of its Affiliates in any capacity;

(d) shall have no responsibility or liability for any loss which may result from any investment or sale of investment made pursuant to this Agreement;

(e) shall have no obligation to file UCC financing statements or monitor security interests and the perfection thereof; and

(f) shall not be liable to the Lenders for any action taken or omitted to be taken under or in connection with any of the Loan Documents except to the extent caused by such Agent’s gross negligence or willful misconduct, as determined by a final, non-appealable judgment of a court of competent jurisdiction.

The Agents shall not be liable for any action taken or not taken by it (i) with the consent or at the request of the Required Lenders (or such other number or percentage of the Lenders as shall be necessary, or as the Agent shall believe in good faith shall be necessary, under the circumstances as provided in Sections 9.02 and 11.01) or (ii) in the absence of its own gross negligence or willful misconduct as determined by a final, non-appealable judgment of a court of competent jurisdiction, in connection with its duties expressly set forth herein. The Agents shall be deemed not to have knowledge of any Default or Event of Default unless and until notice describing such Default or Event of Default is given to the Agents by the Borrower or the Required Lenders in writing. The permissive rights of the Agents set forth in this Agreement shall not be construed as a duty or obligation of the Agents.

No Agent-Related Person shall be responsible for or have any duty to ascertain or inquire into (i) any recital, statement, warranty or representation made in or in connection with any Loan Document, (ii) the contents of any certificate, report, statement or agreement or other document delivered hereunder or thereunder or in connection herewith or therewith or referred to or provided for in, or received by the Administrative Agent under or in connection with any Loan Document, (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth in any Loan Document or the occurrence of any Default, (iv) the validity, enforceability, effectiveness or genuineness of any Loan Document or any other agreement, instrument or document, or the creation, perfection or priority of any Lien purported to be created by the Collateral Documents, (v) the value or the sufficiency of any Collateral, or (vi) the satisfaction of any condition set forth in Article IV or elsewhere herein, other than to confirm receipt of items expressly required to be delivered to the Agents, or to inspect the properties, books or records of any Loan Party or any Affiliate thereof.

Section 10.04 Reliance by the Agents. The Agents shall be entitled to rely upon, and shall not incur any liability for relying upon, any notice, request, certificate, consent, statement, instrument, legal order, document or other writing (including any electronic message, Internet or intranet website posting or other distribution) believed by it to be genuine and to have been signed, sent or otherwise authenticated by the proper Person. Each Agent also may rely upon any statement made to it orally or by telephone and believed by it to have been made by the proper Person, and shall not incur any liability for relying thereon. In determining compliance with any condition hereunder to the making of a Loan that by its terms must be fulfilled to the satisfaction of a Lender, each Agent may presume that such condition is satisfactory to such Lender unless the Agents shall have received notice to the contrary from such Lender prior to the making of such Loan. Each Agent may consult with legal counsel (who may be counsel for the Borrower), independent accountants and other experts selected by it, and shall not be liable for any action taken or not taken by it in accordance with the advice of any such counsel, accountants or experts.

Each Agent shall be fully justified in failing or refusing to take any action that is not required or explicitly approved by the Lenders under any Loan Document unless it shall first receive such advice or concurrence of the Required Lenders (or other requisite percentage of Lenders) as it deems appropriate and, if it so requests, it shall first be indemnified to its satisfaction by the Lenders against any and all liability and expense which may be incurred by it by reason of taking or continuing to take any such action. The Agents shall in all cases be fully protected in taking any action, or in refraining from taking any action, under any Loan Document in accordance with a request or consent of the Required Lenders (or such greater number of Lenders as may be expressly required hereby in any instance) and such request and any action taken or failure to act pursuant thereto shall be binding upon all the Lenders; *provided* that the Agents shall not be required to take any action that, in their opinion or in the opinion of their counsel, may expose such Agent to liability or that is contrary to any Loan Document or applicable Law. Notwithstanding the foregoing, the Administrative Agent and the Collateral Trustee shall not act (or refrain from acting, as applicable) upon any direction from the Required Lenders (or other requisite percentage of Lenders) that would cause the Administrative Agent or the Collateral Trustee to be in breach of any express term or provision of this Agreement. The Required Lenders agree not to instruct the Administrative Agent or Collateral Trustee to take any action, or refrain from taking any action, that would, in each case, cause it to violate an express duty or obligation under this Agreement.

Section 10.05 Delegation of Duties. Each Agent may perform any and all of its duties and exercise its rights and powers hereunder or under any other Loan Documents by or through any one or more sub agents appointed by such Agent. Each Agent and any such sub agent may perform any and all of its duties and exercise its rights and powers by or through their respective Agent-Related Persons. The exculpatory provisions of this Article X shall apply to any such sub agent and to the Agent-Related Persons of the Agents and any such sub agent, and shall apply to their respective activities in connection with the syndication of the credit facilities provided for herein as well as activities as the Agents. Notwithstanding anything herein to the contrary, with respect to each sub agent appointed by an Agent, (i) such sub agent shall be a third party beneficiary under this Agreement with respect to all such rights, benefits and privileges (including exculpatory rights and rights to indemnification) and shall have all of the rights and benefits of a third party beneficiary, including an independent right of action to enforce such rights, benefits and privileges (including exculpatory rights and rights to indemnification) directly, without the consent or joinder of any other Person, against any or all of the Loan Parties and the Lenders, (ii) such rights, benefits and privileges (including exculpatory rights and rights to indemnification) shall not be modified or amended without the consent of such sub agent, and (iii) such sub agent shall only have obligations to the Agent that appointed it as sub agent and not to any Loan Party, Lender or any other Person and no Loan Party, Lender or any other Person shall have any rights, directly or indirectly, as a third party beneficiary or otherwise, against such sub agent. Each Agent shall not be responsible for the negligence or misconduct of any subagents except to the extent that a court of competent jurisdiction determines in a final and non-appealable judgment that such Agent acted with gross negligence or willful misconduct in the selection of such sub agents.

Section 10.06 Non-Reliance on Agents and Other Lenders; Disclosure of Information by Agents.

(a) Each Lender acknowledges that no Agent-Related Person has made any representation or warranty to it, and that no act by any Agent hereafter taken, including any consent to and acceptance of any assignment or review of the affairs of any Loan Party or any Affiliate thereof, shall be deemed to constitute any representation or warranty by any Agent-Related Person to any Lender as to any matter, including whether Agent-Related Persons have disclosed material information in their possession. Each Lender represents to each Agent that it has, independently and without reliance upon any Agent-Related Person and based on such documents and information as it has deemed appropriate, made its own appraisal of, and investigation into, the business, prospects, operations, property, financial and other condition and creditworthiness of the Loan Parties and their respective Subsidiaries, and all applicable bank or other regulatory Laws relating to the transactions contemplated hereby, and made its own decision to enter into this Agreement and to extend credit to the Borrower and the other Loan Parties hereunder. Each Lender also represents that it will, independently and without reliance upon any Agent, any other Lender or any Agent-Related Person and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit analysis, appraisals and decisions in taking or not taking action under this Agreement and the other Loan Documents, and to make such investigations as it deems necessary to inform itself as to the business, prospects, operations, property, financial and other condition and creditworthiness of the Borrower and the other Loan Parties. Except for notices, reports and other documents expressly required to be furnished to the Lenders by any Agent herein, such Agent shall not have any duty or responsibility to provide any Lender with any credit or other information concerning the business, prospects, operations, property, financial and other condition or creditworthiness of any of the Loan Parties or any of their respective Affiliates which may come into the possession of any Agent-Related Person.

(b) Each Lender, by delivering its signature page to this Agreement or an Assignment and Assumption and funding its Loans on the Closing Date, shall be deemed to have acknowledged receipt of, and consented to and approved, each Loan Document and each other document required to be approved by any Agent, Required Lenders or Lenders, as applicable on the Closing Date.

(c) Each Lender acknowledges that certain Affiliates of the Loan Parties, including the Sponsors or entities controlled by the Sponsors, are Eligible Assignees hereunder and may purchase Loans hereunder from the Lenders from time to time, subject to the restrictions set forth in this Agreement.

Section 10.07 Indemnification of Agents. Whether or not the transactions contemplated hereby are consummated, the Lenders shall indemnify upon demand each Agent and each other Agent-Related Person (solely to the extent any such Agent-Related Person was performing services on behalf of any Agent, as applicable) (to the extent not reimbursed by or on behalf of any Loan Party and without limiting the obligation of any Loan Party to do so), pro rata, and hold harmless the Administrative Agent, each Agent and each other Agent-Related Person (solely to the extent any such Agent-Related Person was performing services on behalf of any Agent, as applicable) from and against any and all Indemnified Liabilities incurred by it; *provided* that no Lender shall be liable for the payment to any Agent-Related Person of any portion of such Indemnified Liabilities resulting from such Agent-Related Person's own gross negligence or willful misconduct, as determined by a final, non-appealable judgment of a court of competent jurisdiction; *provided* that, that no action taken in accordance with the terms of a Loan Document or in accordance with the directions of the Required Lenders (or such other number or percentage of the Lenders as shall be required by the Loan Documents) shall be deemed to constitute gross negligence or willful misconduct for purposes of this Section 10.07. If any indemnity furnished to any Agent for any purpose shall, in the opinion of such Agent be insufficient or become impaired, such Agent, as applicable, may call for additional indemnity and cease, or not commence, to do the acts indemnified against until such additional indemnity is furnished; *provided*, in no event shall this sentence require any Lender to indemnify any Agent against any Indemnified Liabilities in excess of such Lender's pro rata share thereof; and *provided further*, this sentence shall not be deemed to require any Lender to indemnify any Agent against any Indemnified Liabilities described in the first proviso in the immediately preceding sentence. In the case of any investigation, litigation or proceeding giving rise to any Indemnified Liabilities, this Section 10.07 applies whether any such investigation, litigation or proceeding is brought by any Lender or any other Person. Without limitation of the foregoing, each Lender shall reimburse each Agent, as applicable, upon demand for its ratable share of any costs or out-of-pocket expenses (including Attorney Costs) incurred by such Agent in connection with the preparation, execution, delivery, administration, modification, amendment or enforcement (whether through negotiations, legal proceedings or otherwise) of, or legal advice in respect of rights or responsibilities under, this Agreement, any other Loan Document, or any document contemplated by or referred to herein, to the extent that such Agent is not reimbursed for such expenses by or on behalf of the Borrower; *provided* that such reimbursement by the Lenders shall not affect the Borrower's continuing reimbursement obligations with respect thereto; *provided, further*, that the failure of any Lender to indemnify or reimburse such Agent shall not relieve any other Lender of its obligation in respect thereof. The undertaking in this Section 10.07 shall survive termination of the Aggregate Commitments, the payment of all other Obligations and the resignation of the Administrative Agent, Collateral Trustee or other Agents.

Section 10.08 No Other Duties; Other Agents, Etc. Each Agent hereby agrees to act in its capacity as such upon the express conditions contained herein and the other Loan Documents, as applicable. Anything herein to the contrary notwithstanding, none of the Agents listed on the cover page hereof (or any of their respective Affiliates) shall have any powers, duties or responsibilities under this Agreement or any of the other Loan Documents, except (x) in its capacity, as applicable, as the Administrative Agent, the Collateral Trustee or a Lender hereunder and (y) as provided in Section 11.01(d) and the last sentence of Section 11.01, and such Persons shall have the benefit of this Article X. Without limiting the foregoing, none of the Lenders or other Persons so identified shall have or be deemed to have any agency or fiduciary or trust relationship with any Lender, the Borrower or any of their respective Subsidiaries. Each Lender acknowledges that it has not relied, and will not rely, on any of the Lenders or other Persons so identified in deciding to enter into this Agreement or in taking or not taking action hereunder. Any Agent may resign from such role at any time, with immediate effect, by giving prior written notice thereof to the Administrative Agent and Borrower.

Section 10.09 Resignation of Agent. The Agents may at any time give notice of its resignation to the Lenders and the Borrower. Upon receipt of any such notice of resignation, the Required Lenders shall have the right, subject to the consent of the Borrower (such consent not to be unreasonably withheld, conditioned or delayed), at all times other than during the existence of a Specified Event of Default, to appoint a successor, which shall be a Lender or a bank with an office in the United States, or an Affiliate of any such Lender or bank with an office in the United States. If no such successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within thirty (30) days after the retiring Agent gives notice of its resignation, then the retiring Agent may on behalf of the Lenders, appoint a successor Agent meeting the qualifications set forth above; *provided* that if the retiring Agent shall notify the Borrower and the Lenders that no qualifying Person has accepted such appointment, then such resignation shall nonetheless become effective in accordance with such notice and (a) the retiring Agent shall be discharged from its duties and obligations hereunder and under the other Loan Documents (except that in the case of any collateral security held by the Collateral Trustee on behalf of the Lenders under any of the Loan Documents, the retiring Agent shall continue to hold such collateral security until such time as a successor of such Agent is appointed) and (b) except for any indemnity payments or other amounts owed to the retiring or retired Agents, all payments, communications and determinations provided to be made by, to or through the retiring Agent shall instead be made by or to each Lender directly, until such time as the Required Lenders appoint a successor Agent as provided for above in this Section. If neither the Required Lenders nor the retired Agent have appointed a successor Agent, the Required Lenders shall be deemed to have succeeded to and become vested with all the rights, powers, privileges and duties of the retiring Agent (subject to the proviso in the sentence above). Upon the acceptance of a successor's appointment as replacement Agent hereunder and upon the execution and filing or recording of such financing statements, or amendments thereto, and such amendments or supplements to the Vessel Mortgages, and such other instruments or notices, as may be necessary or desirable, or as the Required Lenders may request, in order to perfect or continue the perfection of the Liens granted or purported to be granted by the Collateral Documents, such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring (or retired) Agent (other than any rights to indemnity payments or other amounts owed to the retiring or retired Agent), and the retiring Agent shall be discharged from all of its duties and obligations hereunder or under the other Loan Documents (if not already discharged therefrom as provided above in this Section). The fees payable by the Borrower to a successor Agent shall be the same as those payable to its predecessor unless otherwise agreed between the Borrower and such successor. After the retiring Agent's resignation hereunder and under the other Loan Documents, the provisions of this Article X and Sections 11.04 and 11.05 shall continue in effect for the benefit of such retiring Agent, its sub-agents and their respective Agent-Related Persons in respect of any actions taken or omitted to be taken by any of them while the retiring Agent was acting as Agent.

Section 10.10 Administrative Agent May File Proofs of Claim; Credit Bidding. In case of the pendency of any proceeding under any Debtor Relief Law or any other judicial proceeding relative to any Loan Party, the Administrative Agent (irrespective of whether the principal of any Loan shall then be due and payable as herein expressed or by declaration or otherwise and irrespective of whether the Administrative Agent shall have made any demand on the Borrower) shall be entitled and empowered (but not obligated), by intervention in such proceeding or otherwise:

(a) to file a verified statement pursuant to rule 2019 of the Federal Rules of Bankruptcy Procedure that, in its sole opinion, complies with such rule's disclosure requirements for entities representing more than one creditor;

(b) to file and prove a claim for the whole amount of the principal and interest owing and unpaid in respect of the Loans and all other Obligations that are owing and unpaid and to file such other documents as may be necessary or advisable in order to have the claims of the Lenders and the Administrative Agent (including any claim for the reasonable compensation, expenses, disbursements and advances of the Lenders and the Administrative Agent and their respective agents and counsel and all other amounts due the Lenders and the Administrative Agent under Sections 2.06 and 11.04) allowed in such judicial proceeding; and

(c) to collect and receive any monies or other property payable or deliverable on any such claims and to distribute the same;

and any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Lender to make such payments to the Administrative Agent and, in the event that the Administrative Agent shall consent to the making of such payments directly to the Lenders, to pay to the Administrative Agent any amount due for the reasonable compensation, expenses, disbursements and advances of the Agents and their respective agents and counsel, and any other amounts due the Administrative Agent under Sections 2.06 and 11.04. To the extent that the payment of any such compensation, expenses, disbursements and advances of the Administrative Agent, its agents and counsel, and any other amounts due the Administrative Agent under Sections 2.06 and 11.04 out of the estate in any such proceeding, shall be denied for any reason, payment of the same shall be secured by a Lien on, and shall be paid out of, any and all distributions, dividends, money, securities and other properties that the Lenders may be entitled to receive in such proceeding whether in liquidation or under any plan of reorganization or arrangement or otherwise.

Nothing contained herein shall be deemed to authorize the Administrative Agent to authorize or consent to or accept or adopt on behalf of any Lender any plan of reorganization, arrangement, adjustment or composition affecting the Obligations or the rights of any Lender or to authorize the Administrative Agent to vote in respect of the claim of any Lender in any such proceeding.

The Secured Parties hereby irrevocably authorize the Administrative Agent, at the direction of the Required Lenders, to credit bid all or any portion of the Obligations (including accepting some or all of the Collateral in satisfaction of some or all of the Secured Obligations (as defined in the applicable Collateral Agreement) pursuant to a deed in lieu of foreclosure or otherwise) and in such manner purchase (either directly or through one or more acquisition vehicles) all or any portion of the Collateral (i) at any sale thereof conducted under the provisions of the U.S. Bankruptcy Code, including under Sections 363, 1123 or 1129 of the U.S. Bankruptcy Code, or any similar Laws in any other jurisdictions to which a Loan Party is subject, (ii) at any other sale or foreclosure or acceptance of collateral in lieu of debt conducted by (or with the consent or at the direction of) the Administrative Agent (whether by judicial action or otherwise) in accordance with any applicable Law. In connection with any such credit bid and purchase, the Obligations owed to the Secured Parties shall be entitled to be, and shall be, credit bid on a ratable basis (with Obligations with respect to contingent or unliquidated claims receiving contingent interests in the acquired assets on a ratable basis that would vest upon the liquidation of such claims in an amount proportional to the liquidated portion of the contingent claim amount used in allocating the contingent interests) in the asset or assets so purchased (or in the Equity Interests or debt instruments of the acquisition vehicle or vehicles that are used to consummate such purchase). In connection with any such bid (A) the Administrative Agent shall be authorized to form one or more acquisition vehicles to make a bid, (B) to adopt documents providing for the governance of the acquisition vehicle or vehicles (provided that any actions by the Administrative Agent with respect to such acquisition vehicle or vehicles, including any disposition of the assets or Equity Interests thereof, shall be governed, directly or indirectly, by the vote of the Required Lenders, irrespective of the termination of this Agreement and without giving effect to the limitations on actions by the Required Lenders contained in clauses (a) through (g) of Section 11.01 of this Agreement), (C) the Administrative Agent shall be authorized to assign the relevant Obligations to any such acquisition vehicle pro rata by the Lenders, as a result of which each of the Lenders shall be deemed to have received a pro rata portion of any Equity Interests and/or debt instruments issued by such an acquisition vehicle on account of the assignment of the Obligations to be credit bid, all without the need for any Secured Party or acquisition vehicle to take any further action and (D) to the extent that Obligations that are assigned to an acquisition vehicle are not used to acquire Collateral for any reason (as a result of another bid being higher or better, because the amount of Obligations assigned to the acquisition vehicle exceeds the amount of debt credit bid by the acquisition vehicle or otherwise), such Obligations shall automatically be reassigned to the Lenders pro rata and the Equity Interests and/or debt instruments issued by any acquisition vehicle on account of the Obligations that had been assigned to the acquisition vehicle shall automatically be cancelled, without the need for any Secured Party or any acquisition vehicle to take any further action.

Section 10.11 Collateral and Guaranty Matters.

(a) Each Agent, each Lender, and each other Secured Party irrevocably authorizes the Administrative Agent and Collateral Trustee to be the agent for and representative of the Lenders with respect to the Guaranty, the Collateral and the Collateral Documents and agrees that, notwithstanding anything to the contrary in any Loan Document:

(i) Liens on any property granted to or held by an Agent or in favor of any Secured Party under any Loan Document will be automatically and immediately released, and each Secured Party irrevocably authorizes and directs the Agents to enter into, and each agrees that it will enter into, the necessary or advisable documents requested by the Borrower and associated therewith, upon the occurrence of any of the following events (each, a “**Lien Release Event**”),

(A) the payment in full in cash of all the Obligations (other than Contingent Obligations in respect of which no claim has been made);

(B) a transfer of the property subject to such Lien as part of, or in connection with, a transaction that is permitted by the terms of the Loan Documents to any Person that is not a Loan Party;

(C) with respect to property owned by any Guarantor or with respect to which any Guarantor has rights, the release of such Guarantor from its obligations under its Guaranty or hereunder, as applicable, pursuant to clause (iv) below;

(D) the approval, authorization or ratification of the release of such Lien by the Required Lenders, or such percentage as may be required pursuant to Section 11.01;

(E) such property becoming an Excluded Asset, Excluded Vessel (including, for the avoidance of doubt, pursuant to any Permitted Reflagging Transaction), Excluded Equity Interest or an asset (other than any Vessel Collateral) owned by an Excluded Subsidiary or with respect to which an Excluded Subsidiary has rights;

(F) as to the assets (other than Vessel Collateral) owned by such Excluded Subsidiary (or with respect to which an Excluded Subsidiary has rights), upon any Person becoming an Excluded Subsidiary, in each case other than any Guarantor or any Shipowner;

(G) [reserved]; and/or

(H) with respect to Vessel Collateral, such Vessel Collateral becoming subject to a reflagging permitted hereunder;

(ii) [reserved];

(iii) upon the request of the Borrower (such request, the “**Permitted Consent Event**”), each Secured Party irrevocably authorizes and directs the Agents to enter into, and each Secured Party and the Agents agrees that the Agents will enter into, the necessary or advisable documents requested by the Borrower in connection with a transaction that is permitted by the terms of the Loan Documents; *provided, however*, the Agents shall not be required to enter into any documents to release any Collateral or subordinate any Lien on any Collateral except as expressly set forth herein;

(iv) a Guarantor will be automatically and immediately released from its obligations under the Guaranty upon (A) such Guarantor ceasing to be a Subsidiary of the Borrower, (B) such Guarantor becoming an Immaterial Subsidiary, or (C) such Guarantor becoming an Excluded Subsidiary as a result of a transaction permitted hereunder; provided that if such Guarantor becomes an Excluded Subsidiary solely as a result of such Guarantor becoming an Excluded Subsidiary of the type described in clause (a) of the definition thereof, such release shall only be permitted if, at the time such Guarantor becomes such an Excluded Subsidiary, (i) no Default or Event of Default has occurred and is continuing or would result therefrom and (ii) such Guarantor so becomes such an Excluded Subsidiary as a result of a joint venture or other strategic transaction permitted hereunder that was not entered into for the primary purpose of releasing the Guaranty of such Guarantor (as determined by the Borrower in good faith) (clauses (A)-(C), each a “**Guaranty Release Event**”), and each Secured Party irrevocably authorizes and directs the Agents to enter into, and each Agent agrees it will enter into, the necessary and advisable documents requested by the Borrower to (1) release (or acknowledge the release of) such Guarantor from its obligations under the Guaranty and (2) release (or acknowledge the release of) any Liens granted by such Subsidiary or Liens on the Equity Interests of such Subsidiary ;

(v) the Administrative Agent and the Collateral Trustee will exclusively exercise the rights and remedies under the Loan Documents, and neither the Lenders nor any other Secured Party will exercise such rights and remedies (other than the Required Lenders through the Administrative Agent); *provided* that the foregoing shall not preclude any Lender from exercising any right of set-off in accordance with the provisions of Section 11.09 or enforcing compliance with the provisions set forth in Section 11.01(b) or from exercising rights and remedies (other than the enforcement of Collateral) with respect to any payment default after the occurrence of the Maturity Date with respect to any Loans made by it or filing proofs of claim or appearing and filing pleadings on its own behalf during the pendency of a proceeding relative to any Loan Party under the U.S. Bankruptcy Code or any other Debtor Relief Law; and

(vi) the Administrative Agent and Collateral Trustee shall, and the Lenders and other Secured Parties irrevocably authorize and instruct the Administrative Agent and Collateral Trustee to, from time to time on and after the Closing Date, without any further consent of any Lender or other Secured Party, enter into any Intercreditor Agreement or other intercreditor agreement with the collateral agent, collateral trustee or other representative of the holders of Indebtedness that is secured by a Lien on Collateral that is expressly permitted under this Agreement.

Each Agent, each Lender and each other Secured Party agrees that it will promptly take such action and execute any such documents as may be reasonably requested by the Borrower (such actions and such execution, the “**Release Actions**”), at the Borrower’s sole cost and expense, in connection with a Lien Release Event, Permitted Consent Event or Guaranty Release Event and that such actions are not discretionary. Without limitation, the Release Actions may include, as applicable, (a) executing (if required) and delivering to the Loan Parties (or any designee of the Loan Parties) any such lien releases, mortgage releases, discharges of security interests, pledges and guarantees and other similar discharge or release documents, as are reasonably requested by a Loan Party in connection with the release, as of record, of the Liens (and all notices of security interests and Liens previously filed) the subject of a Lien Release Event or the release of any applicable Guarantee in connection with a Guaranty Release Event and (b) delivering to the Loan Parties (or any designee of the Loan Parties) all instruments evidencing pledged debt and all equity certificates and any other collateral previously delivered in physical form by the Loan Parties to a Secured Party.

In connection with any Lien Release Event, Permitted Consent Event, Guaranty Release Event or Release Action, each of the Collateral Trustee and the Administrative Agent shall be entitled to rely and shall rely exclusively on an officer’s certificate of the Borrower (the “**Release Certificate**”) confirming that (a) such Lien Release Event, Guaranty Release Event or Permitted Consent Event, as applicable, has occurred or will upon consummation of one or more identified transactions (an “**Identified Transaction**”) occur, (b) the conditions to any such Lien Release Event, Guaranty Release Event or Permitted Consent Event have occurred or will occur upon consummation of an Identified Transaction, and (c) that any such Identified Transaction is permitted by (or not prohibited by) the Loan Documents. The Collateral Trustee and the Administrative Agent will be fully exculpated from any liability and shall be fully protected and shall not have any liability whatsoever to any Secured Party as a result of such reliance or the consummation of any Release Action. A Release Certificate may be delivered in advance of the consummation of any applicable Identified Transaction.

Each Lender and each Secured Party irrevocably authorizes and irrevocably directs the Collateral Trustee and the Administrative Agent to take the Release Actions and consents to reliance on the Release Certificate. The Secured Parties agree not to give any Agent any instruction or direction inconsistent with the provisions of this Section 10.11. Neither the Administrative Agent nor the Collateral Trustee shall be responsible for, or have a duty to ascertain or inquire into, any statement in a Release Certificate, the compliance of any Identified Transaction with the terms of a Loan Document, any representation or warranty regarding the existence, value or collectability of the Collateral, the existence, priority or perfection of the Collateral Trustee's Lien thereon, or contained in any certificate prepared or delivered by any Loan Party in connection with the Collateral or compliance with the terms set forth above or in a Loan Document, nor shall the Administrative Agent or Collateral Trustee be responsible or liable to the Lenders for any failure to monitor or maintain any portion of the Collateral.

(b) Anything contained in any of the Loan Documents to the contrary notwithstanding, each Agent, each Lender and each Secured Party hereby agree that:

(i) no Lender or other Secured Party shall have any right individually to realize upon any of the Collateral or to enforce the Guaranty or any other Loan Document, it being understood and agreed that all powers, rights and remedies hereunder and under any of the Loan Documents may be exercised solely by the Administrative Agent or the Collateral Trustee, as applicable, for the benefit of the Lenders in accordance with the terms hereof and thereof, and all powers, rights and remedies under the Collateral Documents may be exercised solely by the Collateral Trustee for the benefit of the Lenders in accordance with the terms thereof;

(ii) in the event of a foreclosure or similar enforcement action by the Collateral Trustee on any of the Collateral pursuant to a public or private sale or other disposition (including, without limitation, pursuant to Section 363(k), Section 1129(b)(2)(a)(ii) or otherwise of the U.S. Bankruptcy Code), only the Collateral Trustee (except with respect to a "credit bid" pursuant to Section 363(k), Section 1129(b)(2)(a)(ii) or otherwise of the U.S. Bankruptcy Code) may be the purchaser or licensor of any or all of such Collateral at any such sale or other disposition, and the Collateral Trustee, as agent for and representative of Lenders (but not any Lender or Lenders in its or their respective individual capacities), shall be entitled, upon instructions from the Required Lenders, for the purpose of bidding and making settlement or payment of the purchase price for all or any portion of the Collateral sold at any such sale or disposition, to use and apply any of the Obligations as a credit on account of the purchase price for any collateral payable by the Collateral Trustee at such sale or other disposition;

(iii) no provision of any Loan Documents shall require the creation, perfection or maintenance of pledges of or security interests or hypothecs in, or the obtaining of title insurance or abstracts with respect to, any Excluded Assets and any other particular assets, if and for so long as, in the reasonable judgment of the Administrative Agent (as so directed to the Collateral Trustee), the cost of creating, perfecting or maintaining such pledges or security interests or hypothecs in such other particular assets or obtaining title insurance or abstracts in respect of such other particular assets is excessive in view of the Fair Market Value of such assets or the practical benefit to the Lenders afforded thereby; and

(iv) the Administrative Agent (as so directed to the Collateral Trustee) may grant extensions of time for the creation or perfection of security interests or hypothecs in or the obtaining of title insurance and surveys with respect to particular assets (including extensions beyond the Closing Date for the creation or perfection of security interests in the assets of the Loan Parties on such date) where it reasonably determines, in consultation with the Borrower, that creation or perfection cannot be accomplished without undue effort or expense by the time or times at which it would otherwise be required by this Agreement or the Collateral Documents.

