As filed with the U.S. Securities and Exchange Commission on August 16, 2024.

Registration No. 333-275939

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

Amendment No. 1
to
FORM S-1
REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933

Hornbeck Offshore Services, Inc.
(Exact name of registrant as specified in its charter)

Delaware	**4424**	**72-1375844**
(State or other jurisdiction of incorporation or organization)	**(Primary Standard Industrial Classification Code Number)**	**(I.R.S. Employer Identification No.)**

103 Northpark Boulevard, Suite 300
Covington, Louisiana 70433
Telephone: (985) 727-2000
(Address, including zip code, and telephone number, including area code, of registrant's principal executive offices)

Todd M. Hornbeck
Chairman of the Board, President and Chief Executive Officer
103 Northpark Boulevard, Suite 300
Covington, Louisiana 70433
Telephone: (985) 727-2000
(Name, address, including zip code, and telephone number, including area code, of agent for service)

With copies to:

Matthew R. Pacey, P.C.	**T. Mark Kelly**
Ieuan A. List	**E. Ramey Layne**
Kirkland & Ellis LLP	**Vinson & Elkins LLP**
609 Main Street	**845 Texas Avenue**
Houston, TX 77002	**Houston, TX 77002**
(713) 836-3786	**(713) 758-2222**

Approximate date of commencement of proposed sale to the public: As soon as practicable after this Registration Statement is declared effective.

If any of the securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933 check the following box: ☐

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, please check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. ☐

If this Form is a post-effective amendment filed pursuant to Rule 462(c) 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. ☐

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, 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	☒	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. ☐

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, as amended, or until this registration statement shall become effective on such date as the Securities and Exchange Commission, acting pursuant to said Section 8(a), may determine.

Table of Contents

The information in this prospectus is not complete and may be changed. We may not sell these securities until the registration statement filed with the Securities and Exchange Commission is effective. This prospectus is not an offer to sell these securities and it is not soliciting an offer to buy these securities in any jurisdiction where the offer or sale is not permitted.

Subject to Completion, dated , 2024

PROSPECTUS

Shares

Hornbeck Offshore Services, Inc.

Common Stock

This is an initial public offering of shares of our common stock, $0.00001 par value per share. We are offering shares of our common stock. Certain selling stockholders identified in this prospectus are offering shares of our common stock.

Prior to this offering, there has been no public market for our common stock. We estimate that the initial public offering price per share will be between $ and $. See "Underwriting (Conflicts of Interest)" for a discussion of the factors to be considered in determining the initial offering price. We have applied to list our common stock on the New York Stock Exchange (the "NYSE") under the symbol "HOS."

Investing in shares of our common stock involves significant risks. See "Risk Factors" beginning on page 31.

By participating in this offering, you are representing that you are a citizen of the United States, as defined in the Jones Act (as defined herein). See "Description of Capital Stock and Warrants—Limitations on Ownership by Non-U.S. Citizens."

Neither the Securities and Exchange Commission nor any other regulatory body has approved or disapproved of these securities or passed upon the adequacy or accuracy of this prospectus. Any representation to the contrary is a criminal offense.

	Per Share	Total
Initial public offering price	$	$
Underwriting discounts and commissions(1)	$	$
Proceeds, before expenses, to us	$	$
Proceeds, before expenses, to the selling stockholders	$	$

(1) We have agreed to reimburse the underwriters for certain expenses. See "Underwriting (Conflicts of Interest)."

At our request, the underwriters have reserved up to % of the shares of common stock offered by the prospectus for sale, at the initial public offering price, to certain individuals associated with us. See "Underwriting (Conflicts of Interest)—Directed Share Program."

We and the selling stockholders have granted the underwriters an option for a period of 30 days from the date of this prospectus to purchase up to an additional shares of our common stock at the initial public offering price, less the underwriting discounts and commissions. We will not receive any proceeds from the sale of shares of our common stock by the selling stockholders, including upon the sale of shares of our common stock by the selling stockholders if the underwriters exercise their option.

The underwriters expect to deliver the shares of common stock to purchasers on or about , 2024.

J.P. Morgan **Barclays**

DNB Markets Piper Sandler Guggenheim Securities Raymond James

BTIG Johnson Rice & Company Pickering Energy Partners Seaport Global Securities

Academy Securities Drexel Hamilton

Prospectus dated , 2024

TABLE OF CONTENTS

Through and including , 2024 (the 25th day after the date of this prospectus), all dealers effecting transactions in these securities, whether or not participating in this offering, may be required to deliver a prospectus. This is in addition to a dealer's obligation to deliver a prospectus when acting as an underwriter and with respect to an unsold allotment or subscription.

Neither we, the selling stockholders, nor the underwriters (and any of our or their affiliates) have done anything that would permit this offering or possession or distribution of this prospectus in any jurisdiction where action for that purpose is required, other than in the United States. Persons outside the United States who obtain this prospectus must inform themselves about, and observe any restrictions relating to, the offering of the shares of common stock and the distribution of this prospectus outside of the United States.

COMMONLY USED DEFINED TERMS

As used in this prospectus, unless the context indicates or otherwise requires, the terms listed below have the following meanings:

"*2024 Omnibus Incentive Plan*" means Hornbeck Offshore Services, Inc. 2024 Omnibus Incentive Plan, the form of which is attached as Exhibit 10.4;

"*2020 Management Incentive Plan*" means the 2020 Management Incentive Plan of Hornbeck Offshore Services, Inc., a copy of which is attached as Exhibit 10.2, as amended by that certain First Amendment to 2020 Management Incentive Plan of Hornbeck Offshore Services, Inc. a copy of which is attached as Exhibit 10.3;

"*Annual Financial Statements*" means the audited consolidated financial statements of Hornbeck Offshore Services, Inc. at December 31, 2023 and 2022, and for the years ended December 31, 2023, 2022 and 2021;

"*Ares*" means Ares Management LLC;

"*ASC*" means Financial Accounting Standards Board Accounting Standards Codification;

"*Chapter 11 Cases*" means the Company's Chapter 11 cases in the United States Bankruptcy Court for the Southern District of Texas, Houston Division, or the Bankruptcy Court, consummated September 4, 2020;

"*Company*," "*Hornbeck*," "*we*," "*our*" or "*us*" means, unless otherwise indicated or the context otherwise requires, Hornbeck Offshore Services, Inc., a Delaware corporation, and its consolidated subsidiaries;

"*Credit Agreement Closing Date*" means the closing date of the First Lien Credit Agreement;

"*Creditor Warrants*" means those certain warrants issued to certain claimants in settlement of certain pre-Chapter 11 Cases liabilities;

"*Eastern*" means Eastern Shipbuilding Group, Inc.;

"*ECO*" means Edison Chouest Offshore;

"*ECO Acquisitions*" means the ECO Acquisitions #1 and the ECO Acquisitions #2;

"*ECO Acquisitions #1*" means the acquisition of six high-spec OSVs effected pursuant to the definitive purchase agreements the Company entered into with certain affiliates of ECO on January 10, 2022, as amended;

"*ECO Acquisitions #2*" means the acquisition of six high-spec OSVs effected as contemplated by the controlling purchase agreement the Company entered into with Nautical, an ECO affiliate, on December 22, 2022, as subsequently divided into separate agreements and as each was amended;

"*Financial Statements*" means our Annual Financial Statements and our Quarterly Financial Statements;

"*First Lien Credit Agreement*" means the Credit Agreement, dated as of August 13, 2024, by and among the Company, DNB Bank ASA, New York Branch, as administrative agent, Wilmington Trust, National Association, as collateral agent, and the lenders party thereto;

"*First Lien Revolving Credit Facility*" means the revolving credit facility established pursuant to the terms of the First Lien Credit Agreement;

"*GAAP*" means United States generally accepted accounting principles;

"*Gulf Island*" means Gulf Island Shipyards, LLC;

"*high-specification*" or "*high-spec*" means, when referring to OSVs, vessels 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 any MPSVs of greater than 5,000 DWT, which are ultra high-spec vessels);

"*Highbridge*" means Highbridge Capital Management LLC;

"*Jones Act Warrants*" means those certain warrants issued to certain non-U.S. citizens in settlement of certain pre-Chapter 11 Cases liabilities and in connection with subsequent private offerings of the Company's equity;

"*low-specification*" or "*low-spec*" means, when referring to OSVs, vessels with cargo-carrying capacity of less than 2,500 DWT (i.e., primarily 200 class OSV notations), and/or vessels with dynamic-positioning systems with a DP-1 classification or lower;

"*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 ("DP") systems with a DP-2 classification or higher;

"*Nautical*" means Nautical Solutions, L.L.C., an ECO affiliate;

"*PEMEX*" means Petroleos Mexicanos;

"*Petrobras*" means Petroleo Brasileiro S.A.;

"*principal stockholders*" means funds, investment vehicles or accounts managed or advised by Ares, Whitebox or Highbridge or their respective affiliates, in each case, that own shares of our common stock;

"*Quarterly Financial Statements*" means the unaudited condensed consolidated financial statements for the three and six months ended June 30, 2024 and 2023;

"Replacement First Lien Term Loans" means the first lien replacement term loans under that certain first lien term loan credit agreement, dated September 4, 2020 (as amended and restated pursuant to that certain Amendment No. 1 to First Lien Credit Agreement and Amendment No. 1 to the Effective Date Junior Lien Intercreditor Agreement, dated December 22, 2021, as further amended pursuant to that certain First Amendment to Restated First Lien Credit Agreement, dated June 6, 2022, as further amended pursuant to that certain Interest Rate Index Replacement Agreement and Second Amendment to First Lien Credit Agreement, dated July 27, 2023), by and among the Company, as parent borrower, Hornbeck Offshore Services, LLC, as co-borrower, Wilmington Trust, National Association, as administrative agent and collateral agent, and the lenders party thereto, all obligations under which were fully paid and terminated on August 31, 2023;

"*Second Lien Credit Agreement*" means that certain second lien term loan credit agreement, dated September 4, 2020 (as amended pursuant to that certain Amendment No. 1 to Second Lien Credit Agreement and Amendment No. 1 to the Effective Date Junior Lien Intercreditor Agreement, dated December 22, 2021, as further amended pursuant to that certain Second Amendment to Second Lien Credit Agreement, dated June 6, 2022, and as further amended, restated, amended and restated, supplemented or otherwise modified from time to time), by and among the Company, as parent borrower, Hornbeck Offshore Services, LLC, as co-borrower, Wilmington Trust, National Association, as administrative agent and collateral agent, and the lenders from time to time party thereto;

"*Second Lien Term Loans*" means our outstanding term loans under the Second Lien Credit Agreement;

"*Securities Act*" means the Securities Act of 1933, as amended;

"*Surety*" means Zurich Insurance Company of America and Fidelity & Deposit Company of Maryland;

"*ultra high-specification*" or "*ultra high-spec*" means, when referring to OSVs, 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; and

"*Whitebox*" means Whitebox Advisors LLC.