Section 10.12 Appointment of Supplemental Administrative Agents.

(a) It is the purpose of this Agreement and the other Loan Documents that there shall be no violation of any Law of any jurisdiction denying or restricting the right of banking corporations or associations to transact business as agent or trustee in such jurisdiction. It is recognized that in case of litigation under this Agreement or any of the other Loan Documents, and in particular in case of the enforcement of any of the Loan Documents, or in case the Administrative Agent deems that by reason of any present or future Law of any jurisdiction it may not exercise any of the rights, powers or remedies granted herein or in any of the other Loan Documents or take any other action which may be desirable or necessary in connection therewith, the Administrative Agent is hereby authorized to appoint an additional individual or institution selected by the Administrative Agent in its sole discretion as a separate trustee, co-trustee, administrative agent, collateral agent, collateral trustee, administrative sub-agent or administrative co-agent (any such additional individual or institution being referred to herein individually, as a “**Supplemental Administrative Agent**” and, collectively, as “**Supplemental Administrative Agents**”).

(b) In the event that the Administrative Agent appoints a Supplemental Administrative Agent with respect to any Collateral, (i) each and every right, power, privilege or duty expressed or intended by this Agreement or any of the other Loan Documents to be exercised by or vested in or conveyed to the Administrative Agent with respect to such Collateral shall be exercisable by and vest in such Supplemental Administrative Agent to the extent, and only to the extent, necessary to enable such Supplemental Administrative Agent to exercise such rights, powers and privileges with respect to such Collateral and to perform such duties with respect to such Collateral, and every covenant and obligation contained in the Loan Documents and necessary to the exercise or performance thereof by such Supplemental Administrative Agent shall run to and be enforceable by either the Administrative Agent or such Supplemental Administrative Agent, and (ii) the provisions of this Article X and of Sections 11.04 and 11.05 that refer to the Administrative Agent shall inure to the benefit of such Supplemental Administrative Agent and all references therein to the Administrative Agent shall be deemed to be references to the Administrative Agent and/or such Supplemental Administrative Agent, as the context may require.

(c) Should any instrument in writing from any Loan Party be required by any Supplemental Administrative Agent so appointed by the Administrative Agent for more fully and certainly vesting in and confirming to him or it such rights, powers, privileges and duties, the Borrower shall, or shall cause such Loan Party to, execute, acknowledge and deliver any and all such instruments promptly upon request by the Administrative Agent. In case any Supplemental Administrative Agent, or a successor thereto, shall die, become incapable of acting, resign or be removed, all the rights, powers, privileges and duties of such Supplemental Administrative Agent, to the extent permitted by Law, shall vest in and be exercised by the Administrative Agent until the appointment of a new Supplemental Administrative Agent.

Section 10.13 Intercreditor Agreements. Notwithstanding anything to the contrary set forth in any Loan Document, to the extent the Administrative Agent enters into the Senior Lien Intercreditor Agreement or any other Intercreditor Agreement in accordance with the terms hereof, this Agreement will be subject to the terms and provisions of such Intercreditor Agreements, as applicable. In the event of any inconsistency between the provisions of this Agreement or any other Loan Document and any Senior Lien Intercreditor Agreement or any other applicable Intercreditor Agreement, the provisions of such Intercreditor Agreement govern and control.

Section 10.14 [Reserved].

Section 10.15 Withholding Taxes. To the extent required by any applicable Law, the Administrative Agent may withhold from any payment to any Lender an amount equivalent to any applicable withholding Tax. If any Governmental Authority asserts a claim that the Administrative Agent did not properly withhold Tax from amounts paid to or for the account of any Lender because the appropriate form was not delivered or was not properly executed or because such Lender failed to notify the Administrative Agent of a change in circumstance which rendered the exemption from, or reduction of, withholding tax ineffective or for any other reason, or if the Administrative Agent reasonably determines that a payment was made to a Lender pursuant to this Agreement without deduction of applicable withholding Tax from such payment, such Lender shall indemnify the Administrative Agent fully for all amounts paid, directly or indirectly, by the Administrative Agent as Tax or otherwise, including any penalties or interest and together with all expenses (including legal expenses, allocated internal costs and out-of-pocket expenses) incurred.

Section 10.16 Certain ERISA Matters.

(a) Each Lender (1) represents and warrants, as of the date such Person became a Lender party hereto, to, and (2) covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of the Administrative Agent and not, for the avoidance of doubt, to or for the benefit of any of the Loan Parties, that at least one of the following is and will be true:

(i) such Lender is not using “plan assets” (within the meaning of Section 3(42) of ERISA or otherwise for purposes of Title I of ERISA or Section 4975 of the Code) of one or more Benefit Plans in connection with the Loans, the Commitments or this Agreement;

(ii) the prohibited transaction exemption set forth in one or more PTEs, such as PTE 84-14 (a class exemption for certain transactions determined by independent qualified professional asset managers), PTE 95-60 (a class exemption for certain transactions involving insurance company general accounts), PTE 90-1 (a class exemption for certain transactions involving insurance company pooled separate accounts), PTE 91-38 (a class exemption for certain transactions involving bank collective investment funds) or PTE 96-23 (a class exemption for certain transactions determined by in-house asset managers), is applicable so as to exempt from the prohibitions of Section 406 of ERISA and Section 4975 of the Code such Lender’s entrance into, participation in, administration of and performance of the Loans, the Commitments and this Agreement;

(iii) (A) such Lender is an investment fund managed by a “Qualified Professional Asset Manager” (within the meaning of Part VI of PTE 84-14), (B) such Qualified Professional Asset Manager made the investment decision on behalf of such Lender to enter into, participate in, administer and perform the Loans, the Commitments and this Agreement, (C) the entrance into, participation in, administration of and performance of the Loans, the Commitments and this Agreement satisfies the requirements of sub-Sections (b) through (k) of Part I of PTE 84-14 and (D) the requirements of subsection (a) of Part I of PTE 84-14 are satisfied with respect to such Lender’s entrance into, participation in, administration of and performance of the Loans, the Commitments and this Agreement; or

(iv) such other representation, warranty and covenant as may be agreed in writing between the Administrative Agent, on the one hand, in its sole discretion, and such Lender.

(b) In addition, unless either (1) sub-clause (i) in the immediately preceding clause (a) is true with respect to a Lender or (2) a Lender has provided another representation, warranty and covenant in accordance with sub-clause (iv) in the immediately preceding clause (a), such Lender further (1) represents and warrants, as of the date such Person became a Lender party hereto, to and (2) covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of, the Administrative Agent and its Affiliates, and not, for the avoidance of doubt, to or for the benefit of the Borrower or any other Loan Party, that none of the Administrative Agent or any of its Affiliates is a fiduciary with respect to the assets of such Lender involved in the Loans, the Commitments and this Agreement (including in connection with the reservation or exercise of any rights by the Administrative Agent under this Agreement, any Loan Document or any documents related hereto or thereto).

Section 10.17 Erroneous Payments.

(a) If the Administrative Agent notifies a Lender or Secured Party, or any Person who has received funds on behalf of a Lender or Secured Party (any such Lender, Secured Party or other recipient, a “**Payment Recipient**”) that the Administrative Agent has determined in its sole discretion (whether or not after receipt of any notice under immediately succeeding clause (b)) that any funds received by such Payment Recipient from the Administrative Agent or any of its Affiliates were erroneously transmitted to, or otherwise erroneously or mistakenly received by, such Payment Recipient (whether or not known to such Lender, Secured Party or other Payment Recipient on its behalf) (any such funds, whether received as a payment, prepayment or repayment of principal, interest, fees, distribution or otherwise, individually and collectively, an “**Erroneous Payment**”) and demands the return of such Erroneous Payment (or a portion thereof), such Erroneous Payment shall at all times remain the property of the Administrative Agent and shall be segregated by the Payment Recipient and held in trust for the benefit of the Administrative Agent, and such Lender or Secured Party shall (or, with respect to any Payment Recipient who received such funds on its behalf, shall cause such Payment Recipient to) promptly, but in no event later than two (2) Business Days thereafter, return to the Administrative Agent the amount of any such Erroneous Payment (or portion thereof) as to which such a demand was made, in Same Day Funds (in the currency so received), together with interest thereon in respect of each day from and including the date such Erroneous Payment (or portion thereof) was received by such Payment Recipient to the date such amount is repaid to the Administrative Agent in Same Day Funds at the Overnight Rate. A notice of the Administrative Agent to any Payment Recipient under this clause (a) shall be conclusive, absent manifest error.

(b) Without limiting immediately preceding clause (a), each Lender or Secured Party, or any Person who has received funds on behalf of a Lender or Secured Party, hereby further agrees that if it receives a payment, prepayment or repayment (whether received as a payment, prepayment or repayment of principal, interest, fees, distribution or otherwise) from the Administrative Agent (or any of its Affiliates) (x) that is in a different amount than, or on a different date from, that specified in a notice of payment, prepayment or repayment sent by the Administrative Agent (or any of its Affiliates) with respect to such payment, prepayment or repayment, (y) that was not preceded or accompanied by a notice of payment, prepayment or repayment sent by the Administrative Agent (or any of its Affiliates), or (z) that such Lender or Secured Party, or other such recipient, otherwise becomes aware was transmitted, or received, in error or by mistake (in whole or in part) in each case:

(i) (A) in the case of immediately preceding clauses (x) or (y), an error shall be presumed to have been made (absent written confirmation from the Administrative Agent to the contrary) or (B) an error has been made (in the case of immediately preceding clause (z)), in each case, with respect to such payment, prepayment or repayment; and

(ii) such Lender or Secured Party shall (and shall cause any other recipient that receives funds on its respective behalf to) promptly (and, in all events, within one Business Day of its knowledge of such error) notify the Administrative Agent of its receipt of such payment, prepayment or repayment, the details thereof (in reasonable detail) and that it is so notifying the Administrative Agent pursuant to this Section 10.17(b).

(c) Each Lender or Secured Party hereby authorizes the Administrative Agent to set off, net and apply any and all amounts at any time owing to such Lender or Secured Party under any Loan Document against any amount due to the Administrative Agent under immediately preceding clause (a) or under the indemnification provisions of this Agreement.

(d) In the event that an Erroneous Payment (or portion thereof) is not recovered by the Administrative Agent for any reason, after demand therefor by the Administrative Agent in accordance with immediately preceding clause (a), from any Lender that has received such Erroneous Payment (or portion thereof) (and/or from any Payment Recipient who received such Erroneous Payment (or portion thereof) on its respective behalf) (such unrecovered amount, an “**Erroneous Payment Return Deficiency**”), upon the Administrative Agent’s notice to such Lender at any time, (i) such Lender shall be deemed to have assigned its Loans with respect to which such Erroneous Payment was made (the “**Erroneous Payment Impacted Loans**”) in an amount equal to the Erroneous Payment Return Deficiency (or such lesser amount as the Administrative Agent may specify) (such assignment of the Loans of the Erroneous Payment Impacted Loans, the “**Erroneous Payment Deficiency Assignment**”) at par plus any accrued and unpaid interest (with the assignment fee to be waived by the Administrative Agent in such instance), and is hereby (together with the Borrower) deemed to execute and deliver an Assignment and Assumption (or, to the extent applicable, an agreement incorporating an Assignment and Assumption by reference pursuant to the Platform as to which the Administrative Agent and such parties are participants) with respect to such Erroneous Payment Deficiency Assignment, and such Lender shall deliver any Term Loan Notes evidencing such Loans to the Borrower or the Administrative Agent, (ii) the Administrative Agent as the assignee Lender shall be deemed to acquire the Erroneous Payment Deficiency Assignment, (iii) upon such deemed acquisition, the Administrative Agent as the assignee Lender shall become a Lender hereunder with respect to such Erroneous Payment Deficiency Assignment and the assigning Lender shall cease to be a Lender hereunder with respect to such Erroneous Payment Deficiency Assignment, excluding, for the avoidance of doubt, its obligations under the indemnification provisions of this Agreement and its applicable Commitments which shall survive as to such assigning Lender and (iv) the Administrative Agent may reflect in the Register its ownership interest in the Loans subject to the Erroneous Payment Deficiency Assignment. The Administrative Agent may, in its discretion, sell any Loans acquired pursuant to an Erroneous Payment Deficiency Assignment and upon receipt of the proceeds of such sale, the Erroneous Payment Return Deficiency owing by the applicable Lender shall be reduced by the net proceeds of the sale of such Loan (or portion thereof), and the Administrative Agent shall retain all other rights, remedies and claims against such Lender (and/or against any recipient that receives funds on its respective behalf). In addition, each party hereto agrees that, except to the extent that the Administrative Agent has sold a Loan (or portion thereof) acquired pursuant to an Erroneous Payment Deficiency Assignment, and irrespective of whether the Administrative Agent may be equitably subrogated, the Administrative Agent shall be contractually subrogated to all the rights and interests of the applicable Lender or Secured Party under the Loan Documents with respect to each Erroneous Payment Return Deficiency (the “**Erroneous Payment Subrogation Rights**”).

(e) The parties hereto agree that an Erroneous Payment shall not pay, prepay, repay, discharge or otherwise satisfy any Obligations owed by the Borrower or any other Loan Party, except, in each case, to the extent such Erroneous Payment is, and solely with respect to the amount of such Erroneous Payment that is, comprised of funds received by the Administrative Agent from the Borrower or any other Loan Party for the purpose of making such Erroneous Payment.

(f) To the extent permitted by applicable law, no Payment Recipient shall assert any right or claim to an Erroneous Payment, and hereby waives, and is deemed to waive, any claim, counterclaim, defense or right of set-off or recoupment with respect to any demand, claim or counterclaim by the Administrative Agent for the return of any Erroneous Payment received, including without limitation waiver of any defense based on “discharge for value” or any similar doctrine

(g) Each party’s obligations, agreements and waivers under this Section 10.17 shall survive the resignation or replacement of the Administrative Agent, any transfer of rights or obligations by, or the replacement of, a Lender, the termination of the Commitments and/or the repayment, satisfaction or discharge of all Obligations (or any portion thereof) under any Loan Document.

ARTICLE XI

MISCELLANEOUS

Section 11.01 Amendments, Waivers, Etc.

(a) General Rule. Except as otherwise set forth in this Agreement, no amendment or waiver of any provision of this Agreement or any other Loan Document, and no consent to any departure by the Borrower or any other Loan Party therefrom, shall be effective unless in writing signed by the Required Lenders and the Borrower or the applicable Loan Party, as the case may be, and acknowledged by the Administrative Agent and each such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given. Any amendment or waiver of this Agreement or any other Loan Document that affects the Collateral Trustee’s rights, protections, immunities, indemnities, duties or obligations, shall not be effective unless consented to by the Collateral Trustee.

(b) Specific Lender Approvals. Notwithstanding the provisions of Section 11.01(a), no such amendment, waiver or consent shall:

(i) Extend, increase or reinstate the Commitment of any Lender without the written consent of each Lender directly and adversely affected thereby;

(ii) postpone any date scheduled for, or reduce the amount of, any payment of principal or interest with respect to any Loan or with respect to any fees payable under Section 2.06(b) without the written consent of each Lender directly and adversely affected thereby, it being understood that a waiver of any mandatory prepayment set forth in Section 2.03(b) or the waiver of any Default (other than a Default under Section 9.01(a)) shall not constitute a postponement of any date scheduled for, or a reduction in the amount of, any payment of interest or any payment of fees;

(iii) reduce the principal of, or the rate of interest specified herein on, any Loan or any fees or other amounts payable hereunder or under any other Loan Document (except interest due at the Default Rate or as expressly set forth in clause (h) of this Section 11.01) without the written consent of each Lender, it being understood that any change to the definitions of Total Net Leverage Ratio or in the component definitions thereof shall not constitute a reduction in the rate of interest as long as the intent of such change is not to cause a reduced interest rate;

(iv) change any provision of this Section 11.01 or the definition of “Required Lenders” or “Pro Rata Share” or any other provision specifying the number of Lenders or portion of the Loans or Commitments required to take any action under the Loan Documents, without the written consent of each Lender;

(v) other than in connection with a transfer or other transaction permitted under the Loan Documents (including, for the avoidance of doubt, Permitted Reflagging Transactions), (i) release all or substantially all of the Collateral in any transaction or series of related transactions, without the written consent of each Lender or (ii) release any Vessel Collateral representing in the aggregate for all such released Vessel Collateral a Vessel Collateral Value Amount in excess of \$216,400,000 of the aggregate Vessel Collateral Value Amount as determined on or about the applicable release date or date of entry into a binding commitment to release (but, in any case, no earlier than thirty (30) days prior to the applicable release date or entry date, as applicable);

(vi) other than in connection with a transfer or other transaction permitted under the Loan Documents, release all or substantially all of the aggregate value of the Guaranty or all or substantially all of the Guarantors or the Borrower, without the written consent of each Lender;

(vii) modify Section 2.10 or 9.03 without the written consent of each Lender directly and adversely affected thereby;

(viii) modify Section 4.01 or Section 4.02 without the written consent of each Lender; or

(ix) prior to an Event of Default under Section 9.01(f), amend or modify any term or provision of any Loan Document to permit the issuance or incurrence of any Indebtedness for Borrowed Money (excluding Indebtedness that is expressly permitted by this Agreement as in effect on the Closing Date to be senior to the Obligations and/or to be secured by a Lien that is senior to the Lien securing the Obligations) with respect to which (x) the Liens on the Collateral securing the Obligations would be subordinated or (y) all or any portion of the Obligations would be subordinated in right of payment (any such other Indebtedness to which such Liens securing any of the Obligations or such Obligations, as applicable, are subordinated, “**Senior Indebtedness**”), in each case without the written consent of each Lender directly and adversely affected thereby, unless each adversely affected Lender (A) has been offered a bona fide opportunity to fund or otherwise provide its pro rata share (based on the amount of Obligations that are adversely affected thereby held by each Lender) of the Senior Indebtedness on the same terms (other than bona fide backstop fees and reimbursement of counsel fees and other expenses in connection with the negotiation of the terms of such transaction; such fees and expenses, “**Ancillary Fees**”) as offered to all other providers (or their Affiliates) of the Senior Indebtedness, and (B) decides to participate in the Senior Indebtedness and receives its pro rata share of the fees and any other similar benefit (other than Ancillary Fees) of the Senior Indebtedness afforded to the providers of the Senior Indebtedness (or any of their Affiliates) in connection with providing the Senior Indebtedness; or

(x) modify any provision of this Agreement to permit the Borrower or Restricted Subsidiaries to incur Indebtedness for Borrowed Money that is senior in payment or Lien priority or pari passu in payment priority with the Obligations, or otherwise subordinate the Obligations to any other Indebtedness for Borrowed Money, in each case, without the written consent of each Lender directly and adversely affected thereby.

(c) Other Specific Approvals. Notwithstanding the provisions of Section 11.01(a) or Section 11.01(b),

(i) no amendment, waiver or consent shall, unless in writing and signed by the Administrative Agent in addition to the Lenders required above, affect the rights or duties of, or any fees or other amounts payable to, the Administrative Agent under this Agreement or any other Loan Document,

(ii) no amendment, waiver or consent shall, unless in writing and signed by the Collateral Trustee in addition to the Lenders required above, affect the rights or duties of, or any fees or other amounts payable to, the Collateral Trustee under this Agreement or any other Loan Document, and

(iii) Section 11.07(g) may not be amended, waived or otherwise modified without the consent of each Granting Lender all or any part of whose Loans are being funded by an SPC at the time of such amendment, waiver or other modification.

(d) Intercreditor Agreements. No Lender consent is required to effect any amendment or supplement to the Intercreditor Agreements or any other intercreditor agreement that is, (i) for the purpose of adding the holders of First Lien RCF Credit Agreement Refinancing Indebtedness as parties thereto, as expressly contemplated by the terms of such intercreditor agreement (it being understood that any such amendment or supplement may make such other changes to the applicable intercreditor agreement as, in the good faith determination of the Administrative Agent, are required to effectuate the foregoing), or (ii) expressly contemplated by the Intercreditor Agreements or any other intercreditor agreement expressly permitted to be entered into hereunder, *provided* that such amendment or supplement in either case shall not effectuate an amendment prohibited by Section 11.01(b)(ix) or (x) without the written consent of each directly and adversely effected Lender.

(e) [Reserved].

(f) [Reserved].

(g) [Reserved].

(h) Certain Amendments to Loan Documents. The Guaranty, the Collateral Documents and related documents executed by the Borrower and/or the Restricted Subsidiaries in connection with this Agreement and the other Loan Documents may be in a form reasonably determined by the Administrative Agent and may be, together with this Agreement, amended and waived with the consent of the Administrative Agent at the request of the Borrower without the need to obtain the consent of any other Lender if such amendment or waiver is delivered in order (i) to comply with local Law or advice of local counsel, (ii) to cure ambiguities, errors or defects (as reasonably determined by the Administrative Agent and the Borrower with such determination being conclusive and binding), (iii) to cause such Guaranty, Collateral Document or other document to be consistent with this Agreement and the other Loan Documents or (iv) for administrative clarity (as conclusively determined by the Administrative Agent and the Borrower in good faith).

(i) Defaulting Lenders, Disqualified Lenders and Net Short Lenders.

(i) Defaulting Lenders and Disqualified Lenders. No Defaulting Lender or Disqualified Lender shall have any right to approve or disapprove any amendment, waiver or consent hereunder (and any amendment, waiver or consent which by its terms requires the consent of all Lenders, the Required Lenders or each affected Lender may be effected with the consent of the applicable Lenders other than Defaulting Lenders or Disqualified Lender), except that (A) the Commitment of any Defaulting Lender or Disqualified Lender may not be increased or extended without the consent of such Defaulting Lender or such Disqualified Lender and (B) any waiver, amendment or modification requiring the consent of all Lenders or each affected Lender that by its terms affects any Defaulting Lender or Disqualified Lender (other than any Disqualified Lender described in clause (d) of the definition thereof) more adversely than other affected Lenders shall require the consent of such Defaulting Lender or Disqualified Lender, as applicable.

(ii) Net Short Lenders. Net Short Lenders shall have the right to approve or disapprove any amendment, waiver or consent only to the extent set forth in Section 11.28.

Section 11.02 Notices and Other Communications; Facsimile Copies.

(a) General. Except in the case of notices and other communications expressly permitted to be given by telephone (and except as provided in subsection (b) below), all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by e-mail as follows, and all notices and other communications expressly permitted hereunder to be given by telephone shall be made to the applicable telephone number, as follows:

(i) if to the Borrower, the Collateral Trustee or the Administrative Agent, to the address, electronic mail address or telephone number specified for such Person on Schedule 11.02; and

(ii) if to any other Lender, to the address, electronic mail addresses or telephone number specified in its Administrative Questionnaire.

Notices and other communications sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received; and notices deposited in the United States mail with postage prepaid and properly addressed shall be deemed to have been given within three (3) Business Days of such deposit; *provided* that no notice to any Agent shall be effective until received by such Agent. Notices and other communications delivered through electronic communications to the extent provided in subsection (b) below shall be effective as provided in such subsection (b).

(b) Electronic Communication. Notices and other communications to any Agent and the Lenders hereunder may be delivered or furnished by electronic communication (including e-mail and Internet or intranet websites, including the Platform (if any)) pursuant to procedures approved by the Administrative Agent, *provided* that the foregoing shall not apply to notices to any Agent or Lender pursuant to Article II if such Person, as applicable, has notified the Administrative Agent that it is incapable of receiving notices under such Article by electronic communication. The Administrative Agent or the Borrower may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it, *provided* that approval of such procedures may be limited to particular notices or communications.

(c) Receipt. Unless the Administrative Agent otherwise prescribes, (i) notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgement), *provided* that if such notice or other communication is not sent during the normal business hours of the recipient, such notice or communication shall be deemed to have been sent at the opening of business on the next Business Day for the recipient, and (ii) notices or communications posted to an Internet or intranet website shall be deemed received upon the deemed receipt by the intended recipient at its e-mail address as described in the foregoing clause (i) of notification that such notice or communication is available and identifying the website address therefor.

(d) Risks of Electronic Communications. Each Loan Party understands that the distribution of materials through an electronic medium is not necessarily secure and that there are confidentiality and other risks associated with such distribution and agrees and assumes the risks associated with such electronic distribution, except to the extent caused by the willful misconduct or gross negligence of the Administrative Agent or any Lender as determined by a final, non-appealable judgment of a court of competent jurisdiction.

(e) The Platform. THE PLATFORM IS PROVIDED "AS IS" AND "AS AVAILABLE." THE AGENT PARTIES (AS DEFINED BELOW) DO NOT WARRANT THE ACCURACY OR COMPLETENESS OF THE BORROWER MATERIALS OR THE ADEQUACY OF THE PLATFORM, AND EXPRESSLY DISCLAIM LIABILITY FOR ERRORS IN OR OMISSIONS FROM THE BORROWER MATERIALS OR IN THE PLATFORM. NO WARRANTY OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OF THIRD PARTY RIGHTS OR FREEDOM FROM VIRUSES OR OTHER CODE DEFECTS, IS MADE BY ANY AGENT PARTY IN CONNECTION WITH THE BORROWER MATERIALS OR THE PLATFORM. In no event shall the Administrative Agent or any of its Agent-Related Persons (collectively, the "**Agent Parties**") have any liability to the Borrower, any Lender or any other Person for losses, claims, damages, liabilities or expenses of any kind (whether in tort, contract or otherwise) arising out of the Borrower's or the Administrative Agent's transmission of Borrower Materials through the Internet, except to the extent that such losses, claims, damages, liabilities or expenses are determined by a court of competent jurisdiction by a final and non-appealable judgment to have resulted from the gross negligence or willful misconduct of such Agent Party; *provided, however*, that in no event shall any Agent Party have any liability to the Borrower, any Lender or any other Person for indirect, special, incidental, consequential or punitive damages (as opposed to direct or actual damages). Each Loan Party, each Lender and each Agent agrees that the Administrative Agent may, but shall not be obligated to, store any Borrower Materials on the Platform in accordance with the Administrative Agent's customary document retention procedures and policies.

(f) Change of Address. Each of the Borrower and the Administrative Agent may change its address, electronic mail address or telephone number for notices and other communications hereunder by notice to the other parties hereto. Each other Lender may change its address, electronic mail address or telephone number for notices and other communications hereunder by notice to the Borrower, the Administrative Agent and the Collateral Trustee. In addition, each Lender agrees to notify the Administrative Agent from time to time to ensure that the Administrative Agent has on record (i) an effective address, contact name, telephone number and electronic mail address to which notices and other communications may be sent and (ii) accurate wire instructions for such Lender.

(g) Reliance by the Agents and the Lenders. The Agents and the Lenders shall be entitled to rely and act upon any notices (including Borrowing Requests) purportedly given by or on behalf of the Borrower even if (i) such notices were not made in a manner specified herein, were incomplete or were not preceded or followed by any other form of notice specified herein, or (ii) the terms thereof, as understood by the recipient, varied from any confirmation thereof. All telephonic notices to and other telephonic communications with any Agent may be recorded by the Administrative Agent, and each of the parties hereto hereby consents to such recording. The Borrower shall indemnify the Agents and the Lenders and each Agent-Related Person from all losses, costs, expenses and liabilities resulting from the reliance by such Person on each notice purportedly given by or on behalf of the Borrower in the absence of gross negligence or willful misconduct as determined in a final and non-appealable judgment by a court of competent jurisdiction.