GLOSSARY OF TERMS

The following are abbreviations and definitions of certain terms used in this document, which are commonly used in the offshore support vessel industry:

"*active utilization*" means, when referring to OSVs or MPSVs, the weighted-average rate that active vessels are utilized, or generating revenues, 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;

"*average dayrate*" means, when referring to OSVs or MPSVs, average revenue per day, which includes charter hire, crewing services and net brokerage revenues, based on the number of days during the period that the OSVs or MPSVs, as applicable, generated revenue. For purposes of vessel brokerage arrangements, this calculation excludes that portion of revenue that is equal to the cost of in-chartering third-party equipment paid by customers;

"*average utilization*" means, when referring to OSVs or MPSVs, the weighted-average rate that vessels are utilized, or generating revenues, based on a 365-day year;

"*BOEM*" means the Bureau of Ocean Energy Management;

"*cabotage laws*" means laws pertaining to the privilege of owning and operating vessels in the navigable, territorial waters of a nation;

"*coastwise trade*" means the transportation of merchandise or passengers by water, or by land and water, between points in the United States, either directly or via a foreign port within the meaning of 46 U.S.C. Chapter 551 and any successor statutes thereto, as amended or supplemented from time to time;

"*CO2e/kboe*" means carbon dioxide equivalent per thousand barrels of oil equivalent;

"*C/SOV*" means a multi-purpose service vessel that can be utilized in the offshore wind market as either a CSOV or an SOV. A CSOV is 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. A SOV is 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;

"*deep-well*" means a well drilled to a true vertical depth of 15,000' or greater, regardless of whether the well was drilled in the shallow water of the Outer Continental Shelf or in the deepwater or ultra-deepwater;

"*deepwater*" means offshore areas, generally 1,000' to 5,000' in depth;

"*D-FARs*" means Defense Federal Acquisition Regulations;

"*DP-1*," "*DP-2*" and "*DP-3*" mean various classifications of DP systems on vessels to automatically maintain a vessel's position and heading through anchor-less station-keeping;

"*DWT*" means deadweight tons;

"*effective dayrate*" means the average dayrate multiplied by the average utilization rate;

"*FARs*" means Federal Acquisition Regulations;

"*flotel*" means on-vessel accommodations services, such as lodging, meals and office space;

"*GoM*" means the U.S. GoM and the Mexico GoM;

"*IRM*" means inspection, repair and maintenance, also known as "IMR," or inspection, maintenance and repair, depending on regional preference;

"*Jones Act*" means 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 USCG and the U.S. Department of Transportation'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 coastwise trade;

"*Jones Act-qualified*" means, when referring to a vessel, a U.S.-flagged vessel qualified to engage in domestic coastwise trade under the Jones Act;

"*long-term contract*" means a time charter of one year or longer in duration;

"*Mexico GoM*" means the territorial waters of Mexico in the Gulf of Mexico;

"*MPSV*" means a multi-purpose support vessel, and we consider all of our MPSVs to be high-spec or ultra high-spec;

"*MSC*" means the Military Sealift Command;

"*Naviera*" means a Mexican company authorized by Mexican law to engage in shipping activities, including Mexican cabotage and international shipping under Mexican flag;

"*OSV*" means an offshore supply vessel, also known as a "PSV," or platform supply vessel, depending on regional preference;

"*ROV*" means a remotely operated vehicle, which is a tethered submersible vehicle remotely operated from the surface;

"*SEMAR*" means Secretaría de Marina, the government agency responsible for, among other things, administering Mexico's territorial sea and exclusive economic zone;

"*TRIR*," means the total recordable incident rate, which is measured as the number of recordable incidents, multiplied by 200,000, then divided by the total number of exposure hours worked in a year;

"*ultra-deepwater*" means offshore areas, generally more than 5,000' in depth;

"*U.S. GoM*" means the territorial waters of the United States in the Gulf of Mexico; and

"*USCG*" means United States Coast Guard.

MARKET AND INDUSTRY DATA

This prospectus includes market and industry data and forecasts that we have derived from publicly available information, various industry publications, other published industry sources and our internal data and estimates.

Additionally, our internal data and estimates are based upon information obtained from trade and business organizations and other contacts in the markets in which we operate. Although we believe these third-party sources are reliable as of their respective dates, we have not had this information further verified by any other independent sources. These sources include industry data from Wood Mackenzie's Emissions Benchmarking Tool, a report titled "Short-Term Energy Outlook," dated July 2024, by the U.S. Energy Information Administration (the "2023 EIA Outlook"), a report titled "Macro and OSV Demand Drivers Outlook," dated July 2024, by Rystad Energy Consultants, and a report titled "OSV Market Study," dated August 2024, by Fearnley Offshore Supply. Similarly, our internal research is based upon our understanding of industry conditions. The industry in which we operate is subject to a high degree of uncertainty and risk due to a variety of factors, including those described in the sections entitled "Risk Factors" and "Special Note Regarding Forward-Looking Statements." These and other factors could cause results to differ materially from those expressed in our estimates and these third-party sources.

Certain valuation information included in this prospectus is an aggregation based on reports prepared by VesselsValue, a Veson Nautical company, which is an independent online valuation and market intelligence provider for the maritime industry ("VesselsValue"). None of such reports were commissioned by or on behalf of Hornbeck, and none of the information contained therein was prepared in connection with, or specifically for use in, this prospectus. The VesselsValue market value data presented in this prospectus is an estimate of the fair market price and newbuild, or replacement cost, of our vessels, in U.S. dollars, as at the valuation date only, and is based on the price VesselsValue estimates in good faith that the vessels would obtain in a hypothetical transaction between a willing buyer and a willing seller on the basis of prompt charter-free delivery at an acceptable worldwide delivery port, for cash payment on standard sale terms. For the purposes of those estimates, it is assumed that the particulars of the vessels are correct, and that the vessels are in good, sound and seaworthy condition, free of maritime liens and all debts whatsoever, fully classed to the requirements of present classification society, free of class recommendations, with clean and valid trading certificates, and where relevant to type and age of each vessel with full oil majors vetting approval, "Rightship" satisfactory inspection/safety score and any other relevant approvals in place. It should be noted that these market valuations are not based on a physical inspection of the vessel nor an inspection of the class records of the vessels by VesselsValue. The estimated market values are for the valuation date only and no assurance is given that any such value will be sustained or is realizable in an actual transaction.

TRADEMARKS, TRADENAMES AND SERVICE MARKS

We own or have rights to trademarks or trade names that we use in conjunction with the operation of our business and that appear in this prospectus. For more information about our license to use certain trademarks and trade names, 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." This prospectus also contains trademarks, service marks, trade names and copyrights of other companies which, to our knowledge, are the property of their respective owners. Solely for convenience, trademarks and trade names referred to in this prospectus may appear without the ® or ™ symbols, but the absence of such symbols does not indicate the registration status of the trademarks and is not intended to indicate, in any way, that we will not assert, to the fullest extent under applicable law, our rights or the right of the applicable licensor to such trademarks and trade names.

BASIS OF PRESENTATION

Unless otherwise indicated or the context otherwise requires, references in this prospectus to the "Company," "Hornbeck," "we," "us" and "our" refer to Hornbeck Offshore Services, Inc. and its consolidated subsidiaries.

Unless otherwise stated, discussions surrounding our vessels are as of July 31, 2024. Such discussions include two partially constructed Jones Act-qualified MPSV newbuilds to be completed pursuant to our settlement with the Surety, as further discussed in "Management's Discussion and Analysis of Financial Condition and Results of Operations—Recent Developments—Resumption of MPSV Newbuild Construction," and one OSV currently undergoing conversion into a MPSV for dual-service as either a C/SOV or flotel. Our vessels exclude four OSVs formerly owned by us that we now operate and maintain for the U.S. Navy.

In connection with the consummation of this offering and after the effectiveness of the registration statement of which this prospectus forms a part, we will effect a -for-one forward stock split with respect to our common stock (the "stock split"). In this prospectus, we include certain metrics on an "as adjusted" basis to give effect to the stock split.

PRESENTATION OF CERTAIN FINANCIAL MEASURES

We disclose and discuss EBITDA, Adjusted EBITDA and Adjusted Free Cash Flow as non-GAAP financial measures in this prospectus. We define EBITDA as earnings (net income or loss) before interest, income taxes, depreciation and amortization. Adjusted EBITDA reflects certain adjustments to EBITDA for gains or losses on early extinguishment of debt, terminated debt refinancing costs, stock-based compensation expense and interest income. In addition, Adjusted EBITDA excludes non-cash gains or losses on the fair value adjustment of liability-classified warrants. We define Adjusted Free Cash Flow as Adjusted EBITDA less cash paid for deferred drydocking charges, cash paid for maintenance capital improvements and non-vessel capital expenditures, cash paid for interest and cash paid for (refunds of) income taxes. Our measures of EBITDA, Adjusted EBITDA and Adjusted Free Cash Flow may not be comparable to similarly titled measures presented by other companies. Other companies may calculate EBITDA, Adjusted EBITDA and Adjusted Free Cash Flow differently than we do, which may limit their usefulness as comparative measures.

We view EBITDA, Adjusted EBITDA and Adjusted Free Cash Flow primarily as liquidity measures and, as such, we believe that the GAAP financial measure most directly comparable to those measures is cash flows provided by operating activities. Because EBITDA, Adjusted EBITDA and Adjusted Free Cash Flow are not measures of financial performance calculated in accordance with GAAP, they should not be considered in isolation or as a substitute for operating income, net income or loss, cash flows provided by operating, investing and financing activities, or other income or cash flow statement data prepared in accordance with GAAP. Additionally, Adjusted Free Cash Flow does not represent the total increase or decrease in our cash balance, and it should not be inferred that the entire amount of Adjusted Free Cash Flow is available for dividends, debt or share repurchases or other discretionary expenditures, since we have non-discretionary expenditures that are not deducted from this measure.

EBITDA, Adjusted EBITDA and Adjusted Free Cash Flow are widely used by investors and other users of our consolidated financial statements as supplemental financial measures that, when viewed with our GAAP results and the accompanying reconciliations, we believe provide additional information that is useful to gain an understanding of the factors and trends affecting our ability to service debt, pay income taxes and fund drydocking charges, maintenance capital improvements and non-vessel capital expenditures. We also believe the disclosure of EBITDA, Adjusted EBITDA and Adjusted Free Cash Flow helps investors or lenders meaningfully evaluate and compare our cash flow generating capacity from quarter to quarter and year to year.

EBITDA, Adjusted EBITDA and Adjusted Free Cash Flow are also financial metrics used by management as supplemental internal measures 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 the EBITDA, Adjusted EBITDA and Adjusted Free Cash Flow of other companies, vessels or other assets when evaluating potential acquisitions; to assess our ability to service existing fixed charges and incur additional indebtedness; and to purchase, convert or construct additional vessels. Additionally, we have historically made certain adjustments to EBITDA to internally evaluate our performance based on the computation of ratios used in certain financial covenants of our credit agreements with various lenders, whenever applicable. Currently, our credit agreements have incurrence tests and other financial covenants, including coverage and leverage ratios. These ratios are calculated using certain adjustments to EBITDA defined by our credit agreements, which adjustments are consistent with those reflected in Adjusted EBITDA in this prospectus. In addition, we believe that, based on covenants in prior credit facilities, future debt arrangements may require compliance with certain ratios that will likely include EBITDA or Adjusted EBITDA in the computations. Adjusted EBITDA is also currently utilized in connection with the Company's short-term cash bonus incentive compensation programs.

For reconciliations of EBITDA, Adjusted EBITDA and Adjusted Free Cash Flow to the most directly comparable measure under GAAP, see "Summary—Summary Historical Financial and Other Data" and "Management's Discussion and Analysis of Financial Condition and Results of Operations—Non-GAAP Financial Measures."

ABOUT THIS PROSPECTUS

None of we, the selling stockholders or the underwriters have authorized anyone to provide you with information or make any representations other than those contained in this prospectus. We, the selling stockholders and the underwriters take no responsibility for, and provide no assurance as to the reliability of, any other information that others may give you. This prospectus is an offer to sell only the shares offered hereby, and only under circumstances and in jurisdictions where it is lawful to do so. You should assume that the information appearing in this prospectus is accurate as of the date on the front cover of this prospectus only. Our business,
financial condition, results of operations and prospects may have changed since that date. We will update this prospectus as required by law, including with respect to any material change affecting us or our business prior to the completion of this offering.