(h) Private-Side Information Contacts. Each Public Lender agrees to cause at least one individual at or on behalf of such Public Lender to at all times have selected the "Private-Side Information" or similar designation on the content declaration screen of the Platform in order to enable such Public Lender or its delegate, in accordance with such Public Lender's compliance procedures and applicable Law, including United States federal and state securities Laws, to make reference to information that is not made available through the "Public-Side Information" portion of the Platform and that may contain Private-Side Information with respect to the Borrower, its Subsidiaries or their respective securities for purposes of United States federal or state securities laws. In the event that any Public Lender has determined for itself to not access any information disclosed through the Platform or otherwise, such Public Lender acknowledges that (i) other Lenders may have availed themselves of such information and (ii) neither the Borrower nor the Administrative Agent has (A) any responsibility for such Public Lender's decision to limit the scope of the information it has obtained in connection with this Agreement and the other Loan Documents and (B) any duty to disclose such information to such Public Lender or to use such information on behalf of such Public Lender, and shall not be liable for the failure to so disclose or use, such information.

Section 11.03 No Waiver; Cumulative Remedies. No forbearance, failure or delay by any Lender or any Agent to exercise, and no delay by any such Person in exercising, any right, remedy, power or privilege hereunder or under any other Loan Document shall impair such right, remedy, power or privilege or operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges herein provided, and provided under each other Loan Document, are cumulative and independent of any rights, remedies, powers and privileges provided by Law.

Notwithstanding anything to the contrary contained herein or in any other Loan Document, the authority to enforce rights and remedies hereunder and under the other Loan Documents against the Borrower shall be vested exclusively in, and all actions and proceedings at law in connection with such enforcement shall be instituted and maintained exclusively by, the Administrative Agent in accordance with Article X for the benefit of all the Lenders; *provided* that the foregoing shall not prohibit (i) the Administrative Agent from exercising on its own behalf the rights and remedies that inure to its benefit (solely in its capacity as Administrative Agent) hereunder and under the other Loan Documents, (ii) [reserved], (iii) any Lender from exercising setoff rights in accordance with Section 11.09 (subject to the terms of Section 2.10) or (iv) any Lender from filing proofs of claim or appearing and filing pleadings on its own behalf during the pendency of a proceeding relative to the Borrower under any Debtor Relief Law; *provided, further*, that if at any time there is no Person acting as Administrative Agent hereunder and under the other Loan Documents, then (A) the Required Lenders shall have the rights otherwise provided to the Administrative Agent pursuant to Article X and (B) in addition to the matters set forth in clauses (ii), (iii) and (iv) of the preceding proviso and subject to Section 2.10, any Lender may, with the consent of the Required Lenders, enforce any rights or remedies available to it and as authorized by the Required Lenders.

Section 11.04 Attorney Costs and Expenses. The Borrower agrees (a) to pay or reimburse the Administrative Agent, the Collateral Trustee, the Supplemental Administrative Agents and the Lenders for all reasonable and documented in reasonable detail out-of-pocket expenses in connection with the preparation, execution, delivery and administration of this Agreement and the other Loan Documents and any amendment, waiver, consent or other modification of the provisions hereof and thereof (whether or not the transactions contemplated thereby are consummated) including all Attorney Costs, and (b) to pay or reimburse the Administrative Agent, the Collateral Trustee, the Supplemental Administrative Agents and the Lenders for all out-of-pocket costs and expenses incurred in connection with the enforcement or protection of any rights or remedies under this Agreement or the other Loan Documents (including all such costs and expenses incurred during any legal proceeding, including any proceeding under any Debtor Relief Law, and including all Attorney Costs (and, if reasonably necessary, local counsel in any relevant material jurisdiction (which may be a single local counsel acting in multiple material jurisdictions) and, solely in the event of an actual or perceived conflict of interest between the Administrative Agent, the Collateral Trustee, the Supplemental Administrative Agents and the Lenders, where the Person or Persons affected by such conflict of interest inform the Borrower in writing of such conflict of interest, one additional counsel in each relevant material jurisdiction to each affected Persons)). The agreements in this Section 11.04 shall survive the termination of the Aggregate Commitments and repayment of all other Obligations. All amounts due under this Section 11.04 shall be paid promptly following receipt by the Borrower of an invoice relating thereto setting forth such expenses in reasonable detail, and in any event within thirty (30) days of receipt of such invoice. If any Loan Party fails to pay when due any costs, expenses or other amounts payable by it hereunder or under any Loan Document, such amount may be paid on behalf of such Loan Party by the Administrative Agent in its sole discretion. Expenses shall be deemed to be documented in accordance with this Section 11.04 only if they provide the detail required to enable the Borrower, acting in good faith, to determine that such expenses relate to the activities with respect to which reimbursement is required hereunder. The Borrower and each other Loan Party hereby acknowledge that the Administrative Agent and/or any Lender may receive a benefit, including a discount, credit or other accommodation, from any of such counsel based on the fees such counsel may receive on account of their relationship with the Administrative Agent and/or such Lender, including fees paid pursuant to this Agreement or any other Loan Document.

Section 11.05 Indemnification by the Borrower. The Borrower shall indemnify and hold harmless the Administrative Agent, any Supplemental Administrative Agent, the Collateral Trustee, each Lender, and their respective Affiliates, directors, officers, directors, employees, agents, advisors, partners, shareholders, trustees, controlling persons, and other representatives (collectively, the “**Indemnitees**”) from and against any and all liabilities, obligations, losses, damages, penalties, claims, demands, actions, judgments, suits, costs, expenses and disbursements (including Attorney Costs) of any kind or nature whatsoever which may at any time be imposed on, incurred by or asserted against any such Indemnitee in any way relating to or arising out of or in connection with (but limited, in the case of legal fees and expenses, to the Attorney Costs for each Indemnitee and, if reasonably necessary, a single local counsel for each Indemnitee in each relevant jurisdiction that is material to the interest of such Indemnitees (which may be a single local counsel acting in multiple material jurisdictions), and solely in the case of an actual or perceived conflict of interest between Indemnitees (where the Indemnitee affected by such conflict of interest informs the Borrower in writing of such conflict of interest), one additional counsel in each relevant jurisdiction to each affected Indemnitee),

(a) the execution, delivery, enforcement, performance or administration of any Loan Document or any other agreement, letter or instrument delivered in connection with the transactions contemplated thereby or the consummation of the transactions contemplated thereby (including the reliance in good faith by any Indemnitee on any notice purportedly given by or on behalf of the Borrower or any Loan Party),

(b) the Transaction,

(c) any Commitment, Loan, or the use or proposed use of the proceeds therefrom,

(d) any actual or alleged release of, or exposure to, any Hazardous Materials on or from any property currently or formerly owned or operated by the Borrower or any other Loan Party, or any Environmental Claim against, or Environmental Liability of, the Borrower or any other Loan Party, or

(e) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory (including any investigation of, preparation for, or defense of any pending or threatened claim, investigation, litigation or proceeding) and regardless of whether any Indemnatee is a party thereto (all the foregoing, collectively, the “**Indemnified Liabilities**”);

provided that such indemnity shall not, as to any Indemnatee, be available to the extent that a court of competent jurisdiction determines in a final, non-appealable judgment that any such liabilities, obligations, losses, damages, penalties, claims, demands, actions, judgments, suits, costs, expenses or disbursements resulted from (i) the gross negligence or willful misconduct of such Indemnatee or of any Related Indemnified Person of such Indemnatee or (ii) any dispute solely among Indemnitees or of any Related Indemnified Person of such Indemnatee other than any claims against an Indemnatee in its capacity or in fulfilling its role as the Administrative Agent or the Collateral Trustee (or other Agent role) under the Term Loan Facility and other than any claims arising out of any act or omission of the Borrower or any of their Affiliates. To the extent that the undertakings to indemnify and hold harmless set forth in this Section 11.05 may be unenforceable in whole or in part because they are violative of any applicable law or public policy, the Borrower shall contribute the maximum portion that they are permitted to pay and satisfy under applicable law to the payment and satisfaction of all Indemnified Liabilities incurred by the Indemnitees or any of them. No Indemnatee shall be liable for any damages arising from the use by others of any information or other materials obtained through any information transmission systems in connection with this Agreement, except to the extent resulting from the willful misconduct or gross negligence of such Indemnatee or any Related Indemnified Person (as determined by a final and non-appealable judgment of a court of competent jurisdiction), nor shall any Indemnatee or any Loan Party have any liability for any special, punitive, indirect or consequential damages relating to this Agreement or any other Loan Document or arising out of its activities in connection herewith or therewith (whether before or after the Closing Date) (other than, in the case of any Loan Party, in respect of any such damages incurred or paid by an Indemnatee to a third party). In the case of an investigation, litigation or other proceeding to which the indemnity in this Section 11.05 applies, such indemnity shall be effective whether or not such investigation, litigation or proceeding is brought by any Loan Party, its directors, stockholders or creditors or an Indemnatee or any other Person, whether or not any Indemnatee is otherwise a party thereto and whether or not any of the transactions contemplated hereunder or under any of the other Loan Documents is consummated. All amounts due under this Section 11.05 (after the determination of a court of competent jurisdiction, if required pursuant to the terms of this Section 11.05) shall be paid within ten (10) Business Days after written demand therefor. The agreements in this Section 11.05 shall survive the resignation of the Administrative Agent or the Collateral Trustee, replacement of any Lender, the termination of the Aggregate Commitments and the repayment, satisfaction or discharge of all the other Obligations. This Section 11.05 shall not apply to Taxes, except it shall apply to any Taxes that represent losses, claims, damages, etc. arising from a non-Tax claim.

Section 11.06 Marshaling; Payments Set Aside. None of the Administrative Agent, any Lender, or the Collateral Trustee shall be under any obligation to marshal any assets in favor of the Loan Parties or any other Person or against or in payment of any or all of the Obligations. To the extent that any payment by or on behalf of the Borrower is made to any Agent or any Lender (or to the Administrative Agent, on behalf of any Lender), or any Agent or any Lender enforces any security interests or exercises its right of setoff, and such payments or the proceeds of such enforcement or setoff or any part thereof are subsequently invalidated, declared to be fraudulent or preferential, set aside and/or required (including pursuant to any settlement entered into by such Agent or such Lender in its discretion) to be repaid to a trustee, receiver or any other party, in connection with any proceeding under any Debtor Relief Law or otherwise, then (a) to the extent of such recovery, the obligation or part thereof originally intended to be satisfied and all Liens, rights and remedies therefor or related thereto, shall be revived and continued in full force and effect as if such payment or payments had not been made or such enforcement or setoff had not occurred and (b) each Lender severally agrees to pay to the Administrative Agent upon demand its applicable share (without duplication) of any amount so recovered from or repaid by the Administrative Agent, *plus* interest thereon from the date of such demand to the date such payment is made at a rate *per annum* equal to the Federal Funds Rate from time to time in effect. The obligations of the Lenders under clause (b) of the preceding sentence shall survive the payment in full of the Obligations and the termination of this Agreement.

Section 11.07 Successors and Assigns.

(a) The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, except that none of the Borrower may, except as permitted by Section 7.04, assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of the Administrative Agent, the Collateral Trustee and each Lender and no Lender may assign or otherwise transfer any of its rights or obligations hereunder except,

(i) to an assignee in accordance with the provisions of subsection (b) of this Section,

(ii) by way of participation in accordance with the provisions of subsection (d) of this Section,

(iii) by way of pledge or assignment of a security interest subject to the restrictions of subsection (f) of this Section, or

(iv) to an SPC in accordance with the provisions of subsection (g) of this Section (and any other attempted assignment or transfer by any party hereto shall be null and void).

Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby, Participants to the extent provided in subsection (d) of this Section and, to the extent expressly contemplated hereby, the Agent-Related Persons of each of the Administrative Agent, the Collateral Trustee and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) Assignments by Lenders. Any Lender may at any time assign to one or more assignees all or a portion of its rights and obligations under this Agreement, including all or a portion of its Commitment and the Loans (including, for purposes of this Section 11.07(b), participations in Letters of Credit) at the time owing to it; *provided* that any such assignment shall be subject to the following conditions:

(i) Minimum Amounts.

(A) in the case of an assignment of the entire remaining amount of the assigning Lender's Commitment and Loans at the time held by it or in the case of an assignment to a Lender, an Affiliate of a Lender or an Approved Fund, no minimum amount need be assigned; and

(B) with respect to any assignment not described in subsection (b)(i)(A) of this Section, such assignment shall be in an aggregate amount of not less than \$5,000,000, unless each of the Administrative Agent, and so long as no Specified Event of Default has occurred and is continuing at the time of such assignment, the Borrower otherwise consent (such consent not to be unreasonably withheld or delayed).

(ii) Proportionate Amounts. Each partial assignment of Commitments and/or Loans shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement with respect to the Commitments and/or Loans being assigned, except that this clause (ii) shall not prohibit any Lender from assigning all or a portion of its rights and obligations among the Term Loan Facility on a non-pro rata basis.

(iii) Required Consents and Notices. No notice or consent shall be required for any assignment except to the extent required by Section 11.07(b)(i) (B) and the following:

(A) Not less than five (5) days' prior written notice from the assigning Lender to the Borrower of the proposed assignment, the amount of such assigning Lender's Loans that will be so assigned and the Person that is proposed to receive such assignment; *provided, however*, no such notice shall be required if (1) a Specified Event of Default has occurred and is continuing at the time of such assignment, (2) any other Event of Default has occurred and is continuing that has not been cured to the satisfaction of the Lenders or waived within thirty (30) days of occurrence; (3) such assignment is made to an existing Lender or an Affiliate of the assigning Lender, or (4) [reserved]; and

(B) the consent of the Administrative Agent (such consent not to be unreasonably withheld or delayed, it being acknowledged that a failure of any new lender to clear the Administrative Agent's KYC process shall be deemed reasonable) shall be required if such assignment is to a Person that is not a Lender, an Affiliate of such Lender or an Approved Fund.

(iv) Assignment and Assumption. The parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Assumption, together with a processing and recordation fee of \$3,500; *provided* that the Administrative Agent may, in its sole discretion, elect to waive such processing and recordation fee in the case of any assignment. The Eligible Assignee, if it is not a Lender, shall deliver to the Administrative Agent an Administrative Questionnaire and any KYC documentation including any tax forms required under Sections 3.01(b), (c), (d) and (e), as applicable. Upon receipt of the processing and recordation fee and any written consent to assignment required by Section 11.07(b)(iii), the Administrative Agent shall promptly accept such Assignment and Assumption and record the information contained therein in the Register.

(v) No Assignments to Certain Persons. No such assignment shall be made,

(A) to the Borrower or any of the Subsidiaries of the Borrower,

(B) any of the Borrower's Affiliates,

(C) to any Defaulting Lender or any of its Subsidiaries, or any Person who, upon becoming a Lender hereunder, would constitute any of the foregoing persons described in this clause,

(D) to a natural person, or

(E) to any Person described in the proviso to the definition of "Eligible Assignee".

A Lender shall be entitled to rely conclusively on any Net Short Representation made (or deemed made) to it in any Assignment and Assumption and shall have no duty to inquire as to or investigate the accuracy of any such Net Short Representation.

(vi) Defaulting Lenders Assignments. In connection with any assignment of rights and obligations of any Defaulting Lender hereunder, no such assignment shall be effective unless and until, in addition to the other conditions thereto set forth herein, the parties to the assignment shall make such additional payments to the Administrative Agent in an aggregate amount sufficient, upon distribution thereof as appropriate (which may be outright payment, purchases by the assignee of participations or sub-participations, or other compensating actions, including funding, with the consent of the Borrower and the Administrative Agent, the applicable Pro Rata Share of Loans previously requested but not funded by the Defaulting Lender, to each of which the applicable assignee and assignor hereby irrevocably consent), to (A) pay and satisfy in full all payment liabilities then owed by such Defaulting Lender to the Administrative Agent and each other Lender hereunder (and interest accrued thereon), and (B) acquire (and fund as appropriate) its full Pro Rata Share of all Loans and participations in Letters of Credit. Notwithstanding the foregoing, in the event that any assignment of rights and obligations of any Defaulting Lender hereunder shall become effective under applicable Law without compliance with the provisions of this paragraph, then the assignee of such interest shall be deemed to be a Defaulting Lender for all purposes of this Agreement until such compliance occurs.

Subject to acceptance and recording thereof by the Administrative Agent pursuant to clause (c) of this Section 11.07, from and after the effective date specified in each Assignment and Assumption, the assignee thereunder shall be a party to this Agreement (except in the case of an assignment to or purchase by the Borrower or any of the Borrower's Subsidiaries) and, to the extent of the interest assigned by such Assignment and Assumption and as permitted by this Section 11.07, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto but shall continue to be entitled to the benefits of Sections 3.01, 3.04, 3.05, 11.04 and 11.05 with respect to facts and circumstances occurring prior to the effective date of such assignment). Upon request, and the surrender by the assigning Lender of its applicable Term Loan Notes under this Agreement, the Borrower (at their expense) shall execute and deliver a Term Loan Note to the assignee Lender. Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this subsection shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with subsection (d) of this Section.

(c) Register. The Administrative Agent, acting solely for this purpose as a non-fiduciary agent of the Borrower (and such agency being solely for Tax purposes), shall maintain at one of the Administrative Agent's Offices a copy of each Assignment and Assumption delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Commitments of, and principal amounts and stated interest of the Loans owing to each Lender pursuant to the terms hereof from time to time (the "**Register**"). The entries in the Register shall be conclusive absent manifest error, and the Borrower, the Agents and the Lenders shall treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. The Register shall be available for inspection by the Borrower, the Collateral Trustee or any Lender (but only, in the case of a Lender at the Administrative Agent's Office and with respect to any entry relating to such Lender's Commitments, Loans and other Obligations), at any reasonable time and from time to time upon reasonable prior written notice. This Section 11.07(c) and Section 2.08 shall be construed so that all Loans are at all times maintained in "registered form" within the meaning of Sections 163(f), 871(h)(2) and 881(c)(2) of the Code and any related Treasury regulations (or any other relevant or successor provisions of the Code or of such Treasury regulations).

(d) Participations. Any Lender may at any time, without the consent of, or notice to, the Borrower, the Administrative Agent or any other Person sell participations to any Person (other than to (1) a natural person, (2) the Borrower or any of the Borrower's Affiliates or Subsidiaries, (3) so long as no Event of Default pursuant to Section 9.01(a) or Section 9.01(f) shall have occurred and be continuing for at least 10 days, any Disqualified Lender or (4) any Person described in the proviso to the definition of "Eligible Assignee") (each, a "**Participant**") in all or a portion of such Lender's rights and/or obligations under this Agreement (including all or a portion of its Commitment and/or the Loans (including such Lender's participations in Letters of Credit) owing to it); *provided that* (i) such Lender's obligations under this Agreement shall remain unchanged, (ii) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (iii) the Borrower, the Agents and the other Lenders shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement. Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and the other Loan Documents and to approve any amendment, modification or waiver of any provision of this Agreement or any other Loan Document; *provided that* such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, waiver or other modification described in Section 11.01(b) (other than clause (iv) thereof) that directly and adversely affects such Participant. Subject to subsection (e) of this Section, the Borrower agrees that each Participant shall be entitled to the benefits of Sections 3.01 (subject to the requirements of Sections 3.01(b), (c), (d) and (e), as applicable (it being understood that the documentation required under such Sections shall be delivered to the participating Lender)), 3.04 and 3.05 (through the applicable Lender) to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to subsection (b) of this Section 11.07. To the extent permitted by applicable Law, each Participant also shall be entitled to the benefits of Section 11.09 as though it were a Lender; *provided that* such Participant agrees to be subject to Section 2.10 as though it were a Lender. To the extent that any participation is purported to be made to a Disqualified Lender (other than a Net Short Lender) or to any Person that was (at the time of such participation) a Net Short Lender on a pro forma basis for such participation, such transaction shall be subject to the applicable provisions of Section 11.28(a) (and the Borrower shall be entitled to seek specific performance in any applicable court of law or equity to enforce this sentence); *provided that* a Lender shall be entitled to rely conclusively on any Net Short Representation made (or deemed made) to it in any agreement or instrument documenting or otherwise evidencing such participation and shall have no duty to inquire as to or investigate the accuracy of any such Net Short Representation therein or provided in connection with such participation.

(e) Limitations upon Participant Rights. A Participant shall not be entitled to receive any greater payment under Section 3.01, 3.04 or 3.05 than the applicable Lender would have been entitled to receive with respect to the participation sold to such Participant, unless the sale of the participation to such Participant is made with the Borrower's prior written consent, such consent not to be unreasonably withheld or delayed, or such entitlement to a greater payment results from a Change in Law that occurs after the Participant acquired the participation. Each Lender that sells a participation or has a loan funded by an SPC shall (acting solely for this purpose as a non-fiduciary agent of the Borrower) maintain a register complying with the requirements of Sections 163(f), 871(h) and 881(c)(2) of the Code and the Treasury regulations (or any other relevant or successor provisions of the Code or of such Treasury regulations) issued thereunder relating to the exemption from withholding for portfolio interest on which is entered the name and address of each Participant or SPC and the principal amounts (and stated interest) of each Participant's or SPC's interest in the Loans or other obligations under this Agreement (the "**Participant Register**"). A Lender shall not be obligated to disclose the Participant Register to any Person except to the extent such disclosure is necessary to establish that any Loan or other obligation is in registered form under Section 5f.103-1(c) or proposed Section 1.163-5(b) of the United States Treasury regulations (or any amended or successor version). The entries in the Participant Register shall be conclusive absent manifest error, and such Lender shall treat each person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary.

(f) Liens on Loans. Any Lender may, at any time without the consent of the Borrower or the Administrative Agent, pledge or assign a security interest in all or any portion of its rights under this Agreement (including under its Term Loan Notes, if any) to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank or any other central bank; *provided* that no such pledge or assignment shall release such Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

(g) Special Purpose Funding Vehicles. Notwithstanding anything to the contrary contained herein, any Lender (a “**Granting Lender**”) may grant to a special purpose funding vehicle identified as such in writing from time to time by the Granting Lender to the Administrative Agent and the Borrower (an “**SPC**”) the option to provide all or any part of any Loan that such Granting Lender would otherwise be obligated to make pursuant to this Agreement; *provided* that (i) nothing herein shall constitute a commitment by any SPC to fund any Loan, and (ii) if an SPC elects not to exercise such option or otherwise fails to make all or any part of such Loan, the Granting Lender shall be obligated to make such Loan pursuant to the terms hereof. Each party hereto hereby agrees that (A) neither the grant to any SPC nor the exercise by any SPC of such option shall increase the costs or expenses or otherwise increase or change the obligations of the Borrower under this Agreement (including their obligations under Sections 3.01, 3.04 and 3.05), (B) no SPC shall be liable for any indemnity or similar payment obligation under this Agreement for which a Lender would be liable, and (C) the Granting Lender shall for all purposes, including the approval of any amendment, waiver or other modification of any provision of any Loan Document, remain the lender of record hereunder. The making of a Loan by an SPC hereunder shall utilize the Commitment of the Granting Lender to the same extent, and as if, such Loan were made by such Granting Lender. In furtherance of the foregoing, each party hereto hereby agrees (which agreement shall survive the termination of this Agreement) that, prior to the date that is one year and one day after the payment in full of all outstanding commercial paper or other senior debt of any SPC, it will not institute against, or join any other Person in instituting against, such SPC any bankruptcy, reorganization, arrangement, insolvency, or liquidation proceeding under the laws of the United States or any State thereof. Notwithstanding anything to the contrary contained herein, any SPC may (1) with notice to, but without prior consent of the Borrower and the Administrative Agent and with the payment of a processing fee of \$3,500 (which processing fee may be waived by the Administrative Agent in its sole discretion), assign all or any portion of its right to receive payment with respect to any Loan to the Granting Lender and (2) disclose on a confidential basis any non-public information relating to its funding of Loans to any rating agency, commercial paper dealer or provider of any surety or Guarantee or credit or liquidity enhancement to such SPC.

Section 11.08 Confidentiality. Each of the Administrative Agent, the Collateral Trustee, and the Lenders agrees to maintain the confidentiality of the Information in accordance with its customary procedures (as set forth below), except that Information may be disclosed,

(a) to its Affiliates and to its and its Affiliates' respective partners, directors, officers, managers, employees, agents, trustees, consultants, attorneys, accountants, advisors and representatives (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to keep such Information confidential and in no event shall such disclosure be made to any Disqualified Lender (other than a Net Short Lender (x) that provides a Net Short Representation at the time of such disclosure or (y) as to which the disclosing party does not have actual knowledge that such Person is a Net Short Lender) pursuant to this clause (a), but only to the extent that a list of such Disqualified Lenders is available to all Lenders upon request),

(b) to the extent requested by any regulatory authority purporting to have jurisdiction over it (including the Federal Reserve Bank or any other central bank or any self-regulatory authority, such as the National Association of Insurance Commissioners),

(c) to the extent required by applicable laws or regulations or by any subpoena or similar legal process, *provided* that the Administrative Agent or the Collateral Trustee, as applicable, agrees that it will notify the Borrower as soon as practicable in the event of any such disclosure by such Person (other than at the request of a regulatory authority) unless such notification is prohibited by law, rule or regulation,

(d) to any other party hereto (it being understood that in no event shall such disclosure be made to any Disqualified Lender (other than a Net Short Lender (x) that provides a Net Short Representation at the time of such disclosure or (y) as to which the disclosing party does not have actual knowledge that such Person is a Net Short Lender) pursuant to this clause (d), but only to the extent the list of such Disqualified Lenders is available to all Lenders upon request),

(e) in connection with the exercise of any remedies hereunder or under any other Loan Document or any action or proceeding relating to this Agreement or any other Loan Document or the enforcement of rights hereunder or thereunder,

(f) subject to an agreement containing provisions at least as restrictive as those of this Section 11.08 (it being understood that in no event shall such disclosure be made to any Disqualified Lender (other than a Net Short Lender (x) that provides a Net Short Representation at the time of such disclosure or (y) as to which the disclosing party does not have actual knowledge that such Person is a Net Short Lender) pursuant to this clause (f), but only to the extent that a list of such Disqualified Lenders is available to all Lenders upon request), to (i) any *bona fide* assignee of or Participant in, or any prospective assignee of or Participant in, any of its rights or obligations under this Agreement or (ii) any actual or prospective direct or indirect counterparty (or its advisors) to any swap or derivative transaction relating to the Borrower or any of their Subsidiaries or any of their respective obligations,

(g) with the prior written consent of the Borrower,

(h) to any rating agency when required by it (it being understood that, prior to any such disclosure, such rating agency shall undertake to preserve the confidentiality of any Information relating to the Loan Parties received by it from such Lender),

(i) to any credit insurance providers of the Lenders; *provided* that prior to the disclosure of any proprietary or non-public information relating to the Borrower, other than any Loan Document, in connection with this clause (i), the credit insurance provider shall enter into an agreement containing confidentiality obligations to the disclosing Lender on terms similar to this Agreement, or

(j) to the extent such Information (i) becomes publicly available other than as a result of a breach of this Section 11.08 or (ii) becomes available to the Administrative Agent, the Collateral Trustee, any Lender, or any of their respective Affiliates on a non-confidential basis from a source other than the Borrower or any Subsidiary thereof, and which source is not known by such Person to be subject to a confidentiality restriction in respect thereof in favor of the Borrower or any Affiliate of the Borrower.

In addition, each of the Administrative Agent, the Collateral Trustee, and the Lenders may disclose the existence of this Agreement and the information about this Agreement to the CUSIP Service Bureau or any similar agency in connection with the issuance and monitoring of CUSIP numbers with respect to the Loans, market data collectors, similar service providers to the lending industry, and service providers to the Administrative Agent, the Collateral Trustee and the Lenders in connection with the administration and management of this Agreement and the other Loan Documents.

For purposes of this Section 11.08, “**Information**” means all information received from or on behalf of any Loan Party or any Subsidiary thereof relating to any Loan Party or any Subsidiary thereof or their respective businesses, other than any such information that is available to the Administrative Agent, the Collateral Trustee or any Lender on a non-confidential basis prior to disclosure by any Loan Party or any Subsidiary thereof; it being understood that all information received from the Borrower or any Subsidiary after the date hereof shall be deemed confidential unless such information is clearly identified at the time of delivery as not being confidential. Any Person required to maintain the confidentiality of Information as provided in this Section 11.08 shall be considered to have complied with its obligation to do so in accordance with its customary procedures if such Person has exercised the same degree of care to maintain the confidentiality of such Information as such Person would accord to its own confidential information.