Certain monetary amounts, percentages and other figures included in this prospectus have been subject to rounding adjustments. Accordingly, figures shown as totals in certain tables may not be the arithmetic aggregation of the figures that precede them, and figures expressed as percentages in the text may not total 100% or, as applicable, when aggregated may not be the arithmetic aggregation of the percentages that precede them.

SPECIAL NOTE REGARDING FORWARD-LOOKING STATEMENTS

This prospectus contains forward-looking statements. Many statements included in this prospectus that are not statements of historical fact, including statements about our beliefs and expectations, are forward-looking statements. Forward-looking statements are inherently subject to risks and uncertainties, some of which cannot be predicted or quantified. These risks and other factors include, but are not limited to, those listed under "Risk Factors." In some cases, you can identify forward-looking statements by terminology such as "anticipate," "believe," "continue," "could," "estimate," "expect," "intend," "may," "might," "objective," "ongoing," "plan," "predict," "project," "potential," "should," "will," "would" or the negative of these terms or other comparable terminology. In particular, statements about the markets in which we operate and our expectations, beliefs, plans, strategies, objectives, prospects, assumptions or future events or performance contained in this prospectus under the headings "Summary," "Risk Factors," "Management's Discussion and Analysis of Financial Condition and Results of Operations," and "Business" are forward-looking statements. Forward-looking statements include, but are not limited to, statements about:

- our market opportunity and the potential growth of that market;
- our strategy, outcomes, and growth prospects;
- trends in our industry and service-offerings; and
- the competitive environment in which we operate.

Some of the factors that could cause actual results to differ materially from those expressed or implied by such forward-looking statements include:

- impacts from changes in oil and natural gas prices in the United States and worldwide;
- changes in decisions and capital spending by customers in the energy industry and the industry expectations for offshore exploration, field development and production;
- changes in decisions or plans or delays for offshore wind development in the United States;
- uncertainty of global financial market conditions and potential constraints in accessing capital or credit if and when needed with favorable terms, if at all;
- unplanned customer suspensions, cancellations, rate reductions or non-renewals of vessel charters or vessel management contracts, or failures to finalize commitments to charter or manage vessels;
- delays or non-delivery of vessels subject to conversion and new construction agreements effective at the time of this offering, including completion of the conversion of one of our OSVs into a MPSV for dual-service as either a C/SOV or flotel and delivery of the two remaining vessels under our MPSV newbuild program;
- the inability to accurately predict vessel utilization levels and dayrates;
- the inability to successfully market across various industry applications the vessels that we own, are constructing, are converting, have recently acquired or might acquire, including in traditional energy as well as offshore wind, military and other non-oilfield applications;
- integration of acquired businesses or vessels, or entry into new lines of business;
- changing customer demands for vessel specifications, which may make some of our older vessels technologically obsolete for certain customer projects or in certain markets;
- the operating risks normally incident to our lines of business, including the potential impact of liquidated counterparties;
- industry over-supply resulting from reactivating currently-stacked vessels or from constructing new vessels;

- any change in the U.S. government's procurement policies and practices with regard to the chartering of privately-owned vessels or the management of government-owned vessels by private operators;
- an oil spill or other significant event in the United States or another offshore drilling region having a broad impact on deepwater and ultra-deepwater and other offshore energy exploration and production activities, such as the suspension of activities or significant regulatory responses;
- the imposition of laws or regulations that result in reduced exploration and production activities or that increase our or our customers' operating costs or operating requirements, including laws and regulations addressing climate change;
- potential liability for remedial actions or assessments under existing or future environmental regulations or litigation;
- the impact of existing or future environmental regulations or litigation on our business or customer plans or projects;
- our ability to achieve, reach or otherwise meet initiatives, plans or ambitions with respect to environmental, social and governance ("ESG") matters, including mandates imposed by customers or governmental agencies;
- disputes with customers or vendors;
- consolidation of our customer base;
- technological or regulatory changes that shorten the expected useful lives of our vessels;
- increased regulatory burdens and oversight;
- administrative, judicial or political barriers to exploration and production activities in Mexico, Brazil or other foreign locations;
- changes in law, governmental policy or judicial or regulatory action, or the enforcement thereof, in Mexico affecting international trade or our Mexican registration and operation of our vessels in Mexican cabotage;
- administrative or other legal changes in Mexican, Brazilian or other Latin American jurisdictions' cabotage laws or maritime laws;
- the emergence of new cabotage restrictions that impact our ability to operate in other foreign jurisdictions;
- other legal or administrative changes in Mexico that adversely impact planned or expected offshore energy development;
- unanticipated difficulty in effectively competing in or operating in international markets;
- economic, social, tax, geopolitical and weather-related risks;
- potential changes in various laws and regulations as a result of the upcoming United States presidential and congressional elections;
- acts of terrorism, piracy or government-sanctioned privateering;
- the impact of regional or global public health crises or pandemics;
- other issues that may be encountered in expanding our service offering within our existing government franchise, in the emerging offshore wind industry, and in other non-oilfield applications;
- the shortage of or the inability to attract and retain qualified personnel, when needed, including licensed vessel personnel for active vessels or vessels we may acquire or reactivate;
- the repeal or administrative weakening of the Jones Act or adverse changes in the interpretation of the Jones Act;

- drydocking delays, supply chain shortages and cost overruns and related risks;
- vessel accidents, pollution incidents or other events resulting in lost revenue, fines, penalties or other expenses that are unrecoverable from insurance policies or other third parties;
- adverse outcomes in pending or future legal or administrative proceedings, and any unexpected litigation and insurance expenses;
- the effects of asserted and unasserted claims and the extent of available insurance coverage;
- fluctuations in foreign currency valuations compared to the U.S. dollar;
- the impact of any unionization of our workforce;
- shortages of qualified mariners resulting in increased wages, inability to crew vessels or both;
- changes in laws impacting licensure or compensation paid to mariners;
- risks associated with foreign operations, such as non-compliance with, the unanticipated effect of, or unexpected assessments/enforcement actions taken in connection with, tax laws, customs laws, immigration laws, importation laws or other legislation that result in higher than anticipated tax rates or other costs, especially in higher political risk countries where we operate;
- changes to applicable tax laws and regulations;
- political risks in countries outside of the United States, including unlawful detentions, arrests, confiscation or nationalization of our vessels;
- limitations on our ability to use our net operating loss ("NOL") carryforwards and other tax attributes;
- our inability to refinance or otherwise retire certain funded debt obligations;
- the potential for any impairment charges that could arise in the future;
- the impact of potential information technology, cybersecurity or data security breaches; and
- other risks and uncertainties, including those described under "Risk Factors."

In addition, our future results may be impacted by adverse economic conditions, such as inflation, deflation, fluctuations in foreign currency exchange rates, supply chain disruptions, lack of liquidity in the capital markets or an increase in interest rates, that may negatively affect us or parties with whom we do business resulting in their non-payment or inability to perform obligations owed to us, such as the failure of customers to fulfill their contractual obligations, if and when required.

We have based the forward-looking statements contained in this prospectus primarily on our current expectations and projections about future events and trends that we believe may affect our business, financial condition, results of operations, prospects, business strategy and financial needs. The outcome of the events described in these forward-looking statements is subject to risks, uncertainties, assumptions and other factors described under "Risk Factors" and elsewhere in this prospectus. These risks are not exhaustive. Other sections of this prospectus include additional factors that could adversely affect our business and financial performance. Moreover, we operate in a very competitive environment. New risks and uncertainties emerge from time to time, and it is not possible for us to predict all risks and uncertainties that could have an impact on the forward-looking statements contained in this prospectus. We cannot be sure that the results, events and circumstances reflected in the forward-looking statements will be achieved or occur, and actual results, events or circumstances could differ materially from those described in, or implied by, the forward-looking statements.

In addition, statements that "we believe" and similar statements reflect our beliefs and opinions on the relevant subject.These statements are based upon information available to us as of the date of this prospectus, and while we believe that information forms a reasonable basis for such statements, that information may be limited or incomplete, and our statements should not be read to indicate that we have concluded an exhaustive inquiry into, or review of, all potentially available relevant information.

The forward-looking statements made in this prospectus relate only to events as of the date on which such statements are made. We undertake no obligation to update any forward-looking statements after the date of this prospectus or to conform such statements to actual results or revised expectations, except as required by law.

SUMMARY

This summary highlights selected information contained elsewhere in this prospectus, but it does not contain all of the information that you should consider before deciding to invest in our common stock. You should carefully read the entire prospectus, including the information presented under the section entitled "Risk Factors" and the financial statements and the notes thereto, included elsewhere in this prospectus, before making an investment decision. Some of the statements in the following summary constitute forward-looking statements. See "Special Note Regarding Forward-Looking Statements." Unless the context otherwise requires, all references in this summary to the "Company," "Hornbeck," "HOS," "we," "us," "our" or similar terms refer to Hornbeck Offshore Services, Inc. and its consolidated subsidiaries. Where we present information on an "as adjusted basis," it means that such information is presented giving effect to this offering and the use of proceeds therefrom, as reflected in more detail under the captions "Use of Proceeds" and "Capitalization." Additionally, unless noted otherwise, discussions surrounding our vessels are as of July 31, 2024 and include two partially constructed Jones Act-qualified MPSV newbuilds to be completed pursuant to our settlement with the Surety, as discussed further in "Management's Discussion and Analysis of Financial Condition and Results of Operations—Recent Developments—Resumption of MPSV Newbuild Construction," and one OSV currently undergoing conversion into a MPSV for dual-service as either a C/SOV or flotel. Our vessels exclude four OSVs formerly owned by us that we now operate and maintain for the U.S. Navy.

We have defined certain industry terms used in this document in "Commonly Used Defined Terms" and "Glossary of Terms," appearing immediately after the Table of Contents to this prospectus.

Company Overview

Hornbeck is a leading provider of marine transportation services to customers in the offshore oilfield market and diversified non-oilfield markets, including military support services, renewable energy development and other non-oilfield service offerings. Since our founding more than 27 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 covering the United States and Latin America. Our team brings substantial industry expertise built through decades of experience and has leveraged that knowledge to amass what we believe is one of the largest, highest specification fleets of Offshore Supply Vessels ("OSVs") and Multi-Purpose Support Vessels ("MPSVs") in the industry. Approximately 75% of our total fleet consists of high-spec or ultra high-spec vessels, and 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, measured by DWT capacity. We own a fleet of 75 multi-class OSVs and MPSVs, 58 of which are U.S. Jones Act-qualified vessels. Our Jones Act-qualified high-spec and ultra high-spec OSVs account for approximately 26% of the total industry supply of such vessels. We opportunistically expand our fleet within existing and/or into new, high-growth, cabotage-protected markets from time to time to enhance our fleet offerings to customers. Our mission is to be recognized as the energy industry's marine transportation and service Company of Choice® for our customers, employees and investors through innovative, high-quality, value-added business solutions delivered with enthusiasm, integrity and professionalism with the utmost regard for the safety of individuals and the protection of the environment.