Each of the Administrative Agent, the Collateral Trustee and the Lenders acknowledges that (A) the Information may include Private-Side Information concerning the Borrower or a Subsidiary, as the case may be, (B) it has developed compliance procedures regarding the use of Private-Side Information and (C) it will handle such Private-Side Information in accordance with applicable Law, including United States federal and state securities laws.

Notwithstanding anything to the contrary therein, nothing in any Loan Document shall require the Borrower or any of its subsidiaries to provide information (i) that constitutes non-financial trade secrets or non-financial proprietary information, (ii) in respect of which disclosure is prohibited by applicable Law, (iii) that is subject to attorney client or similar privilege or constitutes attorney work product or (iv) the disclosure of which is restricted by binding agreements not entered into primarily for the purpose of qualifying for the exclusion in this clause (iv).

Section 11.09 Set-off. If an Event of Default shall have occurred and be continuing, each Lender and each of their respective Affiliates is hereby authorized at any time and from time to time, without prior notice to the Administrative Agent, any Loan Party or to any other Person, any such notice being hereby expressly waived, to the fullest extent permitted by applicable law, to set off and apply any and all deposits (general or special, time or demand, provisional or final, in whatever currency) at any time held and other obligations (in whatever currency) at any time owing by such Lender or any such Affiliate to or for the credit or the account of the Borrower or any other Loan Party against any and all of the obligations of the Borrower or such Loan Party now or hereafter existing under this Agreement or any other Loan Document to such Lender, irrespective of whether or not (a) such Lender shall have made any demand under this Agreement or any other Loan Document and (b) the principal of or the interest on the Loans or any amounts in respect of the Letters of Credit or any other amounts due hereunder shall have become due and payable pursuant to Article II and although such obligations of the Borrower or such Loan Party may be contingent or unmatured or are owed to a branch or office of such Lender different from the branch or office holding such deposit or obligated on such indebtedness; *provided* that in the event that any Defaulting Lender shall exercise any such right of setoff, (i) all amounts so set off shall be paid over immediately to the Administrative Agent for further application in accordance with the provisions of Sections 2.10, pending such payment, shall be segregated by such Defaulting Lender from its other funds and deemed held in trust for the benefit of the Administrative Agent and the Lenders, and (ii) the Defaulting Lender shall provide promptly to the Administrative Agent a statement describing in reasonable detail the Obligations owing to such Defaulting Lender as to which it exercised such right of setoff. The rights of each Lender and their respective Affiliates under this Section are in addition to other rights and remedies (including other rights of set-off) that such Lender or Affiliates may have. Each Lender agrees to notify the Borrower and the Administrative Agent promptly after any such set-off and application, provided that the failure to give such notice shall not affect the validity of such set-off and application.

Section 11.10 Interest Rate Limitation. Notwithstanding anything to the contrary contained in any Loan Document, the interest paid or agreed to be paid under the Loan Documents with respect to any of the Obligations shall not exceed the maximum rate of non-usurious interest permitted by applicable Law (the “**Maximum Rate**”). If any Agent or any Lender shall receive interest in an amount that exceeds the Maximum Rate, the excess interest shall be applied to the principal of the Loans or, if it exceeds such unpaid principal, refunded to the Borrower. In determining whether the interest contracted for, charged, or received by an Agent or a Lender exceeds the Maximum Rate, such Person may, to the extent permitted by applicable Law, (a) characterize any payment that is not principal as an expense, fee, or premium rather than interest, (b) exclude voluntary prepayments and the effects thereof, and (c) amortize, prorate, allocate, and spread in equal or unequal parts the total amount of interest throughout the contemplated term of the Obligations hereunder. If the rate of interest under this Agreement at any time exceeds the Maximum Rate, the outstanding amount of the Loans made hereunder shall bear interest at the Maximum Rate until the total amount of interest due hereunder equals the amount of interest which would have been due hereunder if the stated rates of interest set forth in this Agreement had at all times been in effect. In addition, if when the Loans made hereunder are repaid in full the total interest due hereunder (taking into account the increase provided for above) is less than the total amount of interest which would have been due hereunder if the stated rates of interest set forth in this Agreement had at all times been in effect, then to the extent permitted by law, the Borrower shall pay to the Administrative Agent an amount equal to the difference between the amount of interest paid and the amount of interest which would have been paid if the Maximum Rate had at all times been in effect. Notwithstanding the foregoing, it is the intention of the Lenders and the Borrower to conform strictly to any applicable usury laws.

Section 11.11 Counterparts; Integration; Effectiveness.

This Agreement may be executed in counterparts (and by different parties hereto in different counterparts), each of which when so executed shall be deemed to be an original and all of which when taken together shall constitute one and the same instrument. Any signature to this Agreement may be delivered by facsimile, electronic mail (including pdf) or any electronic signature complying with the U.S. federal E-SIGN Act of 2000 or the New York Electronic Signature and Records Act or other transmission method and any counterpart so delivered shall be deemed to have been duly and validly delivered and be valid and effective for all purposes to the fullest extent permitted by applicable Law. For the avoidance of doubt, the foregoing also applies to any amendment, extension or renewal of this Agreement. This Agreement and the other Loan Documents constitute the entire contract among the parties relating to the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof.

Each party hereto represents and warrants to the other parties hereto that it has the corporate capacity and authority to execute this Agreement through electronic means and there are no restrictions for doing so in such party's constitutive documents.

Section 11.12 Electronic Execution of Assignments and Certain Other Documents. The words "execution," "signed," "signature," and words of like import in this Agreement, any Assignment and Assumption, in or related to any document to be signed in connection with this Agreement and the transactions contemplated hereby or in any amendment or other modification hereof (including waivers and consents) shall be deemed to include electronic signatures or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, as the case may be, relating to the electronic execution of agreements; *provided* that notwithstanding anything contained herein to the contrary, the Administrative Agent is under no obligation to agree to accept electronic signatures in any form or any format unless expressly agreed to by the Administrative Agent pursuant to procedures approved by it.

Section 11.13 Survival. All representations and warranties made hereunder and in any other Loan Document or other document delivered pursuant hereto or thereto or in connection herewith or therewith shall survive the execution and delivery hereof and thereof. Such representations and warranties have been or will be relied upon by the Administrative Agent and each Lender, regardless of any investigation made by the Administrative Agent or any Lender or on their behalf and notwithstanding that the Administrative Agent or any Lender may have had notice or knowledge of any Default at the time of any Loan, and shall continue in full force and effect as long as any Loan or any other Obligation hereunder shall remain unpaid or unsatisfied. Notwithstanding anything herein or implied by law to the contrary, the agreements of each Loan Party set forth in Sections 3.01, 3.04, 3.05, 11.04, 11.05 and 11.09 and the agreements of the Lenders set forth in Sections 2.10, 10.03 and 10.07 shall survive the termination of the Commitments and the repayment, satisfaction or discharge of all obligations under any Loan Document.

Section 11.14 Severability. If any provision of this Agreement or the other Loan Documents is held to be illegal, invalid or unenforceable in any jurisdiction, (a) the legality, validity and enforceability of the remaining provisions or obligations, or of such provision or obligation in any other jurisdiction, of this Agreement and the other Loan Documents shall not be affected or impaired thereby and (b) the parties shall endeavor in good faith negotiations to replace the illegal, invalid or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the illegal, invalid or unenforceable provisions. The invalidity of a provision in a particular jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. Without limiting the foregoing provisions of this Section 11.14, if and to the extent that the enforceability of any provisions in this Agreement relating to Defaulting Lenders shall be limited by Debtor Relief Laws, as determined in good faith by the Administrative Agent, then such provisions shall be deemed to be in effect only to the extent not so limited.

Section 11.15 GOVERNING LAW.

(a) THIS AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER (INCLUDING ANY CLAIMS SOUNDING IN CONTRACT LAW OR TORT LAW ARISING OUT OF THE SUBJECT MATTER HEREOF AND ANY DETERMINATIONS WITH RESPECT TO POST-JUDGMENT INTEREST) AND EACH OTHER LOAN DOCUMENT SHALL BE GOVERNED BY, AND SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK.

(b) BY EXECUTING AND DELIVERING THIS AGREEMENT, EACH PARTY HERETO IRREVOCABLY AND UNCONDITIONALLY SUBMITS, FOR ITSELF AND ITS PROPERTY, TO THE EXCLUSIVE JURISDICTION AND VENUE OF THE COURTS OF THE STATE OF NEW YORK SITTING IN NEW YORK CITY IN THE BOROUGH OF MANHATTAN AND OF ANY UNITED STATES FEDERAL COURT SITTING IN THE BOROUGH OF MANHATTAN, AND ANY APPELLATE COURT FROM ANY THEREOF, IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT (OTHER THAN WITH RESPECT TO ACTIONS BY ANY AGENT IN RESPECT OF RIGHTS UNDER ANY COLLATERAL DOCUMENT GOVERNED BY A LAW OTHER THAN THE LAWS OF THE STATE OF NEW YORK (INCLUDING ANY VESSEL MORTGAGE) OR WITH RESPECT TO ANY COLLATERAL SUBJECT THERETO), OR FOR RECOGNITION OR ENFORCEMENT OF ANY JUDGMENT, AND EACH OF THE PARTIES HERETO IRREVOCABLY AND UNCONDITIONALLY AGREES THAT ALL CLAIMS IN RESPECT OF ANY SUCH ACTION OR PROCEEDING MAY BE HEARD AND DETERMINED IN SUCH NEW YORK STATE COURT OR, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, IN SUCH FEDERAL COURT. EACH OF THE PARTIES HERETO AGREES THAT A FINAL JUDGMENT IN ANY SUCH ACTION OR PROCEEDING SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN OTHER JURISDICTIONS BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY LAW. EACH PARTY HERETO AGREES THAT THE AGENTS AND LENDERS RETAIN THE RIGHT TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY LAW OR TO BRING PROCEEDINGS AGAINST ANY LOAN PARTY IN THE COURTS OF ANY OTHER JURISDICTION IN CONNECTION WITH THE EXERCISE OF ANY RIGHTS UNDER ANY COLLATERAL DOCUMENT OR THE ENFORCEMENT OF ANY JUDGMENT.

(c) EACH LOAN PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY OBJECTION THAT IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT IN ANY COURT REFERRED TO IN PARAGRAPH (b) OF THIS SECTION 11.15. EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF SUCH ACTION OR PROCEEDING IN ANY SUCH COURT.

Section 11.16 WAIVER OF RIGHT TO TRIAL BY JURY. EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). THE SCOPE OF THIS WAIVER IS INTENDED TO BE ALL-ENCOMPASSING OF ANY AND ALL DISPUTES THAT MAY BE FILED IN ANY COURT AND THAT RELATE TO THE SUBJECT MATTER OF THIS TRANSACTION, INCLUDING CONTRACT CLAIMS, TORT CLAIMS, BREACH OF DUTY CLAIMS AND ALL OTHER COMMON LAW AND STATUTORY CLAIMS. EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PERSON HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 11.16, THAT EACH HAS ALREADY RELIED ON THIS WAIVER IN ENTERING INTO THIS AGREEMENT, AND THAT EACH WILL CONTINUE TO RELY ON THIS WAIVER IN ITS RELATED FUTURE DEALINGS. EACH PARTY HERETO FURTHER WARRANTS AND REPRESENTS THAT IT HAS REVIEWED THIS WAIVER WITH ITS LEGAL COUNSEL AND THAT IT KNOWINGLY AND VOLUNTARILY WAIVES ITS JURY TRIAL RIGHTS FOLLOWING CONSULTATION WITH LEGAL COUNSEL. THIS WAIVER IS IRREVOCABLE, MEANING THAT IT MAY NOT BE MODIFIED EITHER ORALLY OR IN WRITING (OTHER THAN BY A MUTUAL WRITTEN WAIVER SPECIFICALLY REFERRING TO THIS SECTION 11.16 AND EXECUTED BY EACH OF THE PARTIES HERETO), AND THIS WAIVER SHALL APPLY TO ANY SUBSEQUENT AMENDMENTS, RENEWALS, SUPPLEMENTS OR MODIFICATIONS HERETO OR ANY OF THE OTHER LOAN DOCUMENTS OR TO ANY OTHER DOCUMENTS OR AGREEMENTS RELATING TO THE LOANS MADE HEREUNDER. IN THE EVENT OF LITIGATION, THIS AGREEMENT MAY BE FILED AS A WRITTEN CONSENT TO A TRIAL BY THE COURT.

Section 11.17 Limitation of Liability. The Loan Parties agree that no Indemnatee shall have any liability (whether in contract, tort or otherwise) to any Loan Party or any of their respective Subsidiaries or any of their respective equity holders or creditors for or in connection with the transactions contemplated hereby and in the other Loan Documents, except to the extent such liability is determined in a final, non-appealable judgment by a court of competent jurisdiction to have resulted from such Indemnatee's gross negligence or willful misconduct by such Indemnatee of its obligations under this Agreement. In no event, shall any party hereto, any Loan Party or any Indemnatee be liable on any theory of liability for any special, indirect, consequential or punitive damages (including any loss of profits, business or anticipated savings) (other than, in the case of the Borrower, in respect of any such damages incurred or paid by an Indemnatee to a third party).

Section 11.18 Use of Name, Logo, Etc. Each Loan Party consents to the publication in the ordinary course by the Administrative Agent of customary advertising material relating to the financing transactions contemplated by this Agreement using such Loan Party's name, product photographs, logo or trademark; *provided* that any such trademarks or logos are used solely in a manner that is not intended to or reasonably likely to harm or disparage the Borrower or any of their Subsidiaries or the reputation or goodwill of any of them. Such consent shall remain effective until revoked by such Loan Party in writing to the Administrative Agent.

Section 11.19 USA PATRIOT Act Notice. Each Lender that is subject to the USA PATRIOT Act and the Agents (for itself and not on behalf of any Lender) hereby notifies each Loan Party that pursuant to the requirements of the USA PATRIOT Act, it is required to obtain, verify and record information that identifies each Loan Party, which information includes the name and address of each Loan Party and other information that will allow such Lender or the Agents, as applicable, to identify each Loan Party in accordance with the USA PATRIOT Act. Each Loan Party shall, promptly following a request by the Agents or any Lender, provide all documentation and other information that the Agents or such Lender requests in order to comply with its ongoing obligations under applicable "know your customer" and anti-money laundering rules and regulations, including the USA PATRIOT Act.

Section 11.20 Force Majeure. The Collateral Trustee shall in no event be responsible or liable for any failure or delay in the performance of its obligations hereunder arising out of or caused by, directly or indirectly, forces beyond its control, including, without limitation, strikes, work stoppages, accidents, acts of war or terrorism, pandemics, epidemics, civil or military disturbances, nuclear or natural catastrophes or acts of God, and interruptions, loss or malfunctions of utilities, communications or computer (software and hardware) services or the unavailability of the Federal Reserve Bank wire or telex or other wire or communication facility.

Section 11.21 Collateral Trustee Merger. Any organization or entity into which the Collateral Trustee may be converted or merged, or with which it may be consolidated, or to which it may sell or transfer all or substantially all of its corporate trust business and assets as a whole or substantially as a whole, or any organization or entity resulting from any such conversion, sale, merger, consolidation or transfer to which the Collateral Trustee is a party, will be and become the successor to the Collateral Trustee under this Agreement and will have and succeed to the rights, powers, duties, immunities and privileges as its predecessor, without the execution or filing of any instrument or paper or the performance of any further act.

Section 11.22 Service of Process. EACH PARTY HERETO IRREVOCABLY CONSENTS TO SERVICE OF PROCESS IN THE MANNER PROVIDED FOR NOTICES IN SECTION 11.02. NOTHING IN THIS AGREEMENT WILL AFFECT THE RIGHT OF ANY PARTY HERETO TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY APPLICABLE LAW.

Section 11.23 No Advisory or Fiduciary Responsibility. In connection with all aspects of each transaction contemplated hereby (including in connection with any amendment, waiver or other modification hereof or of any other Loan Document), each Loan Party acknowledges and agrees, and acknowledges its Affiliates' understanding that: (a) (i) the transactions contemplated by the Loan Documents (including the exercise of rights and remedies hereunder and thereunder) are arm's-length commercial transactions between the Agents and the Lenders on the one hand, and the Loan Parties and their Affiliates, on the other hand, (ii) each of the Loan Parties has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate, and (iii) each of the Loan Parties is capable of evaluating, and understands and accepts, the terms, risks and conditions of the transactions contemplated hereby and by the other Loan Documents; (b) (i) the Agents are and have been, and each Lender is and has been, acting solely as a principal and, except as expressly agreed in writing by the relevant parties, have or has not been, are or is not, and will not be acting as an advisor, agent or fiduciary for the Loan Parties, its stockholders or its Affiliates (irrespective of whether any Lender has advised, is currently advising or will advise any Loan Party, its stockholders or its Affiliates on other matters), or any other Person and (ii) none of the Agents nor any Lender has any obligation to the Borrower or any of its Affiliates with respect to the transactions contemplated hereby except those obligations expressly set forth herein and in the other Loan Documents; and (c) the Agents, the Lenders and their respective Affiliates may be engaged in a broad range of transactions that involve economic interests that conflict with those of the Loan Parties, their stockholders and/or their affiliates, and none of the Agents nor any Lender has any obligation to disclose any of such interests to the Borrower or any of its respective Affiliates. Each Loan Party agrees that nothing in the Loan Documents or otherwise will be deemed to create an advisory, fiduciary or agency relationship or fiduciary or other implied duty between any Lender, on the one hand, and such Loan Party, its stockholders or its affiliates, on the other. To the fullest extent permitted by law, each Loan Party hereby waives and releases any claims that it may have against the Agents or any Lender with respect to any breach or alleged breach of agency or fiduciary duty in connection with any aspect of any transaction contemplated hereby.

Section 11.24 Binding Effect. This Agreement shall become effective when it shall have been executed by the Borrower and the Administrative Agent and the Administrative Agent shall have been notified by each Lender that each such Lender has executed it and thereafter shall be binding upon and inure to the benefit of the Borrower, each Agent and each Lender and their respective successors and assigns.

Section 11.25 Obligations Several; Independent Nature of Lender's Rights. The obligations of the Lenders hereunder are several and not joint and no Lender shall be responsible for the obligations or - Commitments of any other Lender hereunder. Nothing contained herein or in any other Loan Document, and no action taken by the Lenders pursuant hereto or thereto, shall be deemed to constitute the Lenders as a partnership, an association, a joint venture or any other kind of entity. The amounts payable at any time hereunder to each Lender shall be a separate and independent debt, and each Lender shall be entitled to protect and enforce its rights arising out hereof and it shall not be necessary for any other Lender to be joined as an additional party in any proceeding for such purpose.

Section 11.26 Headings. Section headings herein are included herein for convenience of reference only and shall not constitute a part hereof for any other purpose or be given any substantive effect.

Section 11.27 Acknowledgement and Consent to Bail-In of Affected Financial Institutions.

Notwithstanding anything to the contrary in any Loan Document or in any other agreement, arrangement or understanding among any such parties, each party hereto acknowledges that any liability of any Lender that is an Affected Financial Institution arising under any Loan Document, to the extent such liability is unsecured, may be subject to the Write-Down and Conversion Powers of the applicable Resolution Authority and agrees and consents to, and acknowledges and agrees to be bound by:

(a) the application of any Write-Down and Conversion Powers by the applicable Resolution Authority to any such liabilities arising hereunder which may be payable to it by any party hereto that is an Affected Financial Institution; and

(b) the effects of any Bail-In Action on any such liability, including, if applicable:

(i) a reduction in full or in part or cancellation of any such liability;

(ii) a conversion of all, or a portion of, such liability into shares or other instruments of ownership in such Affected Financial Institution, its parent entity, or a bridge institution that may be issued to it or otherwise conferred on it, and that such shares or other instruments of ownership will be accepted by it in lieu of any rights with respect to any such liability under this Agreement or any other Loan Document; or

(iii) the variation of the terms of such liability in connection with the exercise of the Write-Down and Conversion Powers of the applicable Resolution Authority.

The provisions of this Section 11.25 are intended to comply with, and shall be interpreted in light of, Article 55 of Directive 2014/59/EU of the European Parliament and of the Council of the European Union.

Section 11.28 Acknowledgment Regarding Any Supported QFCs. (a) To the extent that the Loan Documents provide support, through a guarantee or otherwise (including the Guaranty), for any Hedge Agreement or any other agreement or instrument that is a QFC (such support, “**QFC Credit Support**”, and each such QFC, a “**Supported QFC**”), the parties acknowledge and agree as follows with respect to the resolution power of the Federal Deposit Insurance Corporation under the Federal Deposit Insurance Act and Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act (together with the regulations promulgated thereunder, the “**U.S. Special Resolution Regimes**”) in respect of such Supported QFC and QFC Credit Support (with the provisions below applicable notwithstanding that the Loan Documents and any Supported QFC may in fact be stated to be governed by the laws of the State of New York and/or of the United States or any other state of the United States):

In the event a Covered Entity that is party to a Supported QFC (each, a “**Covered Party**”) becomes subject to a proceeding under a U.S. Special Resolution Regime, the transfer of such Supported QFC and the benefit of such QFC Credit Support (and any interest and obligation in or under such Supported QFC and such QFC Credit Support, and any rights in property securing such Supported QFC or such QFC Credit Support) from such Covered Party will be effective to the same extent as the transfer would be effective under the U.S. Special Resolution Regime if the Supported QFC and such QFC Credit Support (and any such interest, obligation and rights in property) were governed by the laws of the United States or a state of the United States. In the event a Covered Party or a BHC Act Affiliate of a Covered Party becomes subject to a proceeding under a U.S. Special Resolution Regime, Default Rights under the Loan Documents that might otherwise apply to such Supported QFC or any QFC Credit Support that may be exercised against such Covered Party are permitted to be exercised to no greater extent than such Default Rights could be exercised under the U.S. Special Resolution Regime if the Supported QFC and the Loan Documents were governed by the laws of the United States or a state of the United States. Without limitation of the foregoing, it is understood and agreed that rights and remedies of the parties with respect to a Defaulting Lender shall in no event affect the rights of any Covered Party with respect to a Supported QFC or any QFC Credit Support.

Section 11.29 [Reserved].

Section 11.30 Disqualified Lenders and Net Short Positions.

(a) Replacement of Disqualified Lenders.

(i) To the extent that any assignment or participation is made or purported to be made to a Disqualified Lender described in clause (a) or clause (d) of the definition thereof (notwithstanding the other restrictions in this Agreement with respect to Disqualified Lenders), or if any Lender or Participant becomes a Disqualified Lender described in clause (a) or clause (d) of the definition thereof, in each case, without limiting any other provision of the Loan Documents,

(A) upon the request of the Borrower, such Disqualified Lender shall be required immediately (and in any event within five (5) Business Days) to assign all or any portion of the Loans and Commitments then owned by such Disqualified Lender (or held as a participation) to another Lender (other than a Defaulting Lender or another Disqualified Lender), Eligible Assignee or the Borrower, and

(B) the Borrower shall have the right to prepay all or any portion of the Loans and Commitments then owned by such Disqualified Lender (or held as a participation), and if applicable, terminate the Commitments of such Disqualified Lender, in whole or in part.

(ii) Any such assignment or prepayment shall be made in exchange for an amount equal to the lesser of (A) the face principal amount of the Loans so assigned and (B) the amount that such Disqualified Lender paid to acquire such Commitments and/or Loans, in each case without interest thereon (it being understood that if the effective date of any such assignment is not a Payment Date, such assignee shall be entitled to receive on the next succeeding Payment Date interest on the principal amount of the Loans so assigned that has accrued and is unpaid from the Payment Date last preceding such effective date (except as may be otherwise agreed between such assignee and the Borrower)).

(iii) The Borrower shall be entitled to seek specific performance in any applicable court of law or equity to enforce this Section 11.28. In addition, in connection with any such assignment, (A) if such Disqualified Lender does not execute and deliver to the Administrative Agent a duly completed Assignment and Assumption and/or any other documentation necessary or appropriate (in the good faith determination of the Administrative Agent or the Borrower, which determination shall be conclusive) to reflect such replacement by the later of (1) the date on which the replacement Lender executes and delivers such Assignment and Assumption and/or such other documentation and (2) the date as of which such Disqualified Lender shall be paid by the assignee Lender (or, at its option, the Borrower) the amount required pursuant to this Section 11.28, then such Disqualified Lender shall be deemed to have executed and delivered such Assignment and Assumption and/or such other documentation as of such date and the Borrower shall be entitled (but not obligated) to execute and deliver such Assignment and Assumption and/or such other documentation on behalf of such Disqualified Lender, and the Administrative Agent shall record such assignment in the Register, (B) each Lender (whether or not then a party hereto) agrees to disclose to the Borrower the amount that the applicable Disqualified Lender paid to acquire Commitments and/or Loans from such Lender and (C) each Lender that is a Disqualified Lender agrees to disclose to the Borrower the amount it paid to acquire the Commitments and/or Loans held by it.

(b) Amendments, Consents and Waivers under the Loan Documents. No Net Short Lender shall have the right to approve or disapprove any amendment, waiver or consent pursuant to Section 11.01 or under any Loan Document. In connection with any determination as to whether the requisite Lenders (including whether the Required Lenders) have provided any amendment, waiver or consent pursuant to Section 11.01 or under any other Loan Document:

(i) Net Short Lenders shall not be considered, and

(ii) Net Short Lenders shall be deemed to have consented to any such amendment, waiver or consent with respect to its interest as a Lender in the same proportion as the allocation of voting with respect to such matter by Lenders who are not Net Short Lenders.

Each Lender that is not an Unrestricted Lender that delivers a written consent to any amendment, waiver or consent pursuant to Section 11.01 or under any other Loan Document shall concurrently deliver (or in the absence of any written Net Short Representation will be deemed to have delivered, concurrently with providing such consent) to the Borrower (with a copy to the Administrative Agent) a Net Short Representation.

(c) Limitation on Rights and Privileges of Disqualified Lenders. Except as otherwise provided in Section 11.01(i) or in Section 11.28(b)(ii), no Disqualified Lenders shall have the right to, and each such Person covenants and agrees not to, instruct the Administrative Agent, Collateral Trustee or any other Person in writing in respect of the exercise of remedies with respect to the Loans or other Obligations. Further, no Disqualified Lender that purports to be a Lender or Participant (notwithstanding any provisions of this Agreement that may have prohibited such Disqualified Lender from becoming Lender or Participant) shall be entitled to any of the rights or privileges enjoyed by the other Lenders with respect to voting (other than to the extent provided in Section 11.01(i) and Section 11.28(b)(ii)), Information and Lender meetings and shall be deemed for all purposes to be, at most, a Defaulting Lender until such time as such Disqualified Lender no longer owns any Loans or Commitments.

(d) [Reserved].

(e) Survival. The provisions of this Section 11.28 shall apply and survive with respect to each Lender and Participant notwithstanding that any such Person may have ceased to be a Lender or Participant (or any purported participation to any such Lender shall be void) hereunder or this Agreement may have been terminated.

(f) Administrative Agent.

(i) Reliance. The Administrative Agent shall be entitled to rely conclusively on any Net Short Representation delivered, provided or made (or deemed delivered, provided or made) to it in accordance with this Agreement, shall have no duty to inquire as to or investigate the accuracy of any Net Short Representation, verify any statements in any officer's certificate delivered to it, or otherwise make any calculations, investigations or determinations with respect to any Derivative Instruments or Net Short Positions or any Person. The Administrative Agent shall have no liability to the Borrower, any Lender or any other Person in acting in good faith on any notice of Default or acceleration.

(ii) Disqualified Lender Lists. The Administrative Agent shall have no responsibility or liability for monitoring or enforcing the list of Disqualified Lenders or for any assignment or participation to a Disqualified Lender.

(iii) Liability Limitations. The Administrative Agent shall not be responsible or have any liability for, or have any duty to ascertain, inquire into, monitor or enforce, compliance with the provisions hereof relating to Disqualified Lenders. Without limiting the generality of the foregoing, the Administrative Agent shall not (A) be obligated to ascertain, monitor or inquire as to whether any Lender or Participant or prospective Lender or Participant is a Disqualified Lender or (B) have any liability with respect to or arising out of any assignment or participation of Loans, or disclosure of confidential information (including Information), to any Disqualified Lender.