Our fleet of 60 OSVs primarily provides transportation of equipment, materials and supplies to offshore drilling rigs, production platforms, subsea construction projects and other non-oilfield applications. Increasingly, given their versatility, our OSVs are being deployed in a variety of non-oilfield applications including military support services, renewable energy development for offshore wind, humanitarian aid and disaster relief, aerospace and telecommunications. Our OSVs differ from other marine service vessels in that they provide increased cargo-carrying flexibility and capacity that can transport large quantities of deck cargoes, as well as various liquid and dry bulk cargoes in below-deck tanks providing flexibility for a variety of jobs.

Moreover, our OSVs are outfitted with advanced technologies, including DP capabilities, which allows each vessel to safely interface with another offshore vessel, exploration and production facility or an offshore asset by maintaining an absolute or relative station-keeping position when performing its work at sea.

Our fleet of 15 MPSVs provides commissioning and decommissioning support services, asset construction capabilities, recurring inspection, repair and maintenance services and flotel accommodations. Such vessels primarily serve the oil and gas market, with capabilities including the installation of subsea and top-side oilfield infrastructure necessary in the modern deepwater and ultra-deepwater oilfields. Further, these vessels are capable of supporting a variety of other non-oilfield offshore infrastructure projects, including the development of offshore windfarms, by providing the equipment and capabilities to support the installation and maintenance of wind turbines and platforms. Because of our ability to serve a diverse set of end markets, MPSV operations are typically less directly linked with the number of active drilling rigs in operation and therefore can be less cyclical. Our high- and ultra high-spec OSVs can be contracted alongside our MPSVs on major projects, providing operating efficiencies and pull-through revenue. Most of our MPSVs have one or more deepwater or ultra-deepwater cranes fitted on the deck, deploy one or more Remotely Operated Vehicles ("ROVs") to support subsea work, and have an installed helideck to facilitate the on-/off-boarding of specialist service providers and personnel. MPSVs can also be outfitted as flotels to provide accommodations, offices, catering, laundry, medical, and recreational facilities to large numbers of offshore workers for the duration of a project. When configured as flotels, our MPSVs have capacities to house up to 245 workers for major installation, maintenance and overhaul projects. Included in our total MPSV fleet count are the two HOS 400 class MPSVs that are currently under construction and one of our U.S.-flagged, HOSMAX 280 class OSVs that is currently undergoing conversion into a MPSV for dual-service as either a C/SOV or flotel. Based on overall length and total lifting capacity, the two HOS 400 class MPSVs are expected to be the largest Jones Act-qualified MPSVs in the market and will have additional capabilities due to their size and sophistication. In addition to the services performed by our existing fleet of MPSVs, the two newbuild vessels will be equipped with systems that we expect will make them suitable for complex services, including light well intervention, that require larger or more versatile vessels than the fleet of MPSVs currently available in the U.S. market. Once converted, our C/SOV + Flotel MPSV will be capable of providing services to the U.S. offshore wind market both during the commissioning phase of an offshore wind farm and during its operational life. We expect the converted MPSV to be placed into active service as either a C/SOV or flotel in 2025, while the two newbuild MPSVs are now expected to be placed into active service in 2026 or possibly thereafter.

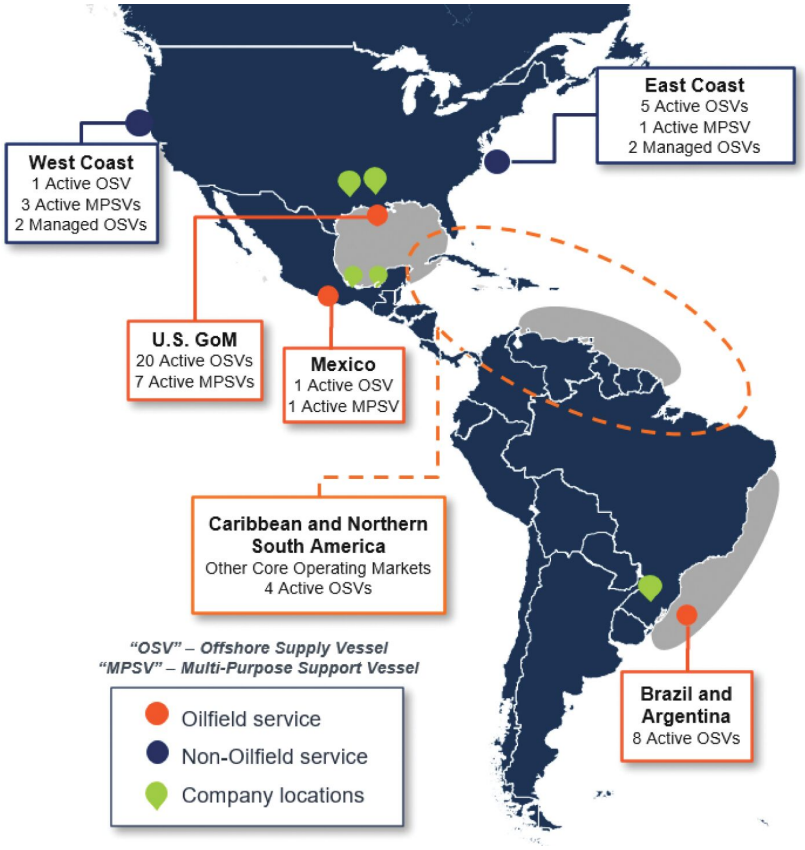
Our ability to reconfigure or modify vessels in our fleet to meet evolving industry demands and the needs of our customers differentiates our success across maritime markets. This enables us to reconfigure stacked OSVs to service oilfield and non-oilfield service customers. As offshore activities expand in scope and become increasingly more complex, the demand for high specification, fit-for-purpose equipment and service capabilities has accelerated, creating disproportionate competitive advantages for companies able to adapt vessels and service offerings quickly to respond to changing customer needs.

With an average of over 37 years of experience in the marine transportation and service industry and having worked together at Hornbeck for over 20 years, our senior management team has the depth of experience necessary to successfully compete in the offshore vessel business. We have confidence that both our team and our strategy have been organized in a manner that best positions our Company to effectively execute in this dynamic and demanding operating environment.

Fleet Composition and Operating Regions

Hornbeck owns and operates what we believe is one of the highest specification, most technologically advanced fleets of OSVs and MPSVs in the industry. Our fleet of 75 vessels primarily operates across our core geographic markets of the United States and Latin America. We predominantly serve our oilfield customers in the GoM, the Caribbean, Northern South America and Brazil, while our vessels primarily serve our

non-oilfield customers from the East and West Coasts of the United States and in the U.S. GoM. We operate our Mexican-flagged vessels across the Caribbean and Northern South America when not operated in Mexico, as well as in other international markets, utilizing a highly-skilled workforce of Mexican mariners and shore-side support team that have been trained in our safety systems and culture. A map illustrating our active vessel locations as of July 31, 2024 is below:



OSV Fleet

The following table illustrates our fleet of OSVs and the nations in which they are flagged as of July 31, 2024:

	Vessel Class	U.S.	Mexico	Vanuatu	Brazil	Avg DWT	Total in Class
Ultra High-Spec							
	HOSFLEX 370	2	—	—	—	7,886	2
	HOSMAX 320	9	1	—	—	6,052	10
	HOSMAX 310	3	—	—	1	5,990	4
	HOSMAX 300	2	4	—	—	5,489	6
High-Spec	HOSMAX 280	12	1	1	—	4,666	14
	HOS 270	—	2	—	—	3,803	2
	HOS 265	3	—	—	—	3,677	3
Other[1]							
	HOS 250	3	—	—	—	2,713	3
	HOS 240	12	2	—	—	2,712	14
	HOS 200	—	2	—	—	1,729	2
Total Owned OSVs		**46**	**12**	**1**	**1**	**—**	**60[2]**
Operated	USN T-AGSE	4	—	—	—	DP-2	4[3]
Total Operated OSVs		50	**12**	**1**	**1**	**—**	64

(1) Includes mid-spec vessels and low-spec vessels.
(2) Includes 21 stacked vessels, comprised of two HOS 200s, 13 HOS 240s, three HOS 250s, two HOS 265s, and one HOSFLEX 370.
(3) Includes four OSVs formerly owned by us that we now operate and maintain for the U.S. Navy.

MPSV Fleet

The following table illustrates our fleet of MPSVs and the nations in which they are flagged as of July 31, 2024:

Vessel Class	U.S.	Mexico	Vanuatu	DP Class	Total in Class
HOS C/SOV+FLOTEL(1)	1	—	—	DP-2	1
HOS FLOTEL	1	—	—	DP-2	1
HOS 430	—	1	1	DP-3	2
HOS 400(2)	2	—	—	DP-2	2
HOS 310/310ES	4	—	—	DP-2	4
HOS 265	—	1	—	DP-2	1
HOS 250	2	—	—	DP-2	2
HOS 240	2	—	—	DP-2	2
Total MPSVs	**12**	**2**	**1**		**15**

(1) Includes one HOSMAX 280 OSV currently being converted into a MPSV for dual-service as either a C/SOV or flotel.

(2) Includes two partially constructed Jones Act-qualified MPSV newbuilds to be completed pursuant to our settlement with the Surety, as discussed further in "Management's Discussion and Analysis of Financial Condition and Results of Operations—Recent Developments—Resumption of MPSV Newbuild Construction."

There are a number of third-party services that consistently monitor and assess the value of vessels across the global OSV and MPSV fleets. These firms independently evaluate each vessel based on age, build specification, capabilities and recent comparable vessel sales, among other criteria, to derive a market-based estimate of current vessel value including fair market value, newbuild, or replacement, value, and liquidation value. According to one third-party provider, VesselsValue, our total fleet of 60 OSVs and 15 MPSVs had a fair market value of approximately $2.7 billion and a newbuild, or replacement, value of approximately $5.7 billion as of July 31, 2024, reinforcing the quality and differentiated capabilities of our vessels in today's market.

Jones Act and other cabotage laws

Our 58 U.S.-flagged owned and operated vessels are all Jones Act-qualified. The majority of our U.S. operations are subject to the provisions of the Jones Act which, subject to limited exceptions, restricts maritime transportation of merchandise between points in the U.S. 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. Based on publicly-available information compiled by the Company and data provided by Spinergie, the supply of Jones Act-qualified vessels is limited as there are only 83 active high- and ultra high-spec Jones Act-qualified OSVs in the U.S. GoM as of July 31, 2024. Of this limited supply, Hornbeck owns 26% of the market, representing the second largest such fleet in the industry. Mexico and Brazil each have their own cabotage laws that provide varying levels of insulation from foreign sources of competition that may be unwilling to invest capital or otherwise satisfy local ownership, crewing, tax and/or build requirements. As such, cabotage-protected markets create meaningful barriers to entry for foreign-flagged vessels. Since the fourth quarter of 2023, maritime regulators in Mexico have implemented new approaches in their oversight of Navieras that historically have had permissible levels of non-Mexican ownership, such as ours. As a result, we took legal action in Mexico to preserve our cabotage privileges there and a Mexican court has ordered

that our cabotage privileges be reinstated. Despite favorable court rulings, Mexican maritime regulators have continued to limit our enjoyment of all privileges of a Mexican Naviera, including the ability to perform Mexican cabotage activities. Since the fourth quarter of 2023, we have moved all but one of our Mexican-flagged vessels into various non-Mexican international markets to continue utilizing our highly-skilled Mexican mariners and shore-based employees as part of our international services.