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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first above written.

HORNBECK OFFSHORE SERVICES, INC., as Borrower

By: /s/ James O. Harp, Jr.
Name: James O. Harp, Jr.
Title: Executive Vice President and Chief Financial Officer

[Signature Page to Second Lien Term Loan Credit Agreement]

By: /s/ Harrison P. Smith
Name: Harrison P. Smith
Title: Vice President

[Signature Page to Second Lien Term Loan Credit Agreement]

STONEBRIAR COMMERCIAL FINANCE LLC, as Lender

By: /s/ Harrison P. Smith
Name: Harrison P. Smith
Title: Vice President

[Signature Page to Second Lien Term Loan Credit Agreement]

By: /s/ Jeffery Rose

Name: Jeffery Rose

Title: Vice President

[Signature Page to Second Lien Term Loan Credit Agreement]

Allocated Dollar Values

COMMITMENTS

LITIGATION

None.

LABOR MATTERS

None.

ERISA COMPLIANCE

None.

ERISA COMPLIANCE

None.

SUBSIDIARIES

Grantor	Issuer	Type of Organization	Jurisdiction of Organization / Formation	% of Equity Interests Owned	% of Interest Pledged	Restricted / Unrestricted	Certificate No.
Hornbeck Offshore Services, Inc.	N/A	Corporation	Delaware	N/A	N/A	Restricted	Uncertificated
Hornbeck Offshore Services, LLC	Hornbeck Offshore Services, Inc.	Limited Liability Company	Delaware	100%	100%	Restricted	Uncertificated
Hornbeck Offshore Trinidad & Tobago, LLC	Hornbeck Offshore Services, Inc.	Limited Liability Company	Delaware	100%	100%	Restricted	Uncertificated
Hornbeck Offshore Operators, LLC	Hornbeck Offshore Services, Inc.	Limited Liability Company	Delaware	100%	100%	Restricted	Uncertificated
Hornbeck Offshore Transportation, LLC	Hornbeck Offshore Services, Inc.	Limited Liability Company	Delaware	100%	100%	Restricted	Uncertificated
Energy Services Puerto Rico, LLC	Hornbeck Offshore Services, Inc.	Limited Liability Company	Delaware	100%	100%	Restricted	Uncertificated
HOS Port, LLC	Hornbeck Offshore Services, Inc.	Limited Liability Company	Delaware	100%	100%	Restricted	Uncertificated
HOS International, Inc.	Hornbeck Offshore Services, Inc.	Corporation	Delaware	100%	100%	Restricted	1

Grantor	Issuer	Type of Organization	Jurisdiction of Organization / Formation	% of Equity Interests Owned	% of Interest Pledged	Restricted / Unrestricted	Certificate No.
Hornbeck Offshore International, LLC	Hornbeck Offshore Services, Inc.	Limited Liability Company	Delaware	100%	100%	Restricted	Uncertificated
Hornbeck Offshore Specialty Services, LLC	Hornbeck Offshore Services, Inc.	Limited Liability Company	Delaware	100%	100%	Restricted	Uncertificated
HOS Port II, LLC	Hornbeck Offshore Services, Inc.	Limited Liability Company	Delaware	100%	100%	Restricted	Uncertificated
Hornbeck Offshore Rigging Services & Equipment, LLC	Hornbeck Offshore Services, Inc.	Limited Liability Company	Delaware	100%	100%	Restricted	Uncertificated
HOS IV, LLC	Hornbeck Offshore Services, Inc.	Limited Liability Company	Delaware	100%	100%	Restricted	Uncertificated
KMS 124, LLC	Hornbeck Offshore Services, Inc.	Limited Liability Company	Delaware	100%	100%	Restricted	Uncertificated
HOW Holding, LLC	Hornbeck Offshore Services, Inc.	Limited Liability Company	Delaware	100%	100%	Restricted	Uncertificated
HOS Holding, LLC	Hornbeck Offshore Services, LLC	Limited Liability Company	Delaware	100%	100%	Restricted	Uncertificated
Hornbeck Offshore Operators de Mexico	Hornbeck Offshore Services, LLC	S. de R.L. de C.V.	Mexico	99%	100%	Restricted	Uncertificated

Grantor	Issuer	Type of Organization	Jurisdiction of Organization / Formation	% of Equity Interests Owned	% of Interest Pledged	Restricted / Unrestricted	Certificate No.
HOS Leasing de Mexico	Hornbeck Offshore Services, LLC	S. de R.L. de C.V.	Mexico	99%	100%	Restricted	Uncertificated
HOI Holding, LLC	Hornbeck Offshore International, LLC	Limited Liability Company	Delaware	100%	0%	Restricted	N/A
HON Navegacao II, Ltda.	Hornbeck Offshore International, LLC	Limitadas	Brazil	99.9%	0%	Restricted	N/A
HOOI Holding, LLC	Hornbeck Offshore International, LLC	Limited Liability Company	Delaware	100%	0%	Restricted	N/A
Hornbeck Offshore Cayman, Ltd.	Hornbeck Offshore International, LLC	Limited Company	Cayman	100%	0%	Restricted	N/A
Hornbeck Offshore Navegaca Ltda	Hornbeck Offshore International, LLC	Limitadas	Brazil	99.9%	0%	Restricted	N/A
Hornbeck Offshore Operators International, LLC	HOOI Holding, LLC	Limited Liability Company	Delaware	100%	0%	Restricted	N/A
Hornbeck Offshore Wind, LLC	HOW Holding, LLC	Limited Liability Company	Delaware	100%	0%	Restricted	N/A

Grantor	Issuer	Type of Organization	Jurisdiction of Organization / Formation	% of Equity Interests Owned	% of Interest Pledged	Restricted / Unrestricted	Certificate No.
HOS de Mexico II, S. De R.L. de C.V.	HOI Holding, LLC	S. de R.L. de C.V.	Mexico	99%	0%	Restricted	N/A
HOS de Mexico, III	HOI Holding, LLC	S. de R.L. de C.V.	Mexico	99%	0%	Restricted	N/A
HOS de Mexico, S. De R.L. de C.V.	Hornbeck Offshore International, LLC	S. de R.L. de C.V.	Mexico	99%	0%	Restricted	N/A
Seahorse Crew Management, Ltd.	Hornbeck Offshore Cayman, Ltd.	Limited Company	Cayman	100%	0%	Restricted	N/A
T.N. Percheron	Hornbeck Offshore International, LLC	S. de R.L. de C.V.	Mexico	99%	0%	Restricted	N/A
Hornbeck Offshore Training Institute, LLC	Hornbeck Offshore Operators, LLC	Limited Liability Company	Delaware	100%	0%	Restricted	N/A

PROPERTIES; TITLE

<u>VESSEL NAME</u>	<u>RECORD OWNER</u>	<u>OFFICIAL NUMBER</u>	<u>LM.O NO.</u>	<u>FLAG</u>	<u>STATUS</u>	<u>CLASSIFICATION</u>
HOS Bayou	Hornbeck Offshore Services, LLC	1244577	9647681	United States	Active	MPSV
HOS Beignet	Hornbeck Offshore Services, LLC	1097129	9240184	United States	Stacked	Mid-Spec OSV
HOS Benelli	Hornbeck Offshore Services, LLC	1201702	9382865	United States	Active	High-Spec OSV
HOS Beretta	Hornbeck Offshore Services, LLC	1178758	9347346	United States	Active	High-Spec OSV
HOS Black Foot	Hornbeck Offshore Services, LLC	1244582	9647693	United States	Active	Ultra High-Spec OSV
HOS Black Rock	Hornbeck Offshore Services, LLC	1244583	9647708	United States	Active	Ultra High-Spec OSV
HOS Black Watch	Hornbeck Offshore Services, LLC	1244581	9647710	United States	Active	Ultra High-Spec OSV
HOS Blackhawk	Hornbeck Offshore Services, LLC	1185543	9382877	United States	Active	High-Spec OSV
HOS Bluewater	Hornbeck Offshore Services, LLC	1136268	9273480	United States	Stacked	Mid-Spec OSV
HOS Boudin	Hornbeck Offshore Services, LLC	1088474	9229922	United States	Stacked	Mid-Spec OSV
HOS Bourre	Hornbeck Offshore Services, LLC	1076184	9216377	United States	Stacked	Mid-Spec OSV
HOS Briarwood	Hornbeck Offshore Services, LLC	1244594	9672648	United States	Active	MPSV
HOS Brimstone	Hornbeck Offshore Services, LLC	1124426	9271016	United States	Active	High-Spec OSV

HOS Caledonia	Hornbeck Offshore Services, LLC	1244585	9647629	United States	Active	Ultra High-Spec OSV
HOS Captain	Hornbeck Offshore Services, LLC	1244589	9647590	United States	Active	Ultra High-Spec OSV
HOS Carolina	Hornbeck Offshore Services, LLC	1244587	9647576	United States	Active	Ultra High-Spec OSV
HOS Carousel	Hornbeck Offshore Services, LLC	1246522	9672600	United States	Active	Ultra High-Spec OSV
HOS Cayenne	Hornbeck Offshore Services, LLC	1076117	9207182	United States	Stacked	Mid-Spec OSV
HOS Cedar Ridge	Hornbeck Offshore Services, LLC	1246521	9672595	United States	Active	Ultra High-Spec OSV
HOS Centerline	Hornbeck Offshore Services, LLC	981472	9040546	United States	Stacked	Ultra High-Spec OSV
HOS Chicory	Hornbeck Offshore Services, LLC	1076182	9224934	United States	Stacked	Mid-Spec OSV
HOS Claymore	Hornbeck Offshore Services, LLC	1244588	9647588	United States	Active	Ultra High-Spec OSV
HOS Clearview	Hornbeck Offshore Services, LLC	1244579	9647605	United States	Active	Ultra High-Spec OSV
HOS Commander	Hornbeck Offshore Services, LLC	1244578	9647564	United States	Active	Ultra High-Spec OSV
HOS Coquille	Hornbeck Offshore Services, LLC	1076183	9219848	United States	Stacked	Mid-Spec OSV
HOS Cornerstone	Hornbeck Offshore Trinidad and Tobago, LLC	1091051	9227065	United States	Stacked	Mid-Spec OSV
HOS Crockett	Hornbeck Offshore Services, LLC	1244584	9647617	United States	Active	Ultra High-Spec OSV
HOS Dominator	Hornbeck Offshore Services, LLC	1122403	9265811	United States	Active	MPSV
HOS Gemstone	Hornbeck Offshore Services, LLC	1141952	9270995	United States	Stacked	Mid-Spec OSV

HOS Greystone	Hornbeck Offshore Services, LLC	1144440	9271004	United States	Stacked	Mid-Spec OSV
HOS Innovator	Hornbeck Offshore Services, LLC	1108573	9251808	United States	Active	MPSV
HOS Mauser	Hornbeck Offshore Services, LLC	1211932	9515852	United States	Active	High-Spec OSV
HOS Maverick	Hornbeck Offshore Services, LLC	1190785	9385257	United States	Active	High-Spec OSV
HOS Mossberg	Hornbeck Offshore Services, LLC	1227085	9530034	United States	Active	High-Spec OSV
HOS Mystique	Hornbeck Offshore Services, LLC	1205143	9472323	United States	Active	MPSV
HOS Panther	Hornbeck Offshore Services, LLC	1218372	9529683	United States	Active	High-Spec OSV
HOS Pinnacle	Hornbeck Offshore Services, LLC	1205149	9472385	United States	Stacked	Mid-Spec OSV
HOS Polestar	Hornbeck Offshore Services, LLC	1205152	9472414	United States	Stacked	Mid-Spec OSV
HOS Red Dawn	Hornbeck Offshore Services, LLC	1244590	9647643	United States	Active	Ultra High-Spec OSV
HOS Red Rock	Hornbeck Offshore Services, LLC	1244591	9647655	United States	Active	Ultra High-Spec OSV
HOS Resolution	Hornbeck Offshore Services, LLC	1205144	9472335	United States	Active	MPSV
HOS Riverbend	Hornbeck Offshore Services, LLC	1244595	9647679	United States	Active	MPSV
HOS Rosebud	Hornbeck Offshore Services, LLC	1323239	9645619	United States	Active	High-Spec OSV
HOS Rosehill	Hornbeck Offshore Services, LLC	1323240	9645621	United States	C/SOV Conversion	MPSV
HOS Ruger	Hornbeck Offshore Services, LLC	1193951	9385269	United States	Active	High-Spec OSV

HOS Running Buck	Hornbeck Offshore Services, LLC	1323242	9645633	United States	Active	High-Spec OSV
HOS Sandstorm	Hornbeck Offshore Services, LLC	1124424	9246865	United States	Stacked	High-Spec OSV
HOS Silverstar	Hornbeck Offshore Services, LLC	1144439	9273478	United States	Stacked	Mid-Spec OSV
HOS Springfield	Hornbeck Offshore Services, LLC	1169676	9347322	United States	Active	High-Spec OSV
HOS Stormridge	Hornbeck Offshore Services, LLC	1124421	9246877	United States	Stacked	High-Spec OSV
HOS Strongline	Hornbeck Offshore Services, LLC	988333	9040534	United States	Active	Ultra High-Spec OSV
HOS Warland	Hornbeck Offshore Services, LLC	1253611	9742704	United States	Active	MPSV
HOS Weatherby	Hornbeck Offshore Services, LLC	1210979	9515840	United States	Active	High-Spec OSV
HOS Wildwing	Hornbeck Offshore Services, LLC	1205151	9472402	United States	Stacked	Mid-Spec OSV
HOS Windancer	Hornbeck Offshore Services, LLC	1205150	9472397	United States	Stacked	Mid-Spec OSV
HOS Woodland	Hornbeck Offshore Services, LLC	1253612	9742716	United States	Active	MPSV

CLOSING DATE JONES ACT VESSELS

<u>Vessel Name</u>	<u>Official No.</u>
Hornbeck Offshore Services, LLC	
Vessels	
HOS Bayou	1244577
HOS Beignet	1097129
HOS Benelli	1201702
HOS Beretta	1178758
HOS Black Foot	1244582
HOS Black Rock	1244583
HOS Black Watch	1244581
HOS Blackhawk	1185543
HOS Bluewater	1136268
HOS Boudin	1088474
HOS Bourre	1076184
HOS Briarwood	1244594
HOS Brimstone	1124426
HOS Caledonia	1244585

HOS Captain	1244589
HOS Carolina	1244587
HOS Carousel	1246522
HOS Cayenne	1076117
HOS Cedar Ridge	1246521
HOS Centerline	981472
HOS Chicory	1076182
HOS Claymore	1244588
HOS Clearview	1244579
HOS Commander	1244578
HOS Coquille	1076183
HOS Crockett	1244584
HOS Dominator	1122403
HOS Gemstone	1141952
HOS Greystone	1144440
HOS Innovator	1108573
HOS Mauser	1211932
HOS Mossberg	1227085
HOS Mystique	1205143

HOS Panther	1218372
HOS Pinnacle	1205149
HOS Polestar	1205152
HOS Red Dawn	1244590
HOS Red Rock	1244591
HOS Resolution	1205144
HOS Riverbend	1244595
HOS Sandstorm	1124424
HOS Silverstar	1144439
HOS Springfield	1169676
HOS Stormridge	1124421
HOS Strongline	988333
HOS Warland	1253611
HOS Weatherby	1210979
HOS Wildwing	1205151
HOS Windancer	1205150
HOS Woodland	1253612
HOS Rosebud	1323239
HOS Rosehill	1323240

HOS Running Buck	1323242
HOS Maverick	1190785
HOS Ruger	1193951
Hornbeck Offshore Trinidad and Tobago, LLC Vessel	
HOS Cornerstone	1091051

MATERIAL INSURANCE

POST-CLOSING MATTERS

(a) As soon as possible, but in any event within ten (10) Business Days following the Closing Date, the Borrower shall deliver a revised Schedule 6.07 to the Agreement that (i) reflects an increase in the amount of Mortgagee's Interest and Mortgagee's Interest Additional Perils coverage from \$349,001,386 to \$530,000,000, (ii) updates the reference to the "Second" Priority Mortgage in this section to "First" Priority Mortgage and (iii) updates the reference to "Wilmington Trust, National Association" in this section to "Wilmington Trust, National Association, not in its individual capacity but solely in its capacity as Collateral Trustee and Mortgagee". Such revised Schedule 6.07 may be substituted for Schedule 6.07 attached to the Agreement as of the Closing Date upon the written consent of the Borrower and the Administrative Agent to such substitution, without the need for the Borrower and the Administrative Agent to enter into a separate amendment to the Agreement.

(b) As soon as available, but in any event within ten (10) Business Days following the Closing Date, the Borrower shall deliver (or cause to be delivered) to the Administrative Agent, a certification from a Responsible Officer of the Borrower that each Vessel constituting Vessel Collateral (other than any Stacked Vessels, which may instead be insured under port risk insurance reasonably acceptable to the Administrative Agent in lieu of the insurance required by Section 6.19(j) of the Agreement so long as such Vessels are Stacked Vessels) is insured in accordance with the requirements of Section 6.19(j) and the other Loan Documents, with the relevant loss payee endorsements required under the Collateral Agreement.

(c) As soon as available, but in any event within ten (10) Business Days following the Closing Date, the Borrower shall deliver (or cause to be delivered) to the Administrative Agent, a report from a firm of independent marine insurance consultant in respect of the insurances on the Vessel Collateral, in form and substance reasonably satisfactory to the Administrative Agent, with the cost of such report to be reimbursed by the Borrower.

(d) As soon as available, but in any event within forty-five (45) days following the Closing Date, the applicable Loan Parties shall deliver (or cause to be delivered) to the Administrative Agent such Control Agreements with respect to each Closing Date Deposit Account (as defined in the Collateral Agreement) as are required to comply with Section 6.11(c) of the Agreement.

(e) The Borrower shall cause all Liens referred to on Schedule 7.01(c) to the Agreement to be terminated of record within thirty (30) days following the Closing Date.

(f) The Borrower shall, or shall cause a Guarantor to, accept title and take delivery of the 2024 Newbuild Vessels upon the completion thereof in substantial compliance with the applicable Construction Contract and the Borrower or such Guarantor, as applicable, shall subject each such 2024 Newbuild Vessel to a Vessel Mortgage.

VESSEL COLLATERAL INSURANCE

Vessel Collateral Insurance.

Each Loan Party that owns, manages, operates and/or charters any Vessel that is Collateral (hereinafter referred to as a “Collateral Vessel”) shall maintain insurance as required to be maintained under the terms of this Schedule 6.19(j). The Loan Parties shall cause (within the time period required herein, as may be extended by the Required Lenders in their reasonable discretion): (i) the Collateral Agent to be named as loss payee, for the ratable benefit of the Secured Parties, as to the Vessel Collateral, including, as trustee/mortgagee, in accordance with this Schedule 6.19(j) and the Collateral Agreement; (ii) the Collateral Agent, as agent for the Secured Parties, to be named as an additional insured, with a waiver of rights of subrogation, under any marine and war-risk insurance policy and any protection and indemnity policy (or in lieu of the foregoing coverages in respect of Stacked Vessels constituting Collateral Vessels only, under any port risks insurance policy, including to the extent of the protection and indemnity coverage therein); (iii) to the extent applicable, each entry in a protection and indemnity club with respect to Vessel Collateral (or with respect Stacked Vessels constituting Collateral Vessels only, under any port risks insurance policy to the extent of the protection and indemnity coverage therein) to note the interest of the Collateral Agent, as agent for the Secured Parties; (iv) the Collateral Agent, as agent for the Secured Parties, to be named as an additional insured, with a waiver of rights of subrogation, under the comprehensive general liability insurance and (v) the Collateral Agent, as agent for the Secured Parties, to be named as an alternate employer, with a waiver of rights of subrogation, under the statutory workers’ compensation insurance and longshoreman and harbor workers’ act coverage policies.

Each Loan Party that is an owner or bareboat charterer of any Collateral Vessel shall comply in all material respects with all insurance policies in respect of the Collateral Vessels and upon notice of noncompliance will take such steps necessary under the terms of such insurance to come into compliance. Each Loan Party that owns Vessel Collateral, bareboat charters Vessel Collateral and places the insurances thereon, or bareboat charters in any Vessel shall assign to the Collateral Agent, including as trustee/mortgagee, for the benefit of the Secured Parties, pursuant to the Collateral Agreement, all of such Loan Party’s right, title, and interest in and to each policy and contract of insurance, and under all entries in any protection and indemnity or war risks association or club, relating to the Vessel Collateral that it owns or bareboat charters Vessel Collateral and places the insurances thereon, or the Collateral Vessels it bareboat charters in.

The Loan Parties agree that mortgagee's interest insurance and mortgagee's interest additional perils (pollution) insurance risks covering the Vessel Collateral may be placed directly by the Collateral Agent, including as trustee/mortgagee, for the benefit of the Secured Parties, or the Administrative Agent, at the cost of the Loan Parties, who will reimburse the Administrative Agent for the cost thereof. Upon the reasonable request of the Administrative Agent, the Loan Parties agree (A) to provide, or cause to be provided, to the Administrative Agent originals or certified copies of the policies of insurance or certificates with respect thereto required under this Schedule 6.19(j), and (B) to provide, or cause to be provided, to the Administrative Agent reports on each existing policy of insurance with respect to the Vessel Collateral and Vessels bareboat chartered in and any other Property showing such information as the Administrative Agent may reasonably request, including without limitation the following: (1) the name of the insurer; (2) the risks insured; (3) the amount of the policy; (4) the Vessel Collateral and Vessels bareboat chartered in and other Property insured; (5) the then current value on the basis of which insurance has been obtained and the manner of determining that value; and (6) the expiration date of the policy.

In connection with the annual renewal of insurances policies or contracts and entries in any protection and indemnity or war risks association or club, and in connection with any reflagging of any Vessel Collateral, the Loan Parties agree to provide, or cause to be provided, to the Administrative Agent, (a) customary letters of undertaking addressed to the Collateral Agent and the Administrative Agent, (b) copies of certificates of entry for such Vessel Collateral, (c) a certificate of insurances and a combined broker's letter of undertaking and report, addressed to and in form and scope reasonable acceptable to the Collateral Agent and the Administrative Agent, from the Borrowers' marine insurance broker or such other firm of marine insurance brokers reasonably acceptable to the Collateral Agent and the Administrative Agent, confirming the particulars and placement of the marine insurances covering such Vessel Collateral and its compliance with the insurance requirements of this Schedule 6.19(j), the acceptance or acknowledgment by the underwriters of notice of assignment of insurances, and the endorsement of loss payable clauses on the policies, and containing such, (d) a fleet premium lien waiver endorsed with respect to such Vessel Collateral.

Each Loan Party that owns a Collateral Vessel (each hereinafter referred to as “the Shipowner”), further agrees with the following:

- (a) Types and Coverage. The Shipowner will, at its own expense, when and so long as this Mortgage shall be outstanding, insure or cause to be insured each Collateral Vessel in the name of the Shipowner against the risks indicated below, in addition to such other risks that would be customarily covered by owners of similar vessels engaged in the same or similar operations in places and under conditions comparable to those in which such Collateral Vessel is employed from time to time and possessing operating characteristics similar to the Shipowner and operating vessels similar to the Collateral Vessels in similar trades (“Similar Companies”) in accordance with the usual and customary practices of Similar Companies, and keep it insured, in the aggregate, in lawful money of the United States, for not less than the higher of (i) the full commercial value of such Collateral Vessel, and (ii) the amount of coverage that would be reasonably consistent with that obtained by Similar Companies on similar vessels. Each Collateral Vessel shall in no event be insured for an amount less than the agreed valuations as set forth in the applicable marine and war risk policies (or in lieu of the foregoing coverages in respect of Stacked Vessels constituting Collateral Vessels only, port risks insurance policy). Such insurance shall include marine and war risk hull and machinery (including excess value) coverage (or in lieu of the foregoing coverages in respect of Stacked Vessels constituting Collateral Vessels only, port risks coverage) and shall be maintained in the broadest forms available in the American, British or equivalent insurance markets for vessels of the same type as each such Collateral Vessel. The Shipowner shall also obtain such workmen’s compensation or longshoremen’s and harbor worker’s insurance as shall be required by applicable law, including endorsements for Outer Continental Shelf operations, borrowed servant, voluntary compensation, and in rem claims. In addition, the Shipowner shall maintain or cause to be maintained protection and indemnity insurance in the name of the Shipowner (or with respect Stacked Vessels constituting Collateral Vessels only, port risks insurance to the extent of the protection and indemnity coverage therein), including coverage for contractual liability, contractual and legal wreck removal, crew coverage, excess collision, salvage, general average, care, pollution, custody and control coverage in an amount equal to the higher of (i) the full commercial value of each Collateral Vessel, and (ii) the amount of coverage that would be reasonably consistent with that obtained by Similar Companies on similar vessels, provided, however, that war risk protection and indemnity insurance, to the extent required, shall be in an amount not less than the amount of insurance against total loss, and provided, however, that insurance against liability under law or international convention arising out of pollution, spillage or leakage shall be in an amount not less than the greater of: (a) the maximum amount available from the International Group of Protection and Indemnity Associations (the “International Group”) or alternatively such sources of pollution, spillage or leakage coverage as are commercially available in any absence of such coverage by the International Group as shall be carried by prudent ship owners engaged in similar trades, or such lesser amount permitted by the Administrative Agent, and (y) the amounts required by the laws or regulations of the United States of America or any applicable jurisdiction in which the Collateral Vessel may be trading from time to time. The Shipowner shall at all times during which any Collateral Vessel is operating within the jurisdiction of the United States of America, maintain or cause to be maintained insurance or post bond or maintain or cause to be maintained approved evidence of financial responsibility with respect to such Collateral Vessel to cover the actual cost of removal of discharged oil for which the Shipowner or such Collateral Vessel may be held strictly liable (or held liable due to the negligence of the Shipowner, any charterer or any other Person) under the Clean Water Act of 1977, OPA or the Outer Continental Shelf Lands Act, or under any other federal or state law which, in the future, may apply to such Collateral Vessel or to the Shipowner; and the Shipowner shall maintain insurance covering similar pollution risks or liabilities incident thereto under any law, regulation, or judicial decision of any foreign jurisdiction or jurisdictions or political subdivision thereof applicable to the Shipowner and such Collateral Vessel, or its operations.
- (b) Loss Payable Clauses. The Shipowner will cause all policies and certificates of entry with respect to insurance required hereby for each Collateral Vessel to contain a loss payable clause with respect to all marine and war risk hull and machinery (including excess values) policies (or in lieu of the foregoing coverages in respect of Stacked Vessels constituting Collateral Vessels only, port risks insurance policy) and a loss payable clause with respect to all protection and indemnity and liability and oil pollution liability insurances (or with respect Stacked Vessels constituting Collateral Vessels only, port risks insurance to the extent of the protection and indemnity coverage therein), in each case that complies with the Collateral Agreement. Unless an Event of Default has occurred and is continuing, all insurance payments resulting from an Event of Loss shall be distributed to the Shipowner (and the Collateral Agent shall pay any such amounts to the Shipowner) and the Shipowner shall use such insurance payments in accordance with the Credit Agreement.

- (c) Undertakings. The Shipowner will, at its cost and expense, cause the insurance brokers and club managers (a) to hold to the order of the Collateral Agent the originals of all policies, contracts, binders, insurance slips, cover notes and certificates of entry relating to the Collateral Vessels and, (b) to deliver certified copies thereof on request and to execute and deliver to the Collateral Agent a letter of undertaking in connection with the above mentioned insurances and entries and the matters set forth in paragraph (f)(i) below. In all cases (except in the case of protection and indemnity coverage provided by a P & I club), unless otherwise agreed in writing by the Collateral Agent, such slips, cover notes, notices, certificates of entry or other instruments shall show the Collateral Agent as additional assured and shall provide that there will be no recourse against the Collateral Agent for payment of premiums, calls or assessments.
- (d) Deductibles. No insurance required to be carried by the Shipowner pursuant to this Schedule 6.19(j) shall include a deductible or self-insured retention in excess of \$1,000,000 per occurrence, except that with respect to protection and indemnity insurance, the Shipowner may elect to self-insure or otherwise retain protection and indemnity risk of up to \$5,000,000 per year.
- (e) Compliance. The Shipowner shall not do any act, nor voluntarily suffer nor permit any act to be done, whereby any insurance required by this Schedule 6.19(j) shall or may be suspended, impaired or defeated, or suffer or permit any Collateral Vessel to undertake any drilling operations, carry any cargoes or proceed into an area then excluded by trading warranties under its marine and war risk policies (including protection and indemnity) without obtaining all necessary additional coverage, satisfactory in form and substance, and evidence of which shall be furnished, to the Collateral Agent. In addition, the Shipowner shall comply at all times with the provisions of Section 6.19 of the Credit Agreement.
- (f) Certain Provisions.
- (i) If any of the insurances referred to in this Schedule 6.19(j) form part of a fleet cover, the Shipowner shall procure that the brokers shall undertake to the Collateral Agent that such brokers shall neither set off against any claims in respect of a Collateral Vessel any premiums due in respect of other vessels under such fleet cover or any premiums due for other insurances, nor cancel the insurance for reason of nonpayment of premiums for other vessels under such fleet cover or of premiums for such other insurances, and shall undertake to issue a separate policy or policies in respect of each Collateral Vessel or the Collateral Vessels if and when so requested by the Collateral Agent.
- (ii) Any insurance placed through a “captive” insurer or cover reinsured will be in form and substance satisfactory to the Collateral Agent and in any event such insurance will:

(A) be on the same terms as the original insurances and will include the provisions of this Schedule 6.19(j);

(B) provide that notwithstanding any bankruptcy, insolvency, liquidation, dissolution or similar proceedings of or affecting the reinsured that the reinsurers' liability will be to make such payments as would have fallen due under the relevant policy of reinsurance if the reinsured had (immediately before such bankruptcy, insolvency, liquidation, dissolution or similar proceedings) discharged its obligations in full under the original insurance policies in respect of which the then relevant policy of reinsurance has been effected; and

(C) contain a "cut-through" clause in the following form (or a form otherwise satisfactory to the Collateral Agent):

"It is hereby declared and agreed that if [insert name of captive insurer], a [insert jurisdiction of formation of captive insurer] corporation, as Insurer (or any successor to [insert name of captive insurer] as insurer) under the insurance policy (the "Policy") between [insert name of captive insurer], as Insurer, and [SHIPOWNER] and Wilmington Trust, National Association, as Trustee/Collateral Agent and Collateral Agent, as Assureds, fails for any reason to pay in full all or any portion of any losses payable in respect of the insured vessels (the "Collateral Vessels") under the Policy, or in any event upon written notice by the said Assureds of an Event of Default under the First Preferred Fleet Mortgage, dated as of [DATE], by [SHIPOWNER] to Assureds, then all such losses (or such portion thereof) shall be paid directly by the reinsurers identified from time to time under any and all reinsurance agreements (the "Reinsurance Agreements") providing for reinsurance under the Policy with respect to the Collateral Vessels (collectively, the "Reinsurers") to such Assureds, as the respective interests of the Assureds may appear under the Policy, but only for the proportions subscribed by the Reinsurers and provided that the Reinsurers have not already made payment in full for their proportion in accordance with the terms of the Reinsurance Agreements and the Policy."

- (g) Loss. Upon the occurrence and during the continuation of an Event of Default, (i) all insurance payments in respect of an Event of Loss under the policies for hull and war risks (or in lieu of the foregoing coverages in respect of Stacked Vessels constituting Collateral Vessels only, the port risks insurance policy) shall be applied to the Obligations in the manner required by Section 9.03 of the Credit Agreement, and (ii) the Collateral Agent shall be entitled to be paid and, if applicable may retain out of the insurance payments received on account of such loss and held by the Collateral Agent, any sum or sums that shall be or become owing to the Collateral Agent under this Mortgage for the cost, if any, of collecting the insurance, which sum or sums shall become the sole property of the Collateral Agent.

In this Schedule 6.19(j), the following terms shall have the following meanings:

“Event of Loss” means any of the following events: (i) the actual or constructive total loss of any Collateral Vessel or the agreed, arranged or compromised total loss of any Collateral Vessel; or (ii) the capture, condemnation, confiscation, nationalization, requisition, purchase, seizure or forfeiture of, or any taking of title to, or any other actual or constructive taking of, any Collateral Vessel. An Event of Loss shall be deemed to have occurred (A) in the event of an actual loss of any Collateral Vessel, at 12:00pm on the date of such loss or if that is not known on the date which such Collateral Vessel was last heard from; (B) in the event of damage which results in a constructive or an agreed, arranged or compromised total loss of a Collateral Vessel, at 12:00pm on the date of the event giving rise to such damage.

EXISTING LIENS

Certain liens under that certain First Lien Term Loan Credit Agreement and Second Lien Term Loan Credit Agreement, each dated as of September 4, 2020, by and among Hornbeck Offshore Services, Inc., Hornbeck Offshore Services, LLC, Wilmington Trust, National Association, and the other lenders party thereto, which liens are being terminated and released as of the Closing Date but which shall be terminated of record by the Borrower within thirty (30) days following the Closing Date (or such later date as may be approved by the Administrative Agent); *provided, however, that* any liens on the Vessel Collateral pursuant to such First Lien Term Loan Credit Agreement and/or Second Lien Term Loan Credit Agreement shall be terminated of record by the Borrower on the Closing Date and any UCC-1 Financing Statements filed pursuant to such First Lien Term Loan Credit Agreement and/or Second Lien Term Loan Credit Agreement shall be terminated of record by the Borrower on the Closing Date.

EXISTING SPECIFIED DEBT

None.

ADMINISTRATIVE AGENT'S OFFICE, CERTAIN ADDRESSES FOR NOTICES

If to the Borrower:

Hornbeck Offshore Services, Inc.
103 Northpark Boulevard, Suite 300,
Covington, LA 70433
Attn: James O. Harp, Jr., Executive Vice President and Chief Financial Officer
Email: james.harp@hornbeckoffshore.com

With a copy (which shall not constitute notice) to:

Hornbeck Offshore Services, Inc.
103 Northpark Boulevard, Suite 300,
Covington, LA 70433
Attn: Samuel Giberga, Executive Vice President, General Counsel, Chief Compliance Officer & Secretary
Email: samuel.giberga@hornbeckoffshore.com

With a copy (which shall not constitute notice) to:

Kirkland & Ellis LLP
609 Main Street, Suite 4700
Houston, TX 77002
Attn: Mary Kogut, P.C. and Jordan Roberts, P.C.
Email: mkogut@kirkland.com and jordan.roberts@kirkland.com

With a copy (which shall not constitute notice) to:

Winstead PC
24 Waterway Avenue, Suite 500
The Woodlands, Texas 77380
Attn: R. Clyde Parker, Jr.
Email: cparker@winstead.com

If to the Administrative Agent:

Stonebriar Commercial Finance, LLC
5525 Granite Parkway, Suite 1800
Plano, TX 75024
Attention: General Counsel
Email: notice@stonebriarcf.com

With a copy (which shall not constitute notice) to:

Baker, Donelson, Bearman, Caldwell & Berkowitz, PC
100 Light Street, 19th Floor
Baltimore, MD 21202
Attn: Michael Beattie
Email: mbeattie@bakerdonelson.com

If to the Collateral Agent/Collateral Trustee:

Wilmington Trust, National Association
50 South Sixth Street, Suite 1290
Minneapolis, MN 55402
Attention: Jeffery Rose
E-mail: jrose@wilmingtontrust.com

With a copy (which shall not constitute notice) to:

Thompson Hine LLP
300 Madison Avenue, 27th Floor
New York, New York
Attn: Yesenia Batista
Email: Yesenia.Batista@thompsonhine.com

SETTLEMENT TERM SHEET

This Settlement Term Sheet is entered into by and among Hornbeck Offshore Services, LLC ("HOS"), Gulf Island Shipyards, LLC ("GIS"), Gulf Island Fabrication, Inc. ("GIFI"), Fidelity & Deposit Company of Maryland ("F&D") and Zurich American Insurance Company (F&D and Zurich American Insurance Company, collectively, "Zurich") and made effective as of this 3rd day of October 2023.

For good and valuable consideration, the sufficiency of which is acknowledged, the parties agree to the following settlement terms:

1. HOS revokes its \$ 146 million all cash offer.
 2. Zurich exercises its option under Paragraph 1 of the bonds to take over the contracts and complete Hulls 369/370. The vessels will be completed at either Bollinger Shipyards or Eastern Shipbuilding Group, or another mutually agreed shipyard.
 3. Subject to HOS' financial contribution below, Zurich will be responsible for the entire cost to complete Hulls 369/370 per the terms of the contracts and the drawings and specifications.
 4. HOS will commit the remaining balance due on each of the contracts which is \$23,860,266 for Hull 369 and \$29,957,715 for Hull 370 or a total of \$53,817,981 as payments become due to the completion shipyard.
 5. HOS will contribute with Zurich on a dollar-for-dollar basis payments due to the completion shipyard for Hulls 369/370 until the remaining contract balances due by HOS on each of the vessels has been exhausted.
 6. In the event the total cost to complete Hull 369 is less than \$47,720,532, or the cost to complete Hull 370 is less than \$59,915,430, HOS' financial liability for completion of the vessels shall be limited to the amounts payable by HOS under the 50/50 sharing formula in paragraph 5 above.
 7. Zurich shall be responsible for all costs to complete Hull 369 that are in excess of \$47,720,532 and all costs to complete Hull 370 that are in excess of \$59,915,430, excluding change order or extra work requested by HOS after the date of this Settlement Term Sheet. The costs to complete the contracts will include but not be limited to all storage costs, costs of moving the vessels and all related equipment and inventory to the completion shipyard, refurbishment of the vessels and all equipment, the purchase and the acquisition of an electrical engineering package from an agreed upon vendor, as well as warranties for the Work and OEM equipment packages.
 8. All insurance proceeds received from Hurricane Ida pursuant to paragraph 13 will be used to repair the hurricane and related damages caused to Hulls 369 and 370 and related inventory.
 9. GIS hereby releases and dismisses all of its claims against HOS in the pending litigation with prejudice and HOS hereby releases and dismisses all of its claims against GIS and Zurich in the pending litigation with prejudice. HOS agrees to dismiss without prejudice the litigation pending in the Judicial District Court, Parish of Terrebonne, State of Louisiana, bearing docket No. 194556, Division "E" captioned Hornbeck Offshore Services, LLC v. Gulf Island Shipyard, LLC, et al.
 10. Zurich shall have 60 days from execution of this Settlement Term Sheet to enter into completion agreements with the completion contractor. The completion contracts shall contain a delivery date of no later than March 1, 2025 for one of the Vessels and no later than June 1, 2025 for the other Vessel, which dates shall be extended day-for-day for each day between the date of this Settlement Term Sheet and the date on which each completion agreements are executed between Zurich and the completion contractor, but in no event more than 60 days, unless agreed by Hornbeck and Zurich in writing.
 11. HOS agrees to and hereby does waive existing liquidated damages through the delivery dates in paragraph 10 above. The takeover agreement will include liquidated damages provisions for late delivery at the same rates and on the same terms as the Second Amendments to the Vessel Construction Agreements.
-

12. GIS and GIFI hereby confirm that Zurich has been assigned and is entitled to possession of Hulls 369/370 pursuant to the terms of the GIAs. GIS and GIFI will immediately turn over possession of Hulls 369/370, including all related equipment and inventory, to Zurich and hereby release all liens and privileges, both possessory and non-possessory, in Hulls 369/370, including all related equipment and inventory, and within ten days of this Settlement Term Sheet shall cancel and terminate all UCC-1 security interests related in any way to the Vessels and/or Vessel Construction Agreements.

13. GIS and GIFI will assign to Zurich any proceeds payable under Gulf Island's hull and machinery policy insuring Hulls 369/370 related in any way to Hurricane Ida damages.

14. This Settlement Term Sheet may be signed in separate counterparts, all of which taken together constitute one and the same agreement and any of the parties may execute this Settlement Term Sheet by signing any such counterpart and an electronic transmission of any such signature page is valid as an original.

15. The parties and their signatories hereto warrant that each has the power and authority to execute this Settlement Term Sheet.

[Signature page follows]

Hornbeck Offshore Services, LLC

By: /s/ Todd M. Hornbeck
Title: CEO
Date: 10/3/2023

Gulf Island Shipyards, LLC

By: /s/ Richard Heo
Title: CEO
Date: 10/3/2023

Gulf Island Fabrication, Inc.

By: /s/ Richard Heo
Title: CEO
Date: 10/3/2023

Fidelity & Deposit Company of Maryland

By: /s/ James W. Hamel
Title: AVP & Team Manager
Date: 10/3/2023

Signature page to Settlement Term Sheet

Zurich American Insurance Company

By: /s/ James W. Hamel
Title: AVP & Team Manager
Date: 10/3/2023

Signature page to Settlement Term Sheet

TAKEOVER AGREEMENT

This Takeover Agreement ("Agreement") is made and entered into, by and between Hornbeck Offshore Services, LLC ("Obligee"), on the one hand, and Fidelity & Deposit Company of Maryland and Zurich American Insurance Company (collectively, the "Surety"), on the other hand.

WITNESSETH:

WHEREAS, Gulf Island Shipyards, LLC ("Principal") and Obligee are parties to a Vessel Construction Agreement (collectively with the drawings, specifications, all fully-executed amendments, and all fully-executed change orders thereto, the "Hull 369 Contract") pertaining to the construction of one Multi-Purpose Supply Vessel known as Hull No. 369 ("Hull 369").

WHEREAS, Principal and Obligee are parties to a Vessel Construction Agreement (collectively with the drawings, specifications, all fully-executed amendments, and all fully-executed change orders thereto, the "Hull 370 Contract," and collectively with the Hull 369 Contract, the "Bonded Contracts") pertaining to the construction of one Multi-Purpose Supply Vessel known as Hull No. 370 ("Hull 370," and collectively with Hull 369, the "Vessels").

WHEREAS, Principal and Surety issued two performance bonds, Nos. PRF9191876 and PRF 9191877 (collectively, the "Bonds"), as principal and surety, respectively, pertaining to the Bonded Contracts and the Vessels.

WHEREAS, Principal has been declared by Obligee to be in default of the Bonded Contracts, and Obligee has terminated Principal's right to complete the Vessels.

WHEREAS, Obligee has demanded that Surety perform under the Bonds.

WHEREAS, pursuant to the Bonds, Surety is exercising its election under Paragraph 1 of the Bonds to complete or to procure the completion of the Bonded Contracts, provided that Obligee will fund up to the remaining Bonded Contract funds, which the parties agree is in the sum of \$23,860,266 for the Hull 369 Contract and \$29,957,715 for the Hull 370 Contract, all as further provided in this Agreement.

NOW, THEREFORE, in consideration of the premises, other good and valuable considerations, and the mutual covenants set forth herein, the receipt and sufficiency of all of which are hereby acknowledged, the parties hereto agree as follows:

1. **COMPLETION OF VESSELS.** Surety shall complete each of the Bonded Contracts and Obligee shall perform all of its obligations under the Bonded Contracts, all in accordance with the terms and conditions of the Bonded Contracts, except as expressly modified by this Agreement. Surety shall have all rights against Obligee that Principal had under the Bonded Contracts, and Obligee shall have all rights against Surety as Obligee had against Principal under the Bonded Contracts, except as expressly modified by this Agreement.

2. **COMPLETING SHIPYARD.** In discharging its obligations under Paragraph 1 of this Agreement, the Surety may only select as a completing shipyard ("Completing Shipyard"): (a) Eastern Shipbuilding Group, Inc., or any of its subsidiaries or affiliates; (b) Bollinger Shipyards, Inc., or any of its subsidiaries or affiliates; and/or (c) another shipyard mutually agreed to in writing by Obligee and Surety, both of whose consent shall not be unreasonably withheld.

3. **COMPLETION CONTRACT.** Surety shall enter into separate contracts with Completing Shipyard to construct the Vessels in accordance with the Bonded Contracts ("Completion Contracts"). Obligee agrees that Surety shall be allowed to negotiate the terms and conditions of the Completion Contracts with Completing Shipyard, with terms and conditions that are satisfactory to Surety in Surety's sole discretion; provided, however, that such Completion Contract shall incorporate or include in all material respects the Specifications, the Construction Drawings, Changes in the Work (Article 9), Warranty (Article 11) and Article 17 (Inspection, Access, Tests and Official Certificates) in the Bonded Contracts. It is expressly understood that Completing Shipyard's warranty obligations shall be limited to the work performed by Completing Shipyard; however, Surety shall remain responsible for all warranty obligations per the terms of the Bonded Contracts.

4. SURETY'S ON-SITE REPRESENTATIVE. Surety may designate in writing an agent and representative ("Surety's On-Site Representative") during the construction of the Vessels that is mutually agreeable to the Parties. From the date of this Agreement through delivery of both Vessels, Obligees shall have the right to deal directly with the Surety's On-Site Representative, with the exception that the Surety's On-Site Representative shall not be authorized, without Surety's prior written approval, to execute or enter into any change orders or extensions or reductions of time, relating to any work within the scope of the Bonded Contracts.

5. SCOPE OF WORK. Surety's obligations to complete the Vessels shall include all obligations of the Principal under the Bonded Contracts including, without limit (a) to cure all defaults thereunder, except for default for delay, which shall be waived subject to the new delivery dates set forth below; (b) all design, engineering, construction integrating, commissioning and testing obligations of Principal under the Bonded Contracts; (c) all costs to store the Vessels, including all related equipment and inventory, through the date of delivery of each of the Vessels, except for Owner Furnished Items and the Crane, as those terms are defined in the Bonded Contracts; (d) all costs of transporting to Completing Shipyard the Vessels, including all related equipment and inventory except for Owner Furnished Items and the Crane, as well as all insurance costs and deductibles incident to storage and transport and all inspections, surveys and approvals associated with the storage and/or transportation of the Vessels to a Completion Yard; (e) all warranty obligations required under Article 11 of the Bonded Contracts and the Specifications of the Bonded Contract; (f) repair of all damage to the Vessels resulting from Hurricane Ida or all other causes; and (g) the purchase and the acquisition of an electrical engineering package from an agreed upon vendor and/or the Completing Shipyard. Obligees agree that Ockerman Automation Consulting, Inc. shall be an approved vendor. For avoidance of doubt, Surety shall not be responsible for any obligations or costs related to changes to the Remaining Work requested by the Obligees after the date of this Agreement, and Article 9 of the Bonded Contracts shall remain in full force and effect.

6. HULL 369 CONTRACT SUM. The parties acknowledge that, as of the date of this Agreement, the Hull 369 Contract sum is \$90,704,962. As of the date of this Agreement, Obligees have paid Principal the amount of \$66,844,696 in connection with the Hull 369 Contract. The parties hereto acknowledge that the remaining Hull 369 Contract balance available for completion of Hull 369 is in the amount of \$23,860,266, subject to further increases or decreases that may be agreed to by the Parties after the date of this Agreement in accordance with the provisions of the Hull 369 Contract.

7. HULL 370 CONTRACT SUM. The parties acknowledge that, as of the date of this Agreement, the Hull 370 Contract sum is \$87,385,597. As of the date of this Agreement, Obligees have paid Principal the amount of \$57,427,882 in connection with the Hull 370 Contract. The parties hereto acknowledge that the remaining Hull 370 Contract balance available for completion of Hull 370 is in the amount of \$29,957,715, subject to further increases or decreases that may be agreed to by the Parties after the date of this Agreement in accordance with the provisions of the Hull 370 Contract.

8. PARTIES' PAYMENT OBLIGATIONS. Obligees and Surety agree to pay Completing Shipyard directly for the work performed by Completing Shipyard under the Completion Contracts as follows: (a) Obligees and Surety shall each fund 50% of Completing Shipyard's approved payment applications relating to the Remaining Work for each of the Vessels, until a total of (1) \$47,720,532 has collectively been paid to Completing Shipyard in connection with Hull 369, excluding insurance proceeds related to Hurricane Ida repairs; and (2) \$59,915,430 has collectively been paid to Completing Shipyard in connection with Hull 370, excluding insurance proceeds related to Hurricane Ida repairs; (b) Surety shall fund all payment applications of Completing Shipyard, in excess of the funding contemplated in Section (a) of this Paragraph, related to the work described in Sections 5(a) through 5(g) of this Agreement; and (c) Obligees shall have no obligation to fund any further amounts except that Obligees shall fund any change order or extra work agreed to by the parties or ordered by Obligees after the date of this Agreement that results in an increase in the Contract Sum; and (d) Obligees and Surety shall make payment to Completing Shipyard within 15 days of Surety's written approval of Completing Shipyard's applications for payment. If Obligees does not timely pay the Completing Shipyard any amounts Obligees owes to Completing Shipyard under Sections (a) or (c) of this Paragraph, in addition to the remedies available under the Bonded Contracts, Surety shall be granted a day-for-day time extension to complete the Vessels until Obligees has fully satisfied its payment obligations. If Surety does not approve and fund the Completing Shipyard's application for payment, the Surety shall indemnify and hold harmless Obligees against all liens, privileges or other rights asserted against the Vessels by the Completing Shipyard or any of its suppliers or vendors. If Obligees does not approve and fund the Completing Shipyard's application for payment, the Obligees shall indemnify and hold harmless Surety against all liens, privileges or other rights asserted against the Vessels by the Completing Shipyard or any of its suppliers or vendors. If either of the Vessels are delivered without Obligees having fully expended the Bonded Contract funds associated with that Vessel, Obligees shall not be obligated to pay Surety any remaining Bonded Contract funds related to that Vessel.

9. TIME OF DELIVERY. Surety shall have 60 days from execution of this Agreement to enter into the Completion Contracts. The Completion Contracts shall contain a delivery date no later than March 1, 2025 for one of the Vessels and June 1, 2025 for the other Vessel. Obligees agree to extend both the “Delivery Date” and “Extended Delivery Date” under one of the Bonded Contracts until March 1, 2025 and the other until June 1, 2025. The foregoing Delivery Dates and Extended Delivery Dates shall be further extended day-for-day for each day between the date of this Agreement and the date of the Completion Contracts, but in no event more than 60 days unless agreed to in writing by Obligees and Surety. Surety shall have the option to select which Bonded Contract (Hull 369 Contract or Hull 370 Contract) shall be subject to each of the foregoing extensions. Obligees expressly waive any right to delay damages, including liquidated damages, through the new Delivery Date and Extended Delivery Date. Surety shall be entitled to extensions of the Delivery Date and Extended Delivery Date for any qualifying occurrences after the date of this Agreement, including but not limited to force majeure events under Article 7 of the Bonded Contracts and changes to the work under Article 9 of the Bonded Contracts. Liquidated Damages as provided for in the Bonded Contracts shall apply for deliveries that occur after the new Delivery Date and/or Extended Delivery Date.

10. NOTICES. All notices, requests, demands, or other communication required under the Bonded Contracts will be in writing and either delivered personally, sent by regularly scheduled overnight air courier service, or postage pre-paid certified mail, return receipt requested, to the following addressees:

to Obligees:	Hornbeck Offshore Services, LLC Attn: General Counsel 103 Northpark Blvd., Suite 300 Covington, LA 70433
to Surety:	Fidelity & Deposit Company of Maryland Zurich American Insurance Company Attn: James Hamel P.O. Box 968036 Schaumburg, IL 60196
with copy to:	Manier & Herod Attn: John M. Gillum 1201 Demonbreun Street, Suite 900 Nashville, TN 37203

11. Release of Liens, Privileges and Security Interests. All of the Principal’s liens, privileges and security interests, including UCC-1 liens, shall be cancelled and/or released and Surety shall defend and hold harmless Obligees against the assertion of any such lien, privilege or security interest asserted by Principal or any successor or assignee of the Principal including any Debtor in Possession or Trustee appointed in a case arising under Title 11 of the United States Code. Surety shall further defend and hold harmless the Obligees against any claim for fraudulent conveyance, turn-over or preference asserted by Principal or any successor or assignee of the Principal including a Debtor in Possession or Trustee appointed in a case arising under Title 11 of the United States Code.

12. MISCELLANEOUS PROVISIONS. The parties further agree as follows:

(a) this Agreement contains the entire understanding and agreement among the parties hereto with respect to the subject matter hereof and may not be modified or amended except in writing and signed by the party sought to be charged with said modification or amendment;

(b) this Agreement, its interpretation, and enforcement shall be governed by the laws of the State of Louisiana;

(c) the dispute resolution provisions, including but not limited to all arbitration and forum selection provisions, contained in Article 25 of the Bonded Contracts shall apply and are hereby incorporated by reference into this Agreement;

(d) the parties and their signatories hereto warrant that each has the power and authority to execute this Agreement; and

(e) this Agreement may be signed in counterparts and transmitted by email, which the parties agree shall constitute an original document.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the dates and in the capacities as indicated hereinafter.

Hornbeck Offshore Services, LLC

By: /s/ Todd M. Hornbeck

Title: CEO

Date: 10/3/2023

Fidelity & Deposit Company of Maryland

By: /s/ James M. Hamel

Title: AVP & Team Manager

Date: 10/3/2023

Zurich American Insurance Company

By: /s/ James M. Hamel

Title: AVP & Team Manager

Date: 10/3/2023

Signature page to Takeover Agreement

**FOURTH AMENDED AND RESTATED
TRADE NAME AND TRADEMARK LICENSE AGREEMENT**

This Fourth Amended and Restated Trade Name and Trademark License Agreement (this “Agreement”) is executed as of April 23, 2026 and is effective as of the Closing, as defined in that certain the Agreement and Plan of Merger, dated as of the date hereof (the “Merger Agreement”), by and among Helix Energy Solutions Group, Inc. (“Helix”), Hornbeck Offshore Services Inc. and the other parties thereto (the “Commencement Date”), and entered into by and between HFR, LLC, a Texas Limited Liability Company (“Licensor”), and Hornbeck Offshore Operators, LLC, a Delaware Limited Liability Company (“Licensee”). Licensee and Licensor are sometimes referred to herein individually as a “Party” and collectively as the “Parties.”

This Agreement may be executed in two (2) or more counterparts on different dates but each shall be deemed an original, and all of which together shall constitute one and the same instrument. As used herein, the word “Affiliate” shall mean any entity, which controls, is controlled by, or is under common control with another entity, provided that, for the purposes of this Agreement, the term “Affiliate,” when used with respect to Licensee, shall mean New Parent and the entities that are directly or indirectly controlled by New Parent. “New Parent” means the entity defined as “Parent” in the Merger Agreement. An entity is deemed to control another if it owns directly or indirectly at least fifty percent (50%) of (i) the shares entitled to vote at a general election of directors or other equivalent governing persons of such other entity, (ii) the voting interest in such other entity if such other entity does not have either shares or directors; or (iii) the entity’s financial statements are required by applicable regulations or accounting standards to be consolidated with the other entity for financial reporting purposes and are so consolidated.