Customer Markets

The OSV and MPSV market has expanded rapidly since the 1970s, driven initially by growing offshore oil and gas production and more recently supported by diversified non-oilfield customer markets including military support services, renewable energy development and other non-oilfield service offerings. In response to changing market conditions and customer demand, we regularly transfer vessels between our core geographic areas and adapt equipment and features of our vessels to best meet potential revenue opportunities. Each customer market has specialized service needs and vessel requirements. For the six months ended June 30, 2024, approximately 49% of our revenues were attributed to oil and gas drilling support activities. The remaining approximately 51% of our revenues were generated away from the drill bit, comprised of approximately 25% coming from oilfield specialty activities, including offshore inspection, repair and maintenance, or "IRM," construction and equipment installation, as well as decommissioning and plugging and abandonment work; approximately 19% coming from military support services and Humanitarian Aid and Disaster Relief ("HADR"); and approximately 7% 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 contribute a greater portion of revenues in the future.

Oilfield Services

We predominantly serve our oilfield customers in the GoM, the Caribbean, Northern South America and Brazil. Our vessels provide support to offshore oil and gas exploration and production companies in two key areas: (i) oilfield drilling support and (ii) oilfield specialty services. Drilling support provides services that are specifically related to offshore drilling and production activities. This includes the transportation of drilling equipment, such as wellheads and drill pipe, as well as drilling fluids and other bulk products used in the development of new exploration wells and their subsequent production activities. Oilfield specialty services support ongoing or recurring oilfield activities, such as equipment installation services, IRM, flowback, well testing, pipeline flushing, decommissioning, and worker accommodations and transportation. In combination, we offer our oilfield customers a comprehensive range of vessel types and service offerings that cover the entire value chain of offshore hydrocarbon development. Additionally, we operate a port facility located in Port Fourchon, Louisiana, where we are able to stage equipment and cargos in support of such services and can also perform some of our own maintenance, outfitting and other in-the-water shipyard repair activities.

Non-Oilfield Services

Military Support Services

Since 2006, we have been a prominent, private sector service provider to the U.S. military by delivering vessels that support their readiness and security. We support our government customers in two key service offerings primarily from the East and West Coasts of the United States. 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 Operations & Maintenance ("O&M") contract. We also own, operate, and charter vessels that provide submarine supply services, rescue and recovery capabilities, transportation services and training drills. Our military service capabilities are an accelerating 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. We have

received approximately $65.6 million, $105.5 million and $57.8 million of revenue for military support services for the years ended 2022 and 2023 and for the six months ended June 30, 2024, respectively.

Renewable Energy

Renewable energy, and particularly offshore windfarms and infrastructure, is in its early stage of development in the U.S. and represents an emerging market for our services. Certain of the development and maintenance aspects of U.S. offshore windfarms require the use of U.S.-flagged, Jones Act-qualified, high specification vessels, for which we are well-positioned to offer our services. We believe that vessels such as ours will be critical across all stages of the offshore windfarm development cycle, including installation support, geophysical survey, vessel support for testing and operations maintenance and repair. Offshore wind development and associated services represent a potential high-growth customer market for our business and our growing involvement positions our business to actively participate in the alternative energy market.

Other Non-Oilfield Services

The versatility of our vessels allows us to support communities in our core geographic areas by providing other non-oilfield services, including humanitarian aid and disaster relief, and service to the aerospace and telecommunications industries. For example, our fleet can support oil spill relief, hurricane recovery, vessel salvage and a broad range of search and rescue operations by deploying vessels to high-need areas in response to natural disasters or crises and providing those affected with lifesaving supplies and equipment. Additionally, our vessels are equipped to support aerospace launches that call for rocket component landing and recovery capabilities.

Collectively, our oilfield and non-oilfield customer markets provide a diverse platform from which we can leverage the capabilities of our vessels and creatively deploy them with customers to serve new markets or high-need service areas. We believe that the diversification benefits that come from servicing a broad range of customers reduces the potential variability in our operating performance, as well as the installation, testing and retrieval of fiber-optic cable for telecommunications.

Industry Overview

Offshore Exploration and Production

Over the last three decades, the offshore oil and gas industry has undergone significant technological change, marked by an ability to explore and produce hydrocarbons in deepwater and ultra-deepwater regions. These areas contain some of the largest hydrocarbon reserve deposits anywhere in the world with inventory that is expected to last decades.

Most deepwater and ultra-deepwater offshore drilling activity is concentrated in the U.S. GoM, South America (largely dominated by Brazil and more recently, Guyana) and West Africa. Based on Rystad industry data as of July 2024, approximately 70% of global deepwater and ultra-deepwater hydrocarbons are located in the GoM and South America. Moreover, per the Bureau of Safety and Environmental Enforcement ("BSEE"), average deepwater and ultra-deepwater well depths have been on an upward trajectory creating significant demand for high- and ultra high-spec OSVs and MPSVs, which are well-positioned to service larger, more remote projects given their greater storage capacities, larger deck space, and industry-leading technologies.

We expect offshore drilling activity to accelerate through 2028. Offshore activity is economically advantaged with low breakeven prices. Based on Rystad industry data as of July 2024, 90% of offshore proven reserves and probable reserves are economic when crude oil prices are at or below $50.00 per barrel, a level well below 2024 prices. As a result, offshore activity is expected to accelerate and Rystad forecasts that offshore rig

counts in Hornbeck's core markets will increase approximately 23% through 2028. Contracted drilling rigs that provide exploration and drilling services to major exploration and development companies are a key leading indicator to OSV demand as each rig working to drill a well requires several OSVs to service it with equipment and supplies. The number of OSVs required to support a drilling rig depends on many factors including the type of drilling activity, the depth and development stage of the well, and the location of the rig. Typically, during the initial drilling stage, more OSVs are required to supply drilling mud, drill pipe, and other materials than at later stages in the drilling cycle. On average, and based on recent trends in active offshore drilling rigs and OSVs, we believe a typical offshore drilling rig requires approximately two to four OSVs to provide ongoing services at any one time with select infrastructure-remote areas such as Brazil and the Caribbean occasionally requiring a greater number of OSVs per drilling rig due to greater logistical challenges in those markets resulting in longer vessel turnaround times.

Our fleet of vessels provides logistics support and specialty services to the offshore oil and gas exploration and production industry, primarily in the GoM, 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 in the U.S. GoM and from the East and West Coasts of the United States. The United States, Mexico and Brazil have strict cabotage laws that provide us varying levels of insulation from foreign sources of competition that may be unwilling to invest capital or otherwise satisfy local ownership, crewing, tax and/or build requirements. As such, cabotage-protected markets create meaningful barriers to entry for foreign-flagged vessels. We have vessels flagged in each of these jurisdictions and, due to treaties or other legal benefits, we are regularly able to move vessels and/or crews among these jurisdictions.

Below are more detailed descriptions of the industry dynamics impacting our core Oilfield Services operating markets:

U.S. GoM

The U.S. GoM continues to be a world-class basin, attracting significant capital from exploration and production companies. Based on Rystad industry data, U.S. GoM offshore rig counts have increased from 16 to 21 rigs from 2021 to 2023 and are expected to remain between 19 and 21 rigs through 2027. Similarly, U.S. GoM offshore well counts are expected to increase every year from 2023 through 2028 with an average CAGR of approximately 3.1%. Due to higher cost, greater complexity and longer equipment and permitting lead times compared to conventional onshore drilling, offshore projects are characterized by long-cycle planning and investment horizons. This dynamic results in greater stability and resilience through commodity price cycles. Historically, onshore rig counts are more variable during periods of commodity price volatility than offshore rig counts.

The increased focus on the need for low carbon-intensity production has also highlighted the importance of the U.S. GoM and its lower global greenhouse gas ("GHGs") emissions intensity (CO_2e/kboe) relative to other global offshore basins. According to Wood Mackenzie's Emissions Benchmarking Tool, U.S. Gulf of Mexico Deepwater's weighted average emissions intensity in 2023 was 8.16 tCO_2e/kboe compared to a global weighted average of 20.45 tCO_2e/kboe. As a result, we believe that the U.S. GoM will continue to be an area of increased investment and production by many of the large oil and gas producers.

Mexico GoM

While Mexico appears to hold significant promise as a deepwater and ultra-deepwater basin in the future, recent political setbacks and administrative challenges have frustrated plans for investment by non-Mexican oil and gas companies. Since the fourth quarter of 2023, maritime regulators have also curtailed our Naviera's ability to enjoy Mexican cabotage and other privileges, despite our non-Mexican ownership levels being within the

thresholds permitted by Mexican law. The recent Mexican presidential election may result in changes that intensify negative trends or could potentially undo recent government actions and make Mexico more attractive for investment by foreign oil and gas companies.

Brazil

Based on Rystad industry data, Brazil is expected to receive the most deepwater and ultra-deepwater oil and gas investment worldwide between 2024 and 2027. Brazil has seen a significant increase in investment in its upstream resources from private exploration and production companies since the 2014 downturn, when state oil company Petrobras began selective asset sales to address its balance sheet issues. Supported by the current oil price environment, many large international oil companies, as well as local independents, are investing in deepwater and ultra-deepwater exploration and development activities. Additionally, Petrobras has publicly announced plans to spend approximately $73 billion on exploration and production activities from 2024 through 2028.

Based on Rystad industry data, the offshore rig count in Brazil is forecasted to increase to 32 rigs in 2025, a 33% increase from 2023 levels. In addition, Rystad industry data anticipates rig count levels remaining above 2024 levels through at least 2028. The increase in activity will likely require additional vessels to mobilize to the area to support this increased drilling activity. As of July 31, 2024, ten U.S. Jones Act high- and ultra high-spec vessels have relocated from the U.S. GoM to Brazil in order to fulfill the current demand in that region.

Caribbean and Northern South America

The Caribbean and Northern South America are developing markets for deepwater and ultra-deepwater exploration and production. Activity in the region is primarily focused in the Guyana-Suriname basin, but also includes Colombia, Trinidad and occasionally other Caribbean islands. Due to its proximity to the U.S. GoM and the Mexico GoM and the offshore operating environment, high-spec and ultra high-spec U.S.-flagged and Mexico-flagged OSVs are ideally suited to serve customers in this region. Currently, over 50% of the OSVs operating in the area are U.S.-flagged.

Since the discovery of the Liza-1 well in 2015, the Guyana-Suriname basin has become one of the fastest growing deepwater and ultra-deepwater exploration markets in the world. In April of 2022, ExxonMobil announced the final investment decision, or FID, for the Yellowtail development offshore Guyana, which was the fourth, and largest, project in the Staebroek Block. The total investment is expected to reach $12 billion and deliver a daily output of 250,000 barrels a day. According to published data from Hess Corporation as of May 2024, ExxonMobil's partner in the Yellowtail development, the Staebroek Block's gross discovered recoverable resource estimate is more than 11 billion barrels of oil equivalent. Other operators, such as TotalEnergies, have announced plans to invest in the region with a FID for Block 58 in Suriname expected to be approved in the fourth quarter of 2024.

As of July 31, 2024, there were six offshore rigs operating in this region. According to Rystad industry data, this number is expected to increase to 11 offshore rigs by 2028. These activity levels will require additional vessels to mobilize to the area to support drilling activity. We believe that additional U.S.-flagged vessels are well-suited to support these new drilling programs. As of July 31, 2024, 15 U.S. Jones Act high- and ultra high-spec vessels have relocated from the U.S. GoM to the Caribbean and South America in order to fulfill the current demand in those regions.

Non-Oilfield Services

Beyond Oilfield Services, our vessels are actively involved in the support of critical offshore activities in our core geographic regions, including military services, renewable energy development and other non-oilfield service offerings. As of July 31, 2024, 18 U.S. Jones Act-qualified high- and ultra high-spec vessels were working in military, offshore wind, aerospace or other industries. These non-oilfield markets have had a material impact on an already tight U.S. Jones Act market. Below are more detailed descriptions of the industry dynamics within each of those end-customer markets:

Military Support Services

The United States has relied on private vessel owners and operators comprising the U.S. Merchant Marine to provide vessels that support U.S. military readiness and security, as well as peacetime and wartime services. We provide such support primarily from the East and West Coasts of the United States. The use of specialized vessels, including OSVs and MPSVs, has increased as the broad utility of these vessels has been recognized by government customers, particularly the U.S. Navy. We believe the opportunities for additional military use could include:

- Service offerings for the U.S. Special Operations Command, the organization tasked with overseeing the various special operations of the U.S. Army, Marine Corps, Navy and Air Force;
- O&M contract opportunities; and
- Operational support for a growing fleet of U.S. Navy vessels.

Military support services represent a significant growth opportunity beyond the oilfield. Military business provides a diversified customer market that counterbalances oilfield volatility and generally comes with longer tenor contracts (generally more than three years). We continue to grow our military support services offerings and expect them to continue to grow in the future.

Renewable Energy Development

The offshore wind market is in its early stage of development and shows potential as an emerging market for our services in the U.S. GoM, as well as certain areas on the East and West Coasts of the United States. Field surveying, construction and operation for offshore wind require many of the core competencies and vessel specifications used in oilfield services, creating opportunities for legacy oilfield vessel providers to service this market. Moreover, many of the wind farms developed in domestic U.S. waters will require Jones Act-qualified vessels thereby creating cabotage protections for this work.

Vessel requirements for offshore wind development typically span three distinct phases:

- *Pre-Construction Surveying:* This phase of development requires surveying vessels to ascertain sea bottom, sea state, and wind conditions, as well as site clearing for potential project development. Examples of such services include removal of boulders and unexploded ordnances on the seabed, as well as providing sound barriers to protect sea mammals from offshore wind construction activities and noise.
- *Construction and Installation:* This phase of development is the most vessel intensive and will require service vessels to execute and support a range of tasks including foundation, monopile, and wind turbine installations, cable laying, installation of electrical transmission lines between field units and the onshore/offshore electric grid, and the transportation and housing of construction and installation crews, among others.
- *Ongoing Service and Maintenance:* This phase will require vessels to provide ongoing service and maintenance to offshore wind infrastructure assets including crew and equipment transfers, asset retrofitting and replacement, and ongoing infrastructure monitoring services.

Further, in 2021, the Biden Administration released its Offshore Wind Energy Strategy outlining its goal of deploying 30 gigawatts of offshore wind in the United States by 2030. Higher than expected interest rates, inflation and post-COVID supply chain restraints have hampered the pace of development, which is now forecasted to achieve approximately 18 gigawatts by 2030, but continuing to grow from there. According to Maritime Strategies International ("MSI"), 49 wind energy projects have been identified along U.S. coastlines with construction on 8 of these projects to begin between 2025 and 2027. Additionally, five lease sales on the West Coast of the United States and one lease sale in the U.S. GoM are expected to require floating installation capabilities and vessels, which Hornbeck's fleet is capable of providing. According to MSI, U.S. offshore wind projects are characterized by increasing distance from shore and larger generating capacity. The average distance from shore is expected to grow from 12 km in 2020 to 38 km in 2035. The average generating capacity of offshore wind is expected to increase five-fold. We believe these larger and farther-from-shore projects will provide our existing fleet of vessels with new opportunities for which they are well-suited. In addition, these opportunities are likely to create demand for our C/SOV which is expected to be delivered in 2025. We know of only three other Jones Act qualified SOVs or CSOVs that are under construction. Thus, these types of vessels, which are uniquely suited for offshore wind projects, may be under-supplied as such offshore projects continue to be built. Continued growth of the offshore wind market in the U.S. is not guaranteed and is subject to change as a result of shifts in political policies that currently favor offshore wind growth. Such changes in policy may occur, for example, as a result of the November 2024 presidential election in the U.S.

Other Non-Oilfield Services

We have multiple areas of growth in other non-oilfield services including:

- *Humanitarian Aid and Disaster Relief*: Because of the versatility of our vessels, we are often contracted as part of the response to an offshore crisis, including as service support for the Federal Emergency Management Agency. In the past, we have supported oil spill relief, non-oilfield hurricane relief, aircraft disasters, vessel and other equipment salvage and other post-disaster recovery efforts.
- *Aerospace*: Our vessels are equipped to support aerospace launches that call for rocket component landing and recovery capabilities. In addition, we have supported the aerospace industry through vessel crewing and other vessel management agreements.
- *Telecommunications*: Our vessels can also be retrofitted to support the installation, testing and retrieval of fiber-optic cable.

Our Competitive Strengths

Leading presence in the United States and Latin America

Hornbeck was established in 1997 and has one of the most capable and high-spec fleets of vessels in the industry. Based on publicly-available information compiled by the Company and data provided by Spinergie, we believe that our fleet of 41 high-spec and ultra high-spec OSVs, totaling 217,140 in DWT capacity, represents 6.6% of the 3,290,183 total DWT of such vessels in the world, making Hornbeck the third largest fleet out of 163 companies that own and operate high-spec or ultra high-spec OSVs worldwide. Furthermore, we believe that our fleet of 15 U.S.-flagged ultra high-spec OSVs, totaling 91,123 in DWT capacity, represents the largest fleet of such vessels operating in the United States measured by DWT capacity. Additionally, we are one of the top operators of OSVs, based on DWT, in each of our two core geographic markets, which include 2,459,593 DWT and constitute 41.7% of the total supply of 5,847,658 DWT to such markets. Our 46 U.S.-flagged OSVs, totaling 206,767 in DWT capacity, comprise the second largest fleet of technologically advanced, OSVs qualified for work in the U.S. GoM under the Jones Act. As of July 31, 2024, our active fleet of OSVs and MPSVs consisted of (i) 20 U.S.-flagged OSVs and seven MPSVs in the U.S. GoM, (ii) five OSVs and one MPSV throughout the U.S. Atlantic, (iii) one OSV and three MPSVs in the U.S. Pacific, (iv) seven OSVs offshore Brazil, (v) one OSV

offshore Argentina, (vi) four OSVs in the Caribbean and Northern South America and (vii) one OSV and one MPSV offshore Mexico. We believe that having scale in our core markets with the flexibility to transfer vessels among regions benefits our customers and provides us with operating efficiencies.

Large and diverse fleet of technologically advanced high-spec and ultra high-spec vessels

Over the past 27 years, we have assembled a multi-class fleet of 60 OSVs and 15 MPSVs. Since 2014, we have focused on expanding our line of high-spec and ultra high-spec vessels, increasing our fleet of such vessels from 41% of our fleet in 2014 to 75% of our fleet in 2024. High-spec and ultra high-spec vessels incorporate sophisticated technologies that are designed specifically to operate safely in complex and challenging environments and are equipped with specialty equipment and other features to respond to the needs of our customers through the project development and operation lifecycle of an offshore oilfield. These technologies include DP, roll reduction systems and controllable pitch thrusters, which allow our vessels to maintain a fixed position with minimal variance. Our cargo-handling systems permit high-volume transfer rates of liquid mud and dry bulk materials. In addition, we are able to outfit our vessels with specialty equipment and certain features as needed for specific projects. The greater fuel efficiency, larger cargo-carrying capacity, advanced mud-handling systems and other technical features of our high-spec and ultra high-spec vessels enhance offshore project efficiency and create a compelling value proposition for our customers. As a result of our fleet mix, in-house engineering capabilities, operations history and market strategies, we believe that we earn higher average dayrates compared to our competitors. According to industry data from Fearnley Offshore Supply, our average dayrates were 87%, 41%, and 16% higher than the global average term rates of comparably sized vessels owned by other operators in 2022, 2023, and the six months ended June 30, 2024, respectively.

Strong market position due to qualification under the Jones Act and favorable sector tailwinds

As a leader in marine transportation services to the offshore oilfield industry, we believe Hornbeck is well-positioned to capitalize on favorable industry conditions for significant growth opportunities, particularly in offshore wind development and support services to the U.S. military on the East and West Coasts of the United States. The United States has strict cabotage laws that provide insulation from most sources of foreign competition for our U.S. fleet for coastwise services. 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 believe our reputation for high-quality, safe and reliable operations, complex problem solving, operational flexibility, and world-class vessels allows Hornbeck to compete effectively for and retain qualified mariners, which positions Hornbeck for long-term sustainable growth in a tight labor market. In addition, our robust offering of services, ranging from initial construction to decommissioning, has allowed us to compete effectively and remain a trusted service provider for active offshore companies, as well as the U.S. military.

Successful track record of strategic vessel acquisitions

We have built our fleet through a combination of newbuilds and strategic acquisitions from other operators. Our management team's extensive naval architecture, marine engineering and shipyard experience has enabled us to quickly integrate newly acquired vessels into our fleet and retrofit them to meet our quality standards and customer needs cost-effectively. From time to time, we consider opportunistic acquisitions of single vessels, vessel fleets, and businesses that strategically complement our existing operations to enable us to grow our business and better serve our customers. Since 2017, we have successfully completed the acquisition of 19 OSVs, 18 of which are currently operating as part of our high-spec and ultra high-spec fleet and one of which is currently undergoing conversion into a MPSV for dual-service as either a C/SOV or flotel.

Diversified service offerings and customer markets provide stability to cash flows

We have well-established relationships with leading oilfield and non-oilfield companies and the U.S. government and believe such relationships are in part maintained because of our diversified service offerings in the oilfield and non-oilfield customer markets. Our diversified service offerings allow us to pivot based on our customers' needs and gives our customers confidence to commit to longer-term contracts for our services, which provides us with cash flow stability. Additionally, these large, integrated customers are financially stable and can better withstand economic or market downturns in a volatile market, and we believe maintaining relationships with these customers will ultimately result in better visibility to vessel utilization and greater liquidity for us in the future.

Experienced management team with proven track record

Our founder-led executive management team has an average of over 37 years of domestic and international marine transportation industry-related experience and has worked together at the Company for over 20 years. Our team is comprised of individuals with extensive, global experience with backgrounds across many diverse fields including engineering, project management, military service, finance, accounting, legal, risk management and corporate leadership. We believe that our team has successfully demonstrated its ability to grow our fleet through new construction and strategic acquisitions and to secure profitable contracts for our vessels in both favorable and unfavorable market conditions in domestic and foreign markets.

Attractive growth opportunities

Our fleet of technologically advanced high-spec and ultra high-spec vessels is increasingly being deployed to serve the accelerating needs of the U.S. Military, renewable energy, and aerospace industries. Many of these high-growth markets require U.S.-flagged Jones Act-qualified vessels, which can be custom tailored to address a broad spectrum of services. For these applications, our vessels are typically contracted for greater than three years, providing a counter-balance to cyclicality experienced in our oilfield end-markets.

Our Strategy

Leverage our geographic presence in the United States and Latin America and grow industry leading service capabilities

We have strategically chosen to focus our efforts in two core geographic markets, the United States and Latin America. While the U.S. GoM will continue to be a priority for us, in recent years we expanded our presence in each of the Mexico GoM, the East and West Coasts of the United States, the Caribbean, Northern South America and Brazil, as we anticipate long-term growth in those markets. Given the relative proximity of these markets, we are able to readily move our vessels among them and retain flexibility to relocate those vessels back to the U.S. GoM or into adjacent locations across our operating regions. We believe this allows us to conduct a more thorough on-going alternative analysis for vessel deployments among such markets and, thus, better manage our portfolio of contracts to enhance dayrates and utilization over time as contracting opportunities arise. Our Jones Act-qualified high-spec and ultra high-spec OSVs account for approximately 26% of the total industry supply of such vessels. Our vessels have been adapted to operate in a range of oilfield specialty configurations, including flotel services, extended-reach well testing, seismic, deepwater and ultra-deepwater well stimulation, other enhanced oil recovery activities, high pressure pumping, deep-well mooring, ROV support, subsea construction, installation, IRM work and decommissioning services. We are also growing our diverse non-oilfield specialty services, such as military applications, offshore wind farms, oceanographic research, telecommunications, and aerospace projects.