WHEREAS, pursuant to (i) that certain Trade Name and Trademark License Agreement effective as of June 4, 1997 between Larry D. Hornbeck, on the one hand, and TODD HORNBECK and TROY HORNBECK, on the other hand, (ii) that certain Trade Name and Trademark License Agreement effective as of June 4, 1997 between TODD HORNBECK and TROY HORNBECK, on the one hand, and Hornbeck Offshore Services, Inc., on the other hand, (iii) that certain Assignment of Trade Names and Trademarks effective as of June 5, 1998 between Larry D. Hornbeck, on the one hand, and TODD HORNBECK and TROY HORNBECK, on the other hand, (iv) that certain Addendum to Trade Name and Trademark License Agreement effective as of June 5, 1998, by and between TODD HORNBECK and TROY HORNBECK, on the one hand, and Hornbeck Offshore Services, Inc., on the other hand, (v) that certain Amended and Restated Trade Name and Trademark License Agreement effective as of May 6, 2007, by and between TODD HORNBECK and TROY HORNBECK, on the one hand, and Licensee, on the other hand, (vi) that certain Assignment of Trademarks effective as of July 17, 2012 between TODD HORNBECK and TROY HORNBECK, on the one hand, and Licensor, on the other hand, (vii) that certain Second Amended and Restated Trade Name and Trademark License Agreement effective as of September 28, 2012, by and between Licensor and Licensee, (viii) that certain Addendum to Assignment of Trademarks effective as of March 29, 2020 between TODD HORNBECK and TROY HORNBECK, on the one hand, and Licensor, on the other hand, (ix) that certain Acknowledgement and Agreement effective as of March 29, 2020 among Hornbeck Offshore Services, LLC, Licensee, and Licensor, and (x) that certain Third Amended and Restated Trade Name and Trademark License Agreement effective as of September 4, 2020 by and between Licensor and Licensee (the “2020 License Agreement”) (the agreements described in the foregoing (i) through (ix), collectively, the “Prior Agreements”), Licensor or its predecessor in interest has acquired the right and license to use, and to sublicense to others to use, the following trade names and trademarks: (1) HORNBECK, (2) HORNBECK OFFSHORE, (3) HORNBECK OFFSHORE SERVICES, (4) HOS, (5) HOSS, (6) HOSMAX, (7) logos in the style of a horse’s head, examples of which are attached as Exhibit “D”, and variations thereof (collectively “Common Law Marks”), all as utilized by Licensor, or by its predecessors in interest, in the identification, promotion, advertising, marketing, and operating of its various offshore marine services;

WHEREAS, pursuant to that certain Assignment of Trade Names and Trademarks effective as of June 5, 1998 and between Larry D. Hornbeck, as Assignor, and TODD HORNBECK and TROY HORNBECK, as Assignees, acquired the assignment of the Common Law Marks, all as utilized by Licensor, or by its predecessors in interest, in the identification, promotion, advertising, marketing, and operating of its various offshore marine services;

WHEREAS, Licensor is the owner of the registered trademarks, service marks, domain names, icons and logos, and applications for any of the foregoing, that consist of, incorporate, use, are similar to, or are a variation, derivation or acronym of, the Hornbeck name, including (1) HORNBECK, (2) HORNBECK OFFSHORE, (3) HORNBECK OFFSHORE SERVICES, (4) HOS, (5) HOSS, (6) HOSMAX, and (7) logos in the style of a horse's head, examples of which are attached as Exhibit "D" (alone or with other word and/or design elements), including the trademarks identified in Exhibit "A" and goodwill associated therewith, in each case solely as used in connection with the Business on the date hereof, other than to the extent the same is used as of the date hereof solely for use as part of the Hornbeck family ranch (collectively, the "Registered Marks");

WHEREAS, Licensor or its predecessor in interest owns certain trade names, including those identified in Exhibit "B" and goodwill associated therewith (the "Trade Names");

WHEREAS, Licensor is desirous of protecting the goodwill associated with the Common Law Marks and Registered Marks, to prevent dilution of the Common Law Marks and Registered Marks, and to prevent customer confusion as to the source of goods and services associated with the Common Law Marks and Registered Marks;

WHEREAS, Licensee desires to use certain trademarks or service marks that incorporate the Common Law Marks and the Registered Marks, and may wish to adopt additional marks in the future which compromise or contain the words or symbols (1) HORNBECK, (2) HORNBECK OFFSHORE, (3) HORNBECK OFFSHORE SERVICES, (4) HOS, (5) HOSS, (6) HOSMAX, and (7) logos in the style of a horse's head, examples of which are attached as Exhibit "D" (alone or with other word and/or design elements), which are derived from the Common Law Marks and the Registered Marks (the "Additional Marks");

WHEREAS, Licensee desires to secure an exclusive right and license to use the Common Law Marks, Registered Marks, Additional Marks and Trade Names in connection with the identification of Licensee's business interests located within the territory defined in Exhibit "C" (the "Territory"); and

WHEREAS, Licensor is willing to grant Licensee a license under the terms and conditions set forth below.

NOW, THEREFORE, intending to be legally bound, for valuable consideration, including the License Fee (as defined below), the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

Article 1
Grant of License

1.1 License of Trademarks. Licensor hereby grants to Licensee an exclusive, transferable (subject to Section 8.3) license to use, and to sublicense to others to use as limited herein, the Common Law Marks, Registered Marks, and Additional Marks (the "Licensed Marks") to identify, promote, advertise, market, sell, provide, operate, merchandise and otherwise commercialize any and all goods and services of Licensee and its Affiliates in the business of providing the services of offshore supply vessels, or offshore service vessels (including, without limitation, crew boats, fast supply vessels, multi-purpose support vessels, flotels, services to Military Sealift Command, construction vessels, anchor handling towing supply vessels, tugs, double hulled tank barges and double hulled tankers or other complementary offshore marine vessels) or any other marine vessel business, including any logistics services related thereto or any ancillary, complementary or related line of business (collectively, the "Business") and the business of providing well intervention, drilling support, inspection, repair, and maintenance, reservoir management, life of field services, full field abandonment and decommissioning, shallow water abandonment, subsea pressure control equipment, and offshore renewable energy services, including any ancillary, complementary, or related line of business (collectively, the "New Business"), anywhere in the Territory, subject to the terms and conditions of this Agreement. Licensee may use the Licensed Marks in combination with one or more of Licensee's or its Affiliates' trademarks or trade names. This license specifically includes the right of Licensee to use said Licensed Marks in its corporate names and the right to permit its Affiliates to use said Licensed Marks subject to compliance with the other provisions of this Agreement and the right to use Additional Marks for which applications for registration are made in the future.

1.2 License of Trade Names. Licensor hereby grants to Licensee an exclusive, transferable (subject to Section 8.3) license to use, and to sublicense to others to use, the Trade Names to identify, promote, advertise, market, sell, provide, operate, merchandise and otherwise commercialize any and all goods and services of Licensee and its Affiliates in the Business and the New Business anywhere in the Territory, subject to the terms and conditions of this Agreement. Licensee may use the Trade Names in combination with one or more of Licensee's or its Affiliates' trademarks or trade names. This license specifically includes the right of Licensee to use said Trade Names in its corporate names and the right to permit its Affiliates to use said Trade Names subject to compliance with the other provisions of this Agreement.

1.3 License Fee.

(a) As consideration for the licenses provided above, Licensee shall pay to Licensor a one-time fee of \$17,400,000 (seventeen million four hundred thousand dollars) (the "License Fee"). In addition, to the extent earned under the 2020 License Agreement prior to the Commencement Date and not previously paid by Licensee to Licensor under the 2020 License Agreement, License shall pay to Licensor a one-time payment equal to the pro-rated Performance Fee (as defined in the 2020 License Agreement) through the Commencement Date that remains due and payable to Licensor pursuant to the terms of the 2020 License Agreement (the "2020 Fee"). Each of the License Fee and the 2020 Fee shall be paid by Licensee to Licensor on the Commencement Date at the Closing in cash, by wire transfer of immediately available funds in accordance with the written wire instructions provided by Licensor to Licensee.

(b) This Agreement amends and restates the 2020 License Agreement. The 2020 License Agreement shall continue in full force and effect in accordance with its terms until the Commencement Date and shall automatically terminate upon the Commencement Date as of and subject to the occurrence of the Closing and the payment by Licensee of the 2020 Fee and the License Fee. For the avoidance of doubt, following the payment of the 2020 Fee and the License Fee and the occurrence of the Commencement Date, Licensee shall owe Licensor no additional royalties, License Fees, base fees or performance fees for the duration of the Term.

Article 2

Quality Control

2.1 Quality Standards.

(a) Licensee acknowledges the importance of maintaining the standards of quality and service so as not to diminish the value of the Licensed Marks and Trade Names. Accordingly, Licensee agrees that the quality of all goods and services associated with or bearing the Licensed Marks or offered under the Trade Names will conform with the reasonable quality standards, as set out by Licensor from time to time that are intended to and have the result of preserving Licensor's goodwill in the Licensed Marks and Trade Names. Licensee acknowledges that maintenance of the quality of the goods and services provided under the Licensed Marks and Trade Names enhances the business of Licensee as well as the business of Licensor.

(b) Unless written consent of Licensor is first obtained (which consent may be withheld in Licensor's sole discretion), Licensee shall not use the Licensed Marks or Trade Names in combination with any other name, marks, likeness, images, or the like in a manner that is offensive or that could tarnish the name or reputation of Licensor or its Affiliates, in each case, as reasonably determined by Licensor.

2.2 Quality Control. Licensor shall exercise control over the quality of the goods and services provided by Licensee under the Licensed Marks or Trade Names. Licensor shall have the right to exercise quality control as to such goods and services under reasonable circumstances and in a reasonable manner.

2.3 Cooperation. Licensee shall cooperate with Licensor's control of the nature and quality of the goods and services provided under the Licensed Marks and Trade Names, and will permit reasonable inspection of Licensee's use of the Licensed Marks and Trade Names in connection with the goods and services provided thereunder.

2.4 Applicable Laws. Licensee shall comply with all applicable laws and regulations and shall obtain and maintain all necessary or appropriate government approvals pertaining to the operations of Licensee's business and to Licensee's goods and services.

Article 3

Protection of the Licensed Marks and Trade Names

3.1 Notice. Licensee agrees to notify Licensor promptly of any unauthorized use, infringement or dilution of the Licensed Marks or the Trade Names by others, as soon as practically possible after the unauthorized use of the Licensed Marks or the Trade Names comes to Licensee's attention, and to report all details in Licensee's possession concerning the kind and character of the unauthorized use, infringement or dilution. For so long as TODD HORNBECK is Chairman, President and CEO of Licensee or Hornbeck Offshore Services, Inc. ("Parent"), Licensor shall be deemed to have been notified of such unauthorized use upon the first knowledge thereof as a result of sharing such information in meetings in which TODD HORNBECK and other of Licensee's Executive Officers participate.

3.2 Enforcement Proceedings

(a) During the Term of this Agreement, Licensee shall, at its sole cost, take all reasonable and necessary action, including without limit, the initiation of legal proceedings, in order to protect the Licensed Marks and Trade Names from unauthorized use, infringement or dilution by third parties in the offshore marine transportation services industry and other businesses related thereto. Licensor shall convey to Licensee any power of attorney or other power or cooperation required by Licensee in order to take action required hereby. If Licensee breaches its obligation under this clause, Licensor may, in its sole discretion, take actions it deems to be reasonably necessary in order to protect the Licensed Marks and Trade Names and Licensee shall reimburse to Licensor all costs incurred thereby.

(b) All damages, awards, and settlement proceeds which result from an action brought by Licensee pursuant to Section 3.2(a) shall belong entirely to Licensee. In the event that Licensee breaches its obligations under Section 3.2(a) and as a result thereof Licensor brings a legal action against a third party, then all damages, awards and settlement proceeds resulting from the action brought by Licensor shall belong entirely to Licensor.

3.3 Maintenance of the Licensed Marks. During the Term of this Agreement Licensee shall, at its sole cost and expense, maintain the effectiveness of all state or federal trademark registrations affecting the Licensed Marks and Trade Names at the Commencement Date such that upon the Termination Date, any such federal or state trademark registrations shall be deemed to be in full force and effect and duly registered in the name of Licensor. Licensee shall, at the request of Licensor and at Licensee's expense, execute and deliver such further documents and legal instruments, and do all other things reasonably necessary to secure any registration of the Licensed Marks and Trade Names in the name of Licensor and/or to enforce Licensor's rights and interest in and to the Licensed Marks and Trade Names and the associated goodwill, including without limitation executing and delivering any and all powers of attorney, applications, declarations and affidavits. Licensor shall, at Licensee's sole cost and expense, execute and deliver to Licensee all documents and legal instruments and do all other things reasonably necessary as reasonably requested by Licensee to secure and/or maintain any registration of the Licensed Marks and Trade Names in the name of Licensor and/or to enforce Licensor's rights and interest in and to the Licensed Marks and Trade Names and associated goodwill, including without limitation executing and delivering any and all powers of attorney, applications, declarations and affidavits consistent with the purpose and intent of this Agreement.

Article 4
Representations And Warranties

4.1 Warranty of Title; Right to Grant Licenses. Licensors represent and warrants that (a) Licensor owns or possesses a valid and assignable right or license to use in the Business conducted by Licensee on the Commencement Date, all of the Licensed Marks and Trade Names and (b) Licensor has the right to grant the licenses granted under Article 1. Licensor acknowledges and agrees that it will not at any time do or cause to be done, directly or indirectly, any act or thing impairing or tending to impair any part of its right, title, and interest in or to the Licensed Marks and Trade Names (including allowing any sale, lease, license, sublicense, modification, termination, abandonment, lapse, transfer or disposal of, or creation of a security interest or other lien on, the Licensed Marks and Trade Names) or otherwise impair its right to grant the licenses granted under Article 1.

4.2 Other Intellectual Property. Licensor represents and warrants that, following the Commencement Date and until the Termination Date, Licensor will not hold, directly or indirectly, any right, title or interest in or to, or any right to use, any and all intellectual property rights in any jurisdiction throughout the world, whether registered, granted, issued, applied for, unissued or unregistered, including any patents, trademarks, service marks, trade names, trade dress and other source identifiers, domain names, copyrights, design rights, inventions, original works of authorship, trade secrets, confidential information, know-how, software, licenses and any and all other intellectual property or proprietary rights and interests, necessary for the operation of the Business or the New Business, in each case except for Licensor's rights to the Licensed Marks and Trade Names licensed to Licensee pursuant to Article 1.

Article 5
Term and Termination

5.1 Term. Unless terminated sooner as provided herein, the term of this Agreement and the license granted hereby shall commence on the Commencement Date and shall continue in force and effect until the later of (a) the seventh (7th) anniversary of the Commencement Date and (b) the second (2nd) anniversary of the date that TODD HORNBECK ceases to be employed as both Chief Executive Officer and President of Parent or of New Parent (other than for TODD HORNBECK'S resignation as President while he remains Chief Executive Officer) (the "Term").

5.2 Termination for Default. Upon Licensee's material breach of this Agreement and failure to take all available measures to cure such material breach within sixty (60) days after Licensee's receipt of written notice of such material breach from Licensor, Licensor may terminate this Agreement upon giving written notice to Licensee.

5.3 Termination for Cessation of Use. In the event (i) Licensee ceases to use a Licensed Mark or Trade Name as Licensee's primary corporate identifier for the Business, (ii) New Parent ceases to trade under the ticker symbol "HOS"; provided, that New Parent may cease to trade under the ticker symbol "HOS" if required by applicable law, the rules or regulations of the Securities and Exchange Commission, or the rules or regulations of the stock exchange where the shares are listed; provided further that, New Parent will use commercially reasonable efforts to incorporate a Licensed Mark or Trade Name into its ticker symbol, or (iii) New Parent ceases to use a Licensed Mark or Trade Name in the corporate entity name of New Parent or otherwise adopts at the New Parent level any d/b/a name, trade name, fictitious name or similar designation that does not use a Licensed Mark or Trade Name (provided that the New Business and any other existing business of Helix as of the Commencement Date shall not be subject to this clause (iii)), then in any such case Licensor may terminate this Agreement upon giving written notice to Licensee. For the avoidance of doubt, Licensee and its Affiliates may use any brands, trademarks, service marks, trade names, trade dress, logos, other source identifiers, and domain names, (a) that were owned or used by Helix as of the Commencement Date, including "Helix", "Canyon," and "Alliance", (b) that are similar to or derivative of the items in (a), and (c) that are developed, created or acquired by Licensee and its Affiliates from and after the Commencement Date, in each case, in Licensee's and its Affiliates' businesses, provided that such permitted uses shall not limit or restrict in any manner the termination rights of Licensor in this Section 5.3 to the extent applicable.

5.4 Termination for Failure of Closing to Occur. In the event the Merger Agreement is terminated for any reason prior to the Closing, then simultaneously with such termination this Agreement shall automatically terminate without any requirement of notice or any other action by any Party and shall immediately be of no further force and effect, and the Commencement Date shall not occur.

5.5 Effect of Termination.

(a) If this Agreement is terminated in accordance with Sections 5.1, 5.2 or 5.3, the date on which this Agreement shall terminate (the "Termination Date") shall be the earlier of (x) the last date of the Term under Section 5.1, or (y) the second (2nd) anniversary of the date that notice of termination is validly given by a Party to the other Party. All costs associated with ceasing to offer Licensee's goods and services under the Licensed Marks and Trade Names, including without limitation the removal of the Licensed Marks and Trade Names from all marketing, letterhead, business cards, signs, buildings, vessels, brochures or the like and from changing of Licensee's and its Affiliate's entity names, shall be borne entirely by Licensee. Upon the Termination Date or the expiration of the Term, as applicable (or any other termination or expiration of this Agreement), (i) all right, title, or interests in the Licensed Marks and Trade Names shall immediately and without necessity of any further action by any Party revert to and be vested in Licensor in good standing such that Licensor shall be able to freely use, register and assign the Licensed Marks and Trade Names in all respects within the Territory, and (ii) Licensee shall not have any right, title or interests in, or any license or other right to use for any purpose, the Licensed Marks or the Trade Names, including but not limited to the use thereof in the corporate name of Licensee or in any combination with one or more of Licensee's trademarks or trade names; provided, that, Licensee and its Affiliates shall be permitted to use the Licensed Marks and Trade Names to refer factually to the historical name of Licensee and its Affiliates, in government filings, for internal purposes on books and records, and for other uses that constitute nominative fair use under applicable law; provided further that, Licensee and its Affiliates shall not use the Licensed Marks or Trade Names in any manner that tarnishes, disparages or harms the goodwill and reputation of the Licensed Marks or Trade Names or any part thereof. For avoidance of doubt, the Term and the applicable Termination Date set forth in this Article 5 shall be inclusive of any period of time necessary for Licensee to winddown its use of the Licensed Marks and the Trade Names, and no "winddown period" or similar period of time shall extend beyond the Termination Date or the expiration of the Term, as applicable.

(b) If this Agreement is terminated in accordance with Section 5.4, the 2020 License Agreement shall continue in full force and effect in all respects in accordance with its terms, and this Agreement shall be of no further force and effect. For avoidance of doubt, the Parties acknowledge and agree that the termination of this Agreement in accordance with Section 5.4 prior to the Commencement Date shall have no effect on the legally binding nature and continuing validity of the 2020 License Agreement and the Parties shall continue to perform their respective obligations thereunder in accordance with the terms thereof, and the execution of this Agreement shall not be deemed to constitute any waiver of any right under the 2020 License Agreement or any implied agreement or understanding to amend or modify any term thereof.

Article 6

Ownership

6.1 Licensee acknowledges that, as between the Parties, Licensor owns the Licensed Marks, and the goodwill associated therewith. Licensee agrees that it will do nothing inconsistent with such ownership of Licensor, except as may be permitted by this Agreement. Licensee agrees that nothing in this Agreement shall give Licensee any right, title, or interests in the Licensed Marks other than the right to use the Licensed Marks pursuant to the terms and conditions of this Agreement. Licensee agrees that it will not contest the ownership rights of Licensor in the Licensed Marks. Licensee agrees that any use by Licensee of the Licensed Marks and all goodwill arising from the use, shall be solely for, and inure to the benefit of, Licensor.

6.2 Licensee further acknowledges that, as between the Parties, Licensor owns the Trade Names, and the goodwill associated therewith. Licensee agrees that it will do nothing inconsistent with such ownership of Licensor. Licensee agrees that nothing in this Agreement shall give Licensee any right, title, or interests in the Trade Names other than the right to use the Trade Names pursuant to the terms and conditions of this Agreement. Licensee agrees that it will not contest the ownership rights of Licensor in the Trade Names. Licensee agrees that any use by Licensee of the Trade Names and all goodwill arising from the use, shall be solely for, and inure to the benefit of Licensor.

Article 7
Sublicense

7.1 Sublicense. Licensee may sublicense to any of its Affiliates the rights conveyed in this Agreement; provided, that Licensee shall provide written notice to Licensor promptly following any such sublicense. Licensee may sublicense the rights conveyed in this Agreement to a non-Affiliate only with the prior written consent of Licensor, which consent may be withheld or granted in the sole discretion of Licensor. Any sublicense conveyed by Licensee without the required prior written consent of Licensor shall be null and void.

Article 8
Miscellaneous

8.1 Notices. Any notices required or permitted to be given under this Agreement shall be deemed sufficiently given if hand delivered with receipt acknowledged, or mailed by certified or registered mail postage prepaid, return receipt requested, and addressed as follows:

To Licensor: HFR, LLC
103 Northpark Blvd., Suite 300
Covington, LA 70433
Telephone: (985) 727-2000
Fax: (985) 727-2006
Attention: Todd Hornbeck

With a copy (which shall not constitute notice) to:

Herrick, Feinstein LLP
2 Park Avenue
New York, NY 10016
Attention: Irwin A. Kishner, Esq.
Email: ikishner@herrick.com

To Licensee: Hornbeck Offshore Operators, LLC
103 Northpark Blvd., Suite 300
Covington, LA 70433
Telephone: (985) 727-2000
Attention: Samuel A. Giberga, General Counsel
Email: samuel.giberga@hornbeckoffshore.com

Either Party may change its address for notification purposes by giving the other Party written notice of the new address change and the date upon which it will become effective.

8.2 Severability. If any of the provisions of this Agreement are determined to be invalid or unenforceable under present or future laws effective during the term of this Agreement, such invalidity or unenforceability will not invalidate or render unenforceable the remainder of the Agreement, but rather the entire Agreement will be construed as if not containing the particular invalid or unenforceable provision or provisions, and the rights and obligations of the Parties shall be construed and enforced accordingly. The parties hereby acknowledge that if any provision of this Agreement is determined to be invalid or unenforceable, it is their desire and intention that such provision be reformed and construed in such a manner that it will, to the maximum extent practical, be deemed valid and enforceable.

8.3 Assignments. Licensor shall have the right, in its sole discretion, to assign its rights under this Agreement to any principal, member, trust, trustee or administrator of Licensor or to the executor or administrator of TODD HORNBECK's estate and TROY HORNBECK's estate or the beneficiaries thereof following the death of TODD HORNBECK and TROY HORNBECK. Licensee may assign this Agreement (a) to any Affiliate or (b) in connection with a sale of all or substantially all of the assets of the Business (whether by sale of assets, operation of law, stock sale, merger, reorganization or change of control); provided, that Licensee (i) delivers notice to Licensor of such assignment reasonably promptly thereafter and (ii) shall be responsible for any failure of such assignee to perform its obligations under this Agreement. Except as provided under this Section 8.3, Licensee may not assign this Agreement to a non-Affiliate without the prior written consent of Licensor, which consent may be withheld or granted in the sole discretion of Licensor. Any assignment conveyed by Licensee without the required prior written consent of Licensor shall be null and void. Any assignee must assume all obligations of the assigning party in connection with this Agreement and shall have executed and agreed to be bound by the terms of this Agreement in substantially the same form as is set forth herein. Any assignments not made in accordance with this Agreement shall be void.

8.4 Section Headings, Number and Gender. The Section headings are for convenience of reference only and shall not constitute a part hereof. Whenever the context requires, references in this Agreement to the singular number shall include the plural, and the plural number shall include the singular, and words denoting gender shall include the masculine, feminine and neuter.

8.5 Governing Law. This Agreement shall be governed by, and construed in accordance with, the laws of the State of Delaware without giving effect to the principles of conflicts of law thereof or of any other jurisdiction. The federal and state courts in Delaware shall have exclusive jurisdiction over disputes with respect to this Agreement.

8.6 Further Assurances. At and from time to time after the Commencement Date, at the request of Licensee, but without further consideration, Licensor shall execute and deliver such other instruments of conveyance, license, assignment, transfer and delivery and take such other action as Licensee may reasonably request in order to more effectively consummate the transactions contemplated by this Agreement.

8.7 Warranty of No Brokers. Each Party represents and warrants to the other Party that it has not incurred any obligation or liability, contingent or otherwise, for brokerage or finders' fees or agents' commissions or other like payment in connection with this Agreement or the transactions contemplated hereby, for which the other Party will have any liability, and each Party agrees to indemnify and hold the other Party harmless against and in respect to any such obligation or liability based in any way on any agreement, arrangement, or understanding claimed to have been made by such Party with any third party.

8.8 Non-Waiver. The delay or omission of any Party to exercise rights or powers under this Agreement shall not impair any such right or power and shall not be construed to be a waiver of any event of default or acquiescence therein. No waiver of any default shall be construed, taken or held to be a waiver of any other default or waiver, acquiescence in, or consent to any further or succeeding default of the same nature.

8.9 Successors and Assigns. This Agreement and all of the terms and provisions hereof shall be binding upon and shall inure to the benefit of each of the Parties and their respective successors and permitted assigns.

8.10 Merger and Amendments. This Agreement contains the entire understanding and agreement of the Parties and supersedes any prior understandings and written or oral agreements between them respecting this subject matter, including the Prior Agreements.

8.11 Amendment. This Agreement may be amended only by the written consent of the Parties.

8.12 No Partnership. No individual, partnership, joint venture, corporation, trust or other unincorporated entity or organization, not a Party to this Agreement, shall be deemed to be a third-party beneficiary hereunder or entitled to any rights hereunder.

8.13 Specific Performance. Each Party acknowledges that a breach or threatened breach by such Party of any of its obligations under this Agreement may give rise to irreparable harm to the other Party, for which monetary damages may not be an adequate remedy, and hereby agrees that in the event of a breach or a threatened breach by such Party of any such obligations, the other Party shall, in addition to any and all other rights and remedies that may be available to them in respect of such breach, be entitled to seek equitable relief, including a permanent or temporary restraining order, an injunction, specific performance and any other relief that may be available from a court of competent jurisdiction (without any requirement to post bond or other security). The existence of this right will not preclude any Party from pursuing any other rights and remedies at law or in equity that such Party may have.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of April 23, 2026.

LICENSOR:

HFR, LLC

By: /s/ Todd M. Hornbeck
Todd M. Hornbeck
Member

LICENSEE:

Hornbeck Offshore Operators, LLC

By: /s/ Samuel A. Giberga
Samuel A. Giberga
Executive Vice President and General Counsel

[Signature page to Fourth Amended and Restated Trade Name and Trademark License Agreement]

EXHIBIT “A”
Trademark Registrations

LICENSOR’S TRADEMARKS AND SERVICE MARKS

COUNTRY	MARK	REGISTRATION NO.	REGISTRATION DATE
U.S.	HORNBECK OFFSHORE	2757850	09/02/2003
U.S.	HORNBECK OFFSHORE SERVICES	2754828	08/26/2003
U.S.	HOS	2622910	09/24/2002
U.S.	Horse Head Design Logo	2575178	06/04/2002
U.S.	HOS & Design	2622908	09/24/2002
U.S.	H O S Design Logo	2754829	08/26/2003
U.S.	HOSMAX	4527849	05/13/2014
U.S.	HOSMAX & Design (color)	4527850	05/13/2014
U.S.	HOSMAX & Design (black & white)	4527851	05/13/2014
Trinidad & Tobago	HORNBECK	34290	08/05/2004
Trinidad & Tobago	HORNBECK OFFSHORE	34289	07/20/2005
Trinidad & Tobago	HORNBECK OFFSHORE SERVICES	34291	06/30/2005
Trinidad & Tobago	HOS & Device	34287	03/31/2005
Trinidad & Tobago	H O S HORNBECK OFFSHORE SERVICES & Design	34288	08/11/2005
Trinidad & Tobago	H O S HORNBECK OFFSHORE & Design	34292	03/14/2006
Mexico	HORNBECK OFFSHORE SERVICES	1098272	10/01/2008
Mexico	H O S & Design (circle)	1105451	10/01/2008
Mexico	HORNBECK OFFSHORE	1107003	10/01/2008

COUNTRY	MARK	REGISTRATION NO.	REGISTRATION DATE
Mexico	HO S & Design (no circle)	1105453	10/01/2008
Mexico	Horse Head Design	1105450	10/01/2008
Mexico	HOS &Design	1103641	10/01/2008
Mexico	HOS Logo	1105452	10/01/2008

LICENSOR’S TRADEMARKS AND SERVICE MARKS, continued:

1. Hornbeck
 2. Hornbeck Offshore
 3. Hornbeck Offshore Services
 4. HOS
 5. HOSS
 6. HOS and Design
 7. Horsehead Logo - (Plain)
 8. Hornbeck Offshore Services, Inc. and Design
 9. Horsehead Logo Enclosed by Circle
 10. HOS Hornbeck Offshore and Design
 11. Horsehead Logo-Enclosed by Bold Circle
-

EXHIBIT “B”
LICENSOR’S TRADE NAMES

1. Hornbeck
 2. Hornbeck Offshore
 3. Hornbeck Offshore Services
 4. HOS
 5. HOSS
-

EXHIBIT “C”
TERRITORY

The Territory shall be worldwide.