Pursue differentiated customer offerings to optimize utilization and free cash flow generation

We seek to balance and diversify our service offerings to customers, to optimize our vessel utilization and stabilize our free cash flow generation. For example, in addition to our long-term charters in oilfield services and with military and renewable energy customers that contribute to contracted backlog and provide utilization stability, we also seek out short-term charters such as spot oilfield services that typically have higher dayrates. This contracting strategy balances our financial profile between longer-term charters and the flexibility to capture current market dayrates for a portion of our fleet. Our current contracting approach allows us to consistently perform well against our OSV peers when comparing average OSV dayrates and gross margins. The flexibility of our vessel capabilities is designed to optimize our utilization and allows us to pivot in response to market conditions and customer needs, which can lead to more stable free cash flow generation.

Apply existing, and develop new, technologies to meet our customers' vessel needs and expand our fleet offerings

Our in-house engineering team has been instrumental in applying existing, and developing new, technologies that meet our customers' vessel needs and provide us with the opportunity to enter new customer markets. For instance, our OSVs and MPSVs are designed to meet the higher capacity and performance needs of our oilfield clients' increasingly complex drilling and production programs and the diverse needs of our U.S. military, renewable energy and humanitarian aid and disaster relief customers. Further, we are able to reconfigure or retrofit existing assets with existing or new technology to participate in new customer markets such as offshore wind, aerospace and telecommunications. Specifically, we are currently deploying capital to upgrade certain of our vessels to dual service capabilities to better service the oilfield services market as well as the emerging offshore wind market. We remain committed to applying existing and developing new technologies to maintain a technologically advanced fleet that will enable us to continue to provide a high level of customer service and meet the developing needs of our customers.

Focus on selective acquisitions that are strategically and financially accretive

We seek to opportunistically grow our fleet through strategic and financially accretive acquisitions. Our screening criteria focuses on expanding the depth and breadth of our fleet mix as well as diversifying service offerings in our core markets. From time to time, we consider opportunistic acquisitions of single vessels, vessel fleets, and businesses that strategically complement our existing operations to enable us to grow our business and better serve our customers. For example, we recently completed the acquisition of 12 high-spec OSVs, which we refer to as the ECO Acquisitions.

Maintain a conservative balance sheet, disciplined growth, and robust free cash flow generation through cycles

We adhere to financial principles designed to maintain a conservative balance sheet, disciplined growth, and robust free cash flow generation. Our balance sheet strategy targets less than 1.0x leverage with ample excess liquidity available to withstand industry cycles or take advantage of disciplined growth opportunities.

Our growth strategy involves a disciplined screening of opportunities for differentiated assets that create competitive advantages and is focused on returns and payback periods. Our cash flow generation abilities are centered around maintaining flexible costs and lean organizational structures that seek efficiencies through continuous operational improvement and working capital management.

Continued commitment to sustainability and safety

Safety is of great importance to us and offshore operators due to the environmental and regulatory sensitivity associated with offshore drilling and production activity and wind development. We believe certain of our efforts, such as adopting shipboard energy efficiency management plans, installing emission monitoring systems and pursuing other operational efficiencies, have been successful, allowing us to meet our customers' needs while supporting our efforts to reduce our emissions of GHGs. Additionally, since 2020, our focus on safely addressing operational risk has contributed to maintaining an industry-low TRIR. Our most recent 5-year average TRIR was 0.10, outperforming peer averages from the International Marine Contractors Association ("IMCA") and International Support Owners Association ("ISOA"). Further, in addition to industry standard certifications, as part of our commitment to safety and quality, we have voluntarily pursued and received certifications and classifications that we believe are not generally held by other companies in our industry. We believe that customers recognize our relentless commitment to safety, which contributes to our positive reputation and competitive advantage.

We recently placed into service a high-tech DP simulator that provides an interactive and immersive training experience for current and future mariners who serve in DP officer ("DPO") roles on our vessels. Configured to incorporate the controls and models of the three brands of DP systems that we use on our vessels, as well as to simulate four different specific vessel types and classes within our fleet, this highly customized design affords DPOs the opportunity to train on the same or substantially similar DP systems installed on our vessels. The simulator provides us with a sophisticated training platform from which to train our mariners. Our mariners are engaged in a virtual ship-like environment that can subject them to realistic failure situations in a controlled atmosphere, thus facilitating a dynamic learning process. Our DP simulator is designed to make training more efficient, cost effective and risk free, and ultimately provide an optimum outcome for trainees and the Company. The simulator is located at our headquarters in Covington, Louisiana.

We also provide our chief shipmates and other engine-room personnel training on a land-based version of our onboard oily water separator unit, which enhances crew knowledge of a critical environmental safeguard and, we believe, fosters our culture of environmental stewardship and risk mitigation.

Recent Developments

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. The current aggregate commitments for the revolving loans (the "Revolving Loans") under the First Lien Revolving Credit Facility total $75 million, all of which remain undrawn. 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. See "Management's Discussion and Analysis of Financial Condition and Results of Operations—Liquidity and Capital Resources—Debt Agreements."

Resumption of MPSV Newbuild Construction

In October 2023, we entered into a final settlement of a dispute with the 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 was contracted by

the Surety to complete construction of the two MPSVs. We are obligated to pay only the remaining portion of the original shipyard contract price for the two MPSVs, which amounted to $53.8 million in the aggregate on the settlement date. The Surety is required to cure all defaults of Gulf Island and pay all completion costs in excess of the $53.8 million remaining original contract price, excluding any approved change orders arising after the settlement date. There is no cap on the Surety's completion cost. As of June 30, 2024, we had paid $5.3 million to Eastern related to the completion of these two MPSVs.

Pursuant to the settlement, the Surety is contractually required to deliver both MPSVs in 2025. We were provided an updated schedule by the Surety and Eastern indicating that they currently expect a six-month shipyard delay for the delivery of the first of the two MPSVs. An updated delivery schedule has not yet been provided for the second vessel. Following physical delivery by the shipyard, we expect each vessel to undergo crane and other system installations, which we expect will make the first vessel available for commercial service in the first half of 2026, and the second vessel thereafter. In addition to the remaining $48.5 million of the original contract price as of June 30, 2024, we expect to incur an incremental $91.2 million in the aggregate for outfitting, overhead and the post-delivery discretionary enhancements, of which $63.6 million solely relates to the purchase and installation of cranes on both vessels. As of June 30, 2024, we had incurred $0.8 million of such incremental amounts, excluding capitalized interest. Once placed in service, we expect that our book carrying value for each vessel will be approximately $80.0 million, which is significantly below the expected market value of Jones Act-qualified vessels of this age, type, size and specifications.

ECO Acquisitions

In January 2024, we took delivery of the sixth and final vessel under ECO Acquisitions #2 and paid $15.3 million for the remaining 90% of the original purchase price and $0.1 million for purchase price adjustments related to discretionary enhancements completed in the shipyard by Nautical. As of June 30, 2024, we had paid an aggregate of $102.0 million for the original purchase price, including deposits, and $10.6 million in purchase price adjustments associated with discretionary enhancements, additional outfitting and post-closing modifications for the ECO Acquisitions #2 vessels. Delivery of this final vessel marks the completion of the combined 12 vessel acquisitions under the ECO Acquisitions. We expect to incur an incremental $0.2 million related to additional outfitting, discretionary enhancements and post-closing modifications for certain of these vessels during the remainder of 2024.

Mexico Cabotage Status

In the fourth quarter of 2023, maritime regulators in Mexico implemented new approaches in their oversight of Navieras that have historically had permissible levels of non-Mexican ownership, such as ours. As a result, we took legal action in Mexico to preserve our cabotage privileges there and a Mexican court ordered that our cabotage privileges be reinstated. Despite favorable court rulings, Mexican maritime regulators have continued to limit our enjoyment of all privileges of a Mexican Naviera, including the ability to perform Mexican cabotage activities. Since the fourth quarter of 2023, we have moved all but one of our Mexican-flagged vessels into various non-Mexican international markets, while continuing to utilize our highly-skilled Mexican mariners and shore-based employees as part of our international services.

Ongoing Acquisition/Investment Activities

We regularly evaluate additional acquisition opportunities and frequently engage in discussions with potential sellers. We are currently focused on pursuing acquisition opportunities that will further diversify our vessel holdings and the specialty services we offer. The timeline required to negotiate and close on any one or more acquisition opportunities is at times unpredictable and can vary greatly.

Our acquisitions may require material investments and could result in significant modifications to our capital plans, both in the aggregate amount of capital expenditures to be made and a reallocation of capital. Our acquisitions (including the ECO Acquisitions) are typically made for a purchase price which historically we have funded with a combination of borrowings, cash generated from operations and debt and/or equity issuances.

We typically do not announce a transaction until after we have executed a definitive agreement. In certain cases, in order to protect our business interests or for other reasons, we may defer public announcement of a transaction until closing or a later date. Past experience has demonstrated that discussions and negotiations regarding a potential transaction can advance or terminate in a short period of time. Moreover, the closing of any transaction for which we have entered into a definitive agreement may be subject to customary and other closing conditions, which may not ultimately be satisfied or waived. Accordingly, we can give no assurance that our current or future acquisition or investment efforts will be successful.

Risk Factors Summary

Our business is subject to numerous risks and uncertainties, including, but not limited to, those highlighted in the section titled "Risk Factors" and summarized below. We have various categories of risks, including risks relating to our business; risks relating to legal, regulatory, accounting and tax matters; risks relating to our indebtedness; and risks relating to this offering and ownership of our common stock, which are discussed more fully in the section titled "Risk Factors." As a result, this risk factor summary does not contain all of the information that may be important to you, and you should read this risk factor summary together with the more detailed discussion of risks and uncertainties set forth in the section titled "Risk Factors." These risks include, but are not limited to, the following:

Risks Relating to Our Business

- We derive 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.
- Our operations may be impacted by changing macroeconomic conditions, including inflation.
- Recently completed and future acquisitions by us may create additional risks.
- We 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 our services and products and have a material adverse effect on our business, financial condition or results of operations.
- We may not be able to complete the construction of our remaining two newbuilds and may experience delays related to such newbuilds.
- We operate in a highly competitive industry.
- In addition to industry concentrations, we have certain customer concentrations, and the loss of a significant customer would adversely impact our financial results.
- The early termination of or inability to renew contracts for our vessels could have an adverse effect on our operations.
- Uncertainty surrounding potential legal, regulatory and policy changes, as well as the potential for general market volatility and regulatory uncertainty, because of the upcoming U.S. presidential and congressional elections may have a material adverse effect on our results of operations, cash flows and financial position.

- Our contracts with the United States government might not be renewed, may be renewed at lower rates or may impose additional requirements.
- Our operations in international markets and shipyard activities in foreign shipyards subjects us to risks inherent in conducting business internationally.
- Our operations may be materially adversely affected by tropical storms and hurricanes.
- Our 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 our financial results.