EXHIBIT "D"
HORSE HEAD LOGO



LOCK-UP AGREEMENT

THIS LOCK-UP AGREEMENT (this "Agreement"), dated as of April 22, 2026 and effective as of the Effective Time (as defined herein) (except as otherwise provided herein), is made and entered into by and among Helix Energy Solutions Group, Inc., a Minnesota corporation (the "Company"), and the undersigned securityholder (the "Holder") of Hornbeck Offshore Services, Inc., a Delaware corporation ("Hornbeck").

WHEREAS, the Company, Odyssey Sub, Inc., a Delaware corporation and direct, wholly owned subsidiary of the Company ("Merger Sub Inc."), Hercules Sub LLC, a Delaware limited liability company and direct, wholly owned subsidiary of the Company ("Merger Sub LLC"), and Hornbeck, entered into that certain Agreement and Plan of Merger, dated as of the date herewith (the "Merger Agreement"), pursuant to which, among other things, (i) the Company will convert from a Minnesota corporation to a Delaware corporation in accordance with Section 265 of the General Corporation Law of the State of Delaware and Section 302A.682 of the Minnesota Business Corporations Act and the Plan of Conversion attached as Exhibit A to the Merger Agreement (the "Conversion"), (ii) following the Conversion, Merger Sub Inc. will merge with and into Hornbeck (the "First Merger"), with Hornbeck surviving the First Merger as a wholly owned subsidiary of the Company (the "Surviving Corporation"), and (iii) immediately following the First Merger, the Surviving Corporation will merge with and into Merger Sub LLC (the "Second Merger"), with Merger Sub LLC surviving the Second Merger as a wholly owned subsidiary of the Company;

WHEREAS, as a result of the Conversion, each issued and outstanding share of Company common stock, no par value, will be converted into one share of common stock, par value \$0.00001 per share, of the Company following the Conversion (the "Common Stock");

WHEREAS, in connection with the closing of the transactions contemplated by the Merger Agreement (the "Closing" and such date of closing, the "Closing Date"), among other things, the Holder will receive shares of Common Stock pursuant to the First Merger and the Company will change its name to "Hornbeck Offshore Services, Inc.";

WHEREAS, in connection with the execution of the Merger Agreement, the Company and the Holder have entered into this Agreement to set forth certain understandings among themselves; and

WHEREAS, except for Section 3, which is effective upon execution of this Agreement on the date hereof, this Agreement shall become effective automatically immediately prior to the effective time of the First Merger (the "Effective Time") on the Closing Date.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties to this Agreement hereby agree as follows:

1. Definitions.

- (a) "Business Day" means a day that is not a Saturday or Sunday or a day on which banks in New York City are authorized or requested by law to close.

- (b) “Creditor Warrant Agreement” means the Creditor Warrant Agreement dated as of September 4, 2020, among Hornbeck, and Computershare, Inc. and Computershare Trust Company, N.A., collectively as warrant agent, with respect to the Creditor Warrants, as it may be amended, restated, amended and restated, supplemented or otherwise modified from time to time.
- (c) “Creditor Warrants” means warrants to purchase a number of shares of Common Stock on the terms set forth in and as governed by the Creditor Warrant Agreement, if any, which warrants will be assumed by the Company via amendment to the Creditor Warrant Agreement in connection with the Closing.
- (d) “Exchange Act” means the Securities Exchange Act of 1934, as amended from time to time, or any successor federal law then in force, together with all rules and regulations promulgated thereunder.
- (e) “Jones Act” means the Merchant Marine Act of 1920 and the Shipping Act, 1916, as amended, and the rules and regulations promulgated thereunder.
- (f) “Jones Act Warrant Agreement” means the Amended and Restated Jones Act Warrant Agreement to be entered into on the Closing Date by and between the Company and Computershare, Inc. and Computershare Trust Company, N.A., collectively as warrant agent, as it may be amended, restated, amended and restated, supplemented or otherwise modified from time to time.
- (g) “Jones Act Warrants” means warrants to purchase a number of shares of Common Stock on the terms set forth in and as governed by the Jones Act Warrant Agreement, which warrants will be assumed by the Company pursuant to the Jones Act Warrant Agreement in connection with the Closing.
- (h) “Lock-Up Period” means the period beginning on the Closing Date and ending on the earlier of (x) the Scheduled Lock-Up Release Date and (y) the termination of the Lock-Up Period by the Company in accordance with Section 1(a).
- (i) “Lock-Up Release Date” means the date of the termination or expiration of the Lock-Up Period, whether by its terms or by the earlier agreement of the Company.
- (j) “Lock-Up Securities” means (A) Common Stock (solely to the extent (i) issued as consideration pursuant to the First Merger, including, for the avoidance of doubt, any shares of Common Stock issued in respect of Creditor Warrants in connection with the First Merger pursuant to the terms of the Creditor Warrant Agreement; (ii) issued or issuable upon the exercise of stock options or warrants outstanding as of immediately following the Closing in respect of stock options or warrants of Hornbeck outstanding immediately prior to the Closing; or (iii) issued or issuable upon the vesting of restricted stock units or performance restricted stock units outstanding as of immediately following the Closing in respect of restricted stock units or performance restricted stock units of Hornbeck outstanding immediately prior to the Closing), (B) Creditor Warrants, if any, and Jones Act Warrants (in each case, solely to the extent issued in connection with the transactions contemplated by the Merger Agreement in respect of warrants to purchase Hornbeck common stock outstanding immediately prior to the Closing) and (C) any shares of Common Stock issued or issuable upon exercise of Creditor Warrants or Jones Act Warrants referred to in the foregoing clause (B).

(k) “Person” means an individual, a partnership, a corporation, a limited liability company, an association, a joint stock company, a trust, a joint venture, an unincorporated organization and a governmental entity or any department, agency or political subdivision thereof.

(l) “Scheduled Lock-Up Release Date” means 180 days after the Closing Date.

(m) “Securities Act” means the Securities Act of 1933, as amended from time to time, or any successor federal law then in force, together with all rules and regulations promulgated thereunder.

(n) “Transfer” shall mean the (a) sale or assignment of, offer to sell, contract or agreement to sell, encumber, hypothecate, pledge, grant of any option to purchase or otherwise dispose of or agreement to dispose of, directly or indirectly, or establishment or increase of a put equivalent position or liquidation with respect to or decrease of a call equivalent position within the meaning of Section 16 of the Exchange Act with respect to, any security beneficially owned by a Person or any interest in any security beneficially owned by a Person, including derivative or similar transactions or arrangements whereby the voting or economic interest therein are transferred to another Person, (b) entry into any swap or other arrangement that transfers to another, in whole or in part, any of the economic consequences of ownership of any security, whether any such transaction is to be settled by delivery of such securities, in cash or otherwise, or (c) public announcement of any intention to effect any transaction specified in clause (a) or (b).

2. Transfer Restrictions.

(a) Except as permitted pursuant to Section 2(b), during the Lock-Up Period, the Holder agrees with the Company (and only with the Company) that it shall not Transfer any Lock-Up Securities beneficially owned or owned of record by the Holder without the prior written consent of the Company. Notwithstanding anything to the contrary herein, the Company may terminate the Lock-Up Period at any time prior to the Scheduled Lock-Up Release Date; provided that any such early termination of the Lock-Up Period may, in the Company’s sole discretion, be subject to the satisfaction of one or more conditions precedent. Upon any determination by the Company to terminate the Lock-Up Period prior to the Scheduled Lock-Up Release Date, the Company shall use commercially reasonable efforts to notify the Holder of the expected Lock-Up Release Date as promptly as practicable, but in any event no later than two Business Days after such determination. If any such early termination of the Lock-Up Period is subject to the satisfaction of one or more conditions precedent, such notice shall describe each such condition, and if applicable, shall state that, in the Company’s discretion, the Lock-Up Release Date may be delayed until such time as any or all such conditions shall be satisfied or waived; provided that in no event shall such Lock-Up Release Date be delayed to a date later than the Scheduled Lock-Up Release Date. Any termination or waiver of the Lock-Up Period by the Company pursuant to this Section 2 shall be subject to prior approval by the Company’s board of directors (or a duly authorized committee thereof).

(b) Notwithstanding the provisions set forth in Section 2(a), Transfers of Lock-Up Securities are permitted (i) as a bona fide gift or charitable contribution; (ii) if the Holder is a natural person, (A) to a trust, or other entity formed for estate planning purposes for the primary benefit of the spouse, domestic partner, parent, sibling, child or grandchild of the Holder of Lock-Up Securities or any other person with whom the Holder has a relationship by blood, marriage or adoption not more remote than first cousin; (B) by will or intestate succession upon the death of the Holder; or (C) pursuant to a qualified domestic order, court order or in connection with a divorce settlement; (iii) if the Holder is a corporation, partnership (whether general, limited or otherwise), limited liability company, trust or other business entity, (A) to another corporation, partnership, limited liability company, trust or other business entity that controls, is controlled by or is under common control or management with the Holder; (B) to partners, limited liability company members, or stockholders of the Holder, including, for the avoidance of doubt, where the Holder is a partnership, to its general partner or a successor partnership or fund, or any other funds managed by such partnership; or (C) by virtue of the laws of the state or jurisdiction of the entity's organization and the entity's organizational documents upon dissolution of the entity; (iv) pursuant to transactions in the event of completion of a liquidation, merger, consolidation, stock exchange, reorganization, tender offer or other similar transaction which results in all of the Company's security holders having the right to exchange their shares of Common Stock for cash, securities or other property; (v) pursuant to a one-time sale by the Holder of shares of Common Stock issued or issuable upon the exercise of warrants outstanding as of immediately following the Closing in respect of warrants of Hornbeck outstanding immediately prior to the Closing in an aggregate amount equal to \$50,000; (vi) to the Company in connection with the repurchase of the Holder's Lock-Up Securities in connection with the termination of the Holder's employment with the Company pursuant to contractual agreements with the Company; (vii) to satisfy tax withholding obligations in connection with the exercise of options to purchase shares of Common Stock of the Company or the vesting of Company stock-based awards; or (viii) in payment on a "net exercise" or "cashless" basis of the exercise or purchase price with respect to the exercise of options to purchase shares of Common Stock of the Company or for the purpose of paying the exercise price of such options or for paying taxes due as a result of the exercise of such options, the vesting of such options or stock awards; provided, however, that in the case of clauses (i) through (iv), prior to any such Transfer, such permitted transferees, to the extent not already party hereto, must enter into a written agreement agreeing to be bound by the restrictions in this Section 2; provided further, in each case, that such Transfer complies with any other applicable restrictions on Transfer (including restrictions set forth under the Jones Act and applicable securities laws). Notwithstanding anything to the contrary in this Section 2(b), during the Lock-Up Period, the Holder of Lock-Up Securities shall be permitted to establish a trading plan pursuant to Rule 10b5-1 promulgated under the Exchange Act; provided that such plan does not provide for the Transfer of Lock-Up Securities during the Lock-Up Period.

(c) The Holder of Lock-Up Securities hereby represents and warrants that as of the Effective Time it has and, except as contemplated by this Section 2, for the duration of the Lock-Up Period will have, good and marketable title to its Lock-Up Securities, free and clear of all liens, encumbrances, and claims that could impact the ability of the Holder to comply with the foregoing restrictions. The Holder agrees and consents to the entry of stop transfer instructions with the Company's transfer agent and registrar against the transfer of any Lock-Up Securities during the Lock-Up Period.

(d) As promptly as practicable following the Lock-Up Release Date, the Company shall take or cause to be taken such actions as are reasonably necessary in order to cause any legends, notations or similar designations restricting transferability of the Lock-Up Securities held by the Holder to be removed and to rescind any transfer restrictions with respect to such Lock-Up Securities, in each case, to the extent no longer applicable; provided, however, that the Company may request the Holder to deliver to the Company, in form and substance reasonably satisfactory to the Company, representation letters regarding the Holder's compliance with the Securities Act and the rules and regulations promulgated thereunder, as may be applicable.

3. Effectiveness. Except for this Section 3, which is effective upon execution of this Agreement on the date hereof, this Agreement is effective as of the Effective Time on the Closing Date. In the event that the Merger Agreement is terminated prior to the consummation of the transactions contemplated thereby, this Agreement and all the terms hereunder shall also terminate without any further action of the parties hereto, regardless of any other provisions set forth in this Agreement.

4. Amendment and Waivers. Except as otherwise provided herein, the provisions of this Agreement may be amended, modified, terminated or waived only with the prior written consent of the Company and the Holder.

5. Severability. Whenever possible, each provision of this Agreement will be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement is held to be prohibited, invalid, illegal or unenforceable in any respect under any applicable law or regulation in any jurisdiction, such prohibition, invalidity, illegality or unenforceability will not affect the validity, legality or enforceability of any other provision of this Agreement in such jurisdiction or in any other jurisdiction, but this Agreement will be reformed, construed and enforced in such jurisdiction as if such prohibited, invalid, illegal or unenforceable provision had never been contained herein.

6. Entire Agreement. Except as otherwise provided herein, this Agreement contains the complete agreement and understanding among the parties hereto with respect to the subject matter hereof and supersedes and preempts any prior understandings, agreements or representations by or among the parties hereto, written or oral, which may have related to the subject matter hereof in any way including the other documents referred to herein.

7. Successors and Assigns. Except as otherwise provided herein, this Agreement will bind and inure to the benefit and be enforceable by the Company and its successors and permitted assigns and the Holder and its respective successors and permitted assigns (whether so expressed or not).

8. Descriptive Headings; Interpretation. The descriptive headings of this Agreement are inserted for convenience only and do not constitute a part of this Agreement. The use of the word “including” in this Agreement will be by way of example rather than by limitation.

9. No Strict Construction. The language used in this Agreement will be deemed to be the language chosen by the parties hereto to express their mutual intent, and no rule of strict construction will be applied against any party.

10. Counterparts. This Agreement may be executed in multiple counterparts (which may be by electronic transmission, including, PDF or DocuSign), any one of which need not contain the signature of more than one party, but all such counterparts taken together will constitute one and the same agreement.

11. Governing Law. The corporate law of the State of Delaware will govern all issues and questions concerning the relative rights of the Company and its equityholders. All issues and questions concerning the construction, validity, interpretation and enforcement of this Agreement and the exhibits and schedules hereto will be governed by, and construed in accordance with, the laws of the State of Delaware, without giving effect to any choice of law or conflict of law rules or provisions (whether of the State of Delaware or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of Delaware.

12. MUTUAL WAIVER OF JURY TRIAL. AS A SPECIFICALLY BARGAINED FOR INDUCEMENT FOR EACH OF THE PARTIES HERETO TO ENTER INTO THIS AGREEMENT (AFTER HAVING THE OPPORTUNITY TO CONSULT WITH COUNSEL), EACH PARTY HERETO EXPRESSLY WAIVES THE RIGHT TO TRIAL BY JURY IN ANY LAWSUIT OR PROCEEDING RELATING TO OR ARISING IN ANY WAY FROM THIS AGREEMENT OR THE MATTERS CONTEMPLATED HEREBY.

13. CONSENT TO JURISDICTION AND SERVICE OF PROCESS. EACH OF THE PARTIES IRREVOCABLY SUBMITS TO THE NON-EXCLUSIVE JURISDICTION OF THE COURT OF CHANCERY IN THE STATE OF DELAWARE (OR, SOLELY IF THE COURT OF CHANCERY IN THE STATE OF DELAWARE DECLINES SUBJECT MATTER JURISDICTION, IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF DELAWARE OR STATE COURTS OF DELAWARE, LOCATED IN WILMINGTON) (THE “CHOSEN COURTS”), FOR THE PURPOSES OF ANY SUIT, ACTION OR OTHER PROCEEDING ARISING OUT OF THIS AGREEMENT, ANY RELATED AGREEMENT OR ANY TRANSACTION CONTEMPLATED HEREBY OR THEREBY. EACH OF THE PARTIES HERETO FURTHER AGREES THAT SERVICE OF ANY PROCESS, SUMMONS, NOTICE OR DOCUMENT BY U.S. REGISTERED MAIL TO SUCH PARTY’S RESPECTIVE ADDRESS SET FORTH HEREIN WILL BE EFFECTIVE SERVICE OF PROCESS FOR ANY ACTION, SUIT OR PROCEEDING WITH RESPECT TO ANY MATTERS TO WHICH IT HAS SUBMITTED TO JURISDICTION IN THIS PARAGRAPH. EACH OF THE PARTIES HERETO IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY OBJECTION TO THE LAYING OF VENUE OF ANY ACTION, SUIT OR PROCEEDING ARISING OUT OF THIS AGREEMENT, ANY RELATED DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY AND THEREBY IN THE CHOSEN COURTS, AND HEREBY AND THEREBY FURTHER IRREVOCABLY AND UNCONDITIONALLY WAIVES AND AGREES NOT TO PLEAD OR CLAIM IN ANY SUCH COURT THAT ANY SUCH ACTION, SUIT OR PROCEEDING BROUGHT IN ANY SUCH COURT HAS BEEN BROUGHT IN AN INCONVENIENT FORUM.

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IN WITNESS WHEREOF, each of the undersigned has duly executed this Agreement (or caused this Agreement to be executed on its behalf by its officer or representative thereunto duly authorized) as of the date first above written:

THE COMPANY:

HELIX ENERGY SOLUTIONS GROUP, INC.

By: /s/ Erik Staffeldt
Name: Erik Staffeldt
Title: Executive Vice President and Chief Financial Officer

HOLDERS:

/s/ Todd M. Hornbeck

Name: Todd M. Hornbeck

/s/ James O. Harp Jr.

Name: James O. Harp Jr.

/s/ Samuel A. Giberga

Name: Samuel A. Giberga

/s/ John S. Cook

Name: John S. Cook

/s/ Carl G. Annessa

Name: Carl G. Annessa

/s/ Robert P. Adams

Name: Robert P. Adams

/s/ Kurt M. Cellar

Name: Kurt M. Cellar

/s/ Evan Behrens

Name: Evan Behrens

/s/ Bobby Jindal

Name: Bobby Jindal

/s/ Sylvia Jo Sydow Kerrigan

Name: Sylvia Jo Sydow Kerrigan

/s/ Jacob Mercer

Name: Jacob Mercer

/s/ L. Don Miller

Name: L. Don Miller

/s/ Aaron Rosen

Name: Aaron Rosen

[Signature Page to Lock-Up Agreement]

/s/ James McConeghy

Name: James McConeghy

/s/ Priscilla Heistad

Name: Priscilla Heistad

/s/ Michael Nicaud

Name: Michael Nicaud

/s/ Beth Labrosse

Name: Beth Labrosse

/s/ Don D'Arcourt

Name: Don D'Arcourt

/s/ Boyd Kitchen

Name: Boyd Kitchen

/s/ Brian Cook

Name: Brian Cook

/s/ Larry D. Hornbeck

Name: Larry D. Hornbeck

/s/ Jacob T. Hornbeck

Name: Jacob T. Hornbeck

/s/ Troy A. Hornbeck

Name: Troy A. Hornbeck

[Signature Page to Lock-Up Agreement]

Name of Subsidiary	Jurisdiction of Formation
Cal Dive I-Title XI, Inc.	Texas
Deepwater Abandonment Alternatives, Inc.	Texas
Energy Resource Technology (U.K.) Limited	Scotland
ERT Camelot Limited	Scotland
Helix Alliance Decom, LLC	Delaware
Helix do Brasil Serviços de Petróleo Ltda.	Brazil
Helix Energy Solutions (U.K.) Limited	Scotland
Helix International Group Holdings (U.K.) Limited	Scotland
Helix Offshore Crewing Services Limited	Scotland
Helix Offshore Crewing Services PTE. Ltd.	Singapore
Helix Offshore Energy Services (Australia) Pty Ltd.	Australia
Helix Offshore Holdings Ltd.	Delaware
Helix Offshore International Holdings S.à r.l.	Grand Duchy of Luxembourg
Helix Offshore International, Inc.	Texas
Helix Offshore Ltd.	Cayman Islands
Helix Offshore Services A.S.	Norway
Helix Offshore Services Limited	Scotland
Helix Oil & Gas (U.K.) Limited	Scotland
Helix Property Corp.	Texas
Helix Q5000 Holdings LLC	Delaware
Helix Robotics Solutions, Inc.	Texas
Helix Robotics Solutions International Corp.	Texas
Helix Robotics Solutions Limited	Scotland
Helix Subsea Construction, Inc.	Delaware
Helix Well Ops Inc.	Texas
Helix Well Ops (U.K.) Limited	Scotland
Independence Hub, LLC (20% owned)	Delaware
Kommandor LLC	Delaware
Offshore Well Services, S. de R.L. de C.V.	Mexico
Subsea Technologies Group Limited	Scotland



KPMG LLP
811 Main Street
Houston, TX 77002

Consent of Independent Registered Public Accounting Firm

We consent to the use of our reports dated February 26, 2026, with respect to the consolidated financial statements of Helix Energy Solutions Group, Inc. and subsidiaries', and the effectiveness of internal control over financial reporting, incorporated herein by reference, and to the reference to our firm under the heading "Experts" in the prospectus.

/s/ KPMG LLP

Houston, Texas
June 4, 2026

KPMG LLP, a Delaware limited liability partnership, and its subsidiaries are part of the KPMG global organization of independent member firms affiliated with KPMG International Limited, a private English company limited by guarantee.

Consent of Independent Registered Public Accounting Firm

We consent to the reference to our firm under the caption "Experts" and to the use of our report dated March 24, 2026 in the Registration Statement (Form S-4) and related Proxy Statement/Prospectus of Helix Energy Solutions Group, Inc. for the registration of shares of its common stock.

/s/ Ernst & Young LLP

New Orleans, Louisiana

June 4, 2026

June 4, 2026

Board of Directors
Helix Energy Solutions Group, Inc.
3505 West Sam Houston Parkway North, Suite 400
Houston, TX 77043

Re: Registration Statement on Form S-4 of Helix Energy Solutions Group, Inc., filed June 4, 2026 (the “Registration Statement”)

Ladies and Gentlemen:

Reference is made to our opinion letter, dated April 22, 2026 (“Opinion Letter”), with respect to the fairness from a financial point of view to Helix Energy Solutions Group, Inc. (the “Company”) of the exchange ratio of 10.27167 shares of common stock, par value \$0.00001 per share of the Company to be issued in exchange for each outstanding share of common stock, par value \$0.00001 per share of Hornbeck Offshore Services, Inc. (“Hornbeck”), other than Excluded Shares and Dissenting Shares (each, as defined in the Agreement (as defined below)), pursuant to the Agreement and Plan of Merger, dated as of April 22, 2026 (the “Agreement”), by and among the Company, Odyssey Sub, Inc., a wholly owned subsidiary of the Company, Hercules Sub LLC, a wholly owned subsidiary of the Company, and Hornbeck.

The Opinion Letter is provided for the information and assistance of the Board of Directors of the Company in connection with its consideration of the transaction contemplated therein. We understand that the Company has determined to include our opinion in the Registration Statement. In that regard, we hereby consent to the reference to our Opinion Letter under the captions “Summary—Opinion of Helix’s Financial Advisor,” “The Mergers—Background of the Mergers,” “The Mergers—Recommendation of Helix’s Board and Reasons for the Mergers,” “The Mergers—Opinion of Helix’s Financial Advisor” and “The Mergers—Unaudited Prospective Financial Information” and to the inclusion of the foregoing opinion in the proxy statement/prospectus included in the Registration Statement. Notwithstanding the foregoing, it is understood that our consent is being delivered solely in connection with the filing of the Registration Statement and that our Opinion Letter is not to be used, circulated, quoted or otherwise referred to for any other purpose, nor is it to be filed with, included in or referred to, in whole or in part in any registration statement (including any subsequent amendments to the Registration Statement), proxy statement or any other document, except in accordance with our prior written consent. In giving such consent, we do not thereby admit that we come within the category of persons whose consent is required under Section 7 of the Securities Act of 1933 or the rules and regulations of the Securities and Exchange Commission thereunder.

Very truly yours,

/s/ Goldman Sachs & Co. LLC
(GOLDMAN SACHS & CO. LLC)

CONSENT

The undersigned hereby consents to being named in this proxy statement/prospectus included in the Registration Statement on Form S-4 filed by Helix Energy Solutions Group, Inc. (including any amendments to such Registration Statement) in connection with the Agreement and Plan of Merger, dated as of April 22, 2026, by and among Helix Energy Solutions Group, Inc., Odyssey Sub, Inc., Hercules Sub LLC and Hornbeck Offshore Services, Inc. as a person who will become a director and to the filing of this consent as an exhibit to the Registration Statement.

Date: June 2, 2026

By: /s/ Todd M. Hornbeck

Name: Todd M. Hornbeck

CALCULATION OF FILING FEE TABLE

Form S-4
(Form Type)Helix Energy Solutions Group, Inc.
(Exact Name of Registrant as Specified in its Charter)

Table 1: Newly Registered and Carry Forward Securities

	Security Type	Security Class Title	Fee Calculation or Carry Forward Rule	Amount Registered	Proposed Maximum Offering Price Per Unit	Maximum Aggregate Offering Price	Fee Rate	Amount of Registration Fee	Carry Forward Form Type	Carry Forward File Number	Carry Forward Initial Effective Date	Filing Fee Previously Paid In Connection with Unsold Securities to be Carried Forward
Newly Registered Securities												
Fees to Be Paid	Equity	Common Stock, par value \$0.00001 per share	457(c), 457(f)(2)	63,832,084 ⁽¹⁾	—	\$198,138,165 ⁽²⁾	0.00013810	\$27,362.89				
Fees Previously Paid	N/A	N/A	N/A	N/A	N/A	N/A		N/A				
Carry Forward Securities												
Carry Forward Securities	N/A	N/A	N/A	N/A		N/A			N/A	N/A	N/A	N/A
	Total Offering Amounts					\$198,138,165		\$27,362.89				
	Total Fees Previously Paid							—				
	Total Fee Offsets							—				
	Net Fee Due							\$27,362.89				

- (1) Represents the estimated maximum number of shares of common stock, par value \$0.00001 per share, of Helix Energy Solutions Group, Inc. (“Helix”), following Helix’s conversion from a Minnesota corporation to a Delaware corporation (the “Converted Helix Common Stock”), issuable upon completion of the mergers and transactions contemplated by the Agreement and Plan of Merger, dated as of April 22, 2026 (the “Merger Agreement”), by and among Helix, Hornbeck Offshore Services, Inc. (“Hornbeck”), Odyssey Sub, Inc. and Hercules Sub LLC, other than the shares of Converted Helix Common Stock issuable to the Hornbeck stockholders (the “consenting stockholders”) who delivered a written consent adopting the Merger Agreement and approving the transactions contemplated thereby shortly following execution of the Merger Agreement. This estimate is based upon the product of (a) an exchange ratio in the Merger Agreement of 10.27167 multiplied by (b) 6,264,248 shares of common stock, par value \$0.00001 per share, of Hornbeck (“Hornbeck common stock”), which is the sum of (i) 2,011,249 shares of Hornbeck common stock outstanding as of June 3, 2026, (ii) 1,471,714 shares of Hornbeck common stock underlying outstanding Jones Act Warrants (as defined in the registration statement), (iii) 920,239 shares of Hornbeck common stock underlying outstanding Creditor Warrants (as defined in the registration statement), assuming an illustrative trading price of the Helix common stock of \$50.00 solely for the purpose of calculating the number of issuable shares issuable pursuant to the Creditor Warrants, estimated solely for purposes of calculating the registration fee, (iv) 1,007,834 shares of Hornbeck common stock underlying outstanding stock-based equity awards (other than options) and (v) 853,212 shares of Hornbeck common stock issuable upon exercise of outstanding options, in each case excluding any shares issuable to consenting stockholders and estimated solely for the purpose of calculating the registration fee. Pursuant to Rule 416 under the Securities Act of 1933, as amended (the “Securities Act”), this registration statement also covers an indeterminate number of additional shares of the registrant as may be issuable as a result of stock splits, stock dividends or similar transactions.
- (2) Estimated solely for purposes of calculating the registration fee required by Section 6(b) of the Securities Act and calculated pursuant to Rule 457(c) and Rule 457(f)(2) under the Securities Act. Hornbeck is a private company, and no market exists for its securities. The proposed maximum aggregate offering price for the Hornbeck securities to be exchanged in connection with the mergers, other than the Hornbeck securities to be exchanged by the consenting stockholders, equals the aggregate book value of such securities, as of April 30, 2026, which is approximately \$198,138,165, or \$31.63 per share of Hornbeck common stock outstanding (6,264,248 shares) as of June 3, 2026 and calculated on a fully diluted basis.