Risks Relating to Our Legal, Regulatory, Accounting and Tax Matters

- We may be unable to maintain an effective system of disclosure controls and procedures or internal control over financial reporting and produce timely and accurate financial statements or comply with applicable regulations.
- Changes in tax laws could adversely affect our business, financial condition and results of operations.
- We are 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 our business, financial condition and results of operations.

Risks Relating to Our Indebtedness

- We may not be able to generate sufficient cash to service all of our indebtedness or repay such indebtedness when due and may be forced to take other actions to satisfy our obligations under our indebtedness, such as refinancings, which may not be successful or completed on favorable terms.
- Despite our current level of indebtedness, we and our subsidiaries may still be able to incur substantially more debt. This could further exacerbate the risks to our financial condition described herein.
- Our indebtedness could materially adversely affect our financial condition.

Risks Related to this Offering and Ownership of Our Common Stock

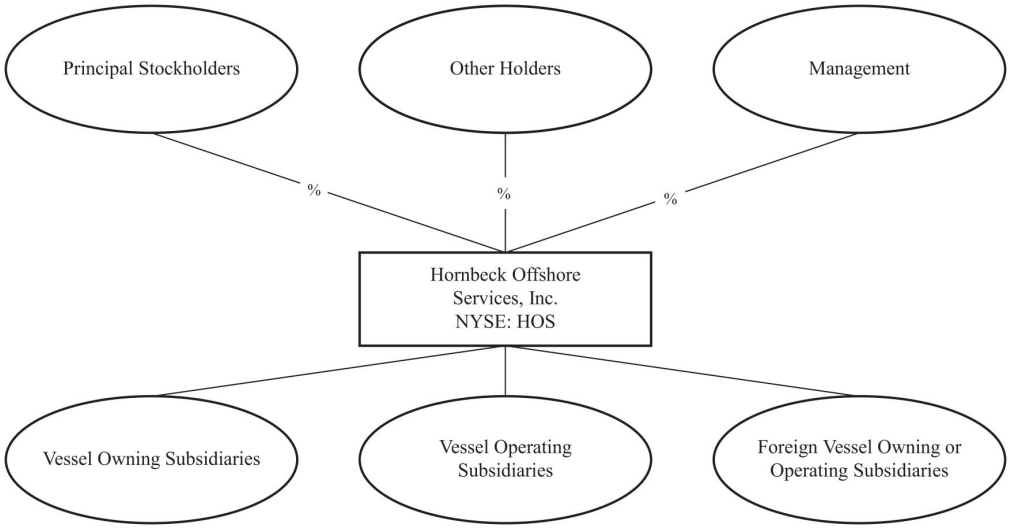
- Our common stock is subject to restrictions on foreign ownership and possible divestiture by non-U.S. citizen stockholders.
- We will incur significantly increased costs and become subject to additional regulations and requirements as a result of becoming a public company, and our management will be required to devote substantial time to new compliance matters, which could lower our profits or make it more difficult to run our business.
- We have a high level of concentrated stock ownership.
- Anti-takeover provisions in our organizational documents could delay or prevent a change of control.

Additional risks, beyond those summarized above or discussed elsewhere in this prospectus, may apply to our business, activities or operations as currently conducted or as we may conduct them in the future or in the markets in which we operate or may in the future operate.

If we are unable to adequately address these and other risks we face, our business, results of operations, financial condition and prospects may be harmed. You should carefully consider all of the information set forth in this prospectus and, in particular, should evaluate the specific factors set forth under "Risk Factors" in deciding whether to invest in our common stock.

Organizational Structure

The following diagram illustrates our organizational structure after giving effect to this offering.



Our Principal Stockholders

Our principal stockholders consist of our three largest stockholders (funds, investment vehicles or accounts managed or advised by Ares, Whitebox or Highbridge or their respective affiliates), who, as of July 31, 2024, collectively own 62.6% of our common stock and 85.8% of our Jones Act Warrants, which are convertible under certain circumstances into 9,767,165 shares of our common stock (shares after giving effect to the stock split). The principal stockholders are offering shares of our common stock (or shares if the underwriters exercise in full their option to purchase additional shares of common stock from the selling stockholders). After giving effect to this offering, the principal stockholders would own % of our common stock, and % of our Jones Act Warrants, which would be convertible under certain circumstances into shares of our common stock. On a diluted basis, after giving effect to the conversion of these Jones Act Warrants and this offering, the principal stockholders would own % of our common stock. See "—Principal and Selling Stockholders."

Ares Management Corporation (NYSE: ARES) is a leading global alternative investment manager offering clients complementary primary and secondary investment solutions across the credit, real estate, private equity and infrastructure asset classes. Ares Management Corporation seeks to provide flexible capital to support
businesses and create value for its stakeholders and within its communities. By collaborating across its investment groups, Ares Management Corporation aims to generate consistent and attractive investment returns throughout market cycles. As of June 30, 2024, Ares Management Corporation's global platform had approximately 3,000 employees operating across North America, Europe, Asia Pacific and the Middle East and approximately $447 billion of assets under management.

Whitebox Advisors LLC ("Whitebox") is a multi-strategy alternative asset manager that seeks to generate optimal risk-adjusted returns for a diversified base of public institutions, private entities and qualified individuals. Founded in 1999, Whitebox invests across asset classes, geographies, and markets through the hedge fund vehicles and institutional accounts that it advises. The firm maintains offices in Minneapolis, Austin,
New York, London and Sydney.

Highbridge Capital Management ("Highbridge") is a global alternative investment firm offering credit and volatility focused solutions across a range of liquidity and investment profiles, including hedge funds, drawdown vehicles, and co-investments. Highbridge manages capital for sophisticated investors, which include financial institutions, public and corporate pension funds, sovereign wealth funds, endowments, and family offices. Highbridge is headquartered in New York, with a research presence in London. Highbridge is an indirect subsidiary of J.P. Morgan Chase & Co.

We use the term "principal stockholders" in this prospectus to describe certain funds, investment vehicles or accounts managed or advised by Ares, Whitebox or Highbridge or their respective affiliates, in each case, that own shares of our common stock.

Stock Split

On , 2024, our Board of Directors approved a -for-one split of our common stock, which is to be effected after the effectiveness of the registration statement of which this prospectus forms a part and in connection with the consummation of this offering. The par value will not be adjusted as a result of the stock split; however, the number of shares that we are authorized to issue will be increased to .

Company Corporate Information

Hornbeck Offshore Services, Inc. was incorporated under the laws of the State of Delaware on June 2, 1997. Our principal executive offices are located at 103 Northpark Boulevard, Suite 300, Covington, LA 70433, and our telephone number is (985) 727-2000. Our website address is www.hornbeckoffshore.com. Information contained on, or that can be accessed through, our website is not part of and is not incorporated by reference into this prospectus, and you should not consider information on our website to be part of this prospectus.

The Offering

Common stock offered by us	shares.
Common stock offered by the selling stockholders	shares.
Underwriters' option to purchase additional shares of common stock from us	We have granted the underwriters an option for a period of 30 days to purchase up to an aggregate of additional shares of our common stock.
Underwriters' option to purchase additional shares of common stock from the selling stockholders	The selling stockholders have granted the underwriters an option for a period of 30 days to purchase up to an aggregate of additional shares of our common stock.
Common stock outstanding after this offering	shares (or shares if the underwriters exercise in full their option to purchase additional shares of common stock from us).[1]
Use of Proceeds	We estimate that the net proceeds to us from this offering, after deducting estimated underwriting discounts and commissions and estimated offering expenses payable by us, will be approximately $ million (or approximately $ million if the underwriters exercise in full their option to purchase additional shares of common stock from us), assuming an initial public offering price of $ per share (which is the midpoint of the estimated offering price range shown on the cover page of this prospectus). For a sensitivity analysis as to the offering price and other information, see "Use of Proceeds." We intend to use the net proceeds to us from this offering for general corporate purposes. We will not receive any proceeds from the sale of shares in this offering by the selling stockholders.
Dividend Policy	We do not currently anticipate paying any dividends on our common stock immediately following this offering. We expect to retain all future earnings for use in the operation and expansion of our business. Following this offering and upon repayment of certain outstanding indebtedness, we may reevaluate our dividend policy. Any decision to declare and pay dividends in the future will be made at the sole discretion of our Board of Directors and will depend on various factors. See "Dividend Policy."

[1] Does not reflect shares of common stock that may be issued upon exercise of outstanding Jones Act Warrants, at an exercise price of $0.00001 per share, or upon exercise of outstanding Creditor Warrants, at an exercise price of $ per share (after giving effect to the stock split).

Directed Share Program	At our request, the underwriters have reserved up to % of the shares of common stock offered by this prospectus for sale, at the initial public offering price to certain individuals through a directed share program, including our directors, officers, employees and other persons identified by the Company. The number of shares of our common stock available for sale to the general public will be reduced to the extent these individuals purchase such reserved shares. Any reserved shares that are not so purchased will be offered by the underwriters to the general public on the same basis as the other shares offered by this prospectus. See "Underwriting (Conflicts of Interest)—Directed Share Program."
Risk Factors	See "Risk Factors" for a discussion of risks you should carefully consider before deciding to invest in our common stock.
Conflicts of Interest	Highbridge, one of our principal stockholders, is an indirect subsidiary of J.P. Morgan Chase & Co. As a result, J.P. Morgan Chase & Co. will be deemed to have a "conflict of interest" within the meaning of Financial Industry Regulatory Authority ("FINRA") Rule 5121. FINRA Rule 5121 imposes certain requirements on a FINRA member participating in the public offering of securities of an issuer if there is a conflict of interest and/or if that issuer controls, is controlled by, or is under common control with, the FINRA member. Accordingly, this offering is being made in compliance with the requirements of Rule 5121 regarding a FINRA member firm's underwriting of securities of an affiliate. Neither J.P. Morgan Chase & Co. nor any other affiliated agent of J.P. Morgan Chase & Co. will sell any of our securities to any account over which it exercises discretionary authority unless it has received specific written approval from the account holder in accordance with Rule 5121. Barclays Capital Inc. has been appointed as a "qualified independent underwriter" in connection with this offering.
Listing	We have applied to have our common stock approved for listing on the NYSE under the symbol "HOS."

The number of shares of our common stock to be outstanding after this offering is based on shares of our common stock outstanding as of June 30, 2024, after giving effect to the stock split, and does not reflect:

- shares of common stock that may be issued upon exercise of outstanding Jones Act Warrants, at an exercise price of $0.00001 per share;
- shares of common stock that may be issued upon exercise of outstanding Creditor Warrants, at an exercise price of $ per share;
- shares of common stock that may be issued upon the exercise of outstanding options at an average weighted exercise price of $ or the vesting of restricted stock units issued under our 2020 Management Incentive Plan; and
- shares of common stock that may be issued pursuant to future awards under our 2020 Management Incentive Plan or our 2024 Omnibus Incentive Plan to be in effect following this offering.

Unless otherwise indicated or the context otherwise requires, all information in this prospectus assumes or gives effect to:

- the filing and effectiveness of our amended and restated certificate of incorporation and the adoption of our amended and restated bylaws, each of which will occur immediately prior to the closing of this offering;
- the -for-one stock split of our shares of common stock and the related increase of our authorized shares of common stock to shares;
- an initial offering price of $ per share of common stock (which is the midpoint of the estimated offering price range shown on the cover page of this prospectus);
- no exercise of the outstanding options or warrants described above; and
- no exercise of the underwriters' option to purchase up to an additional shares of common stock from us and up to an additional shares of common stock from the selling stockholders.

Summary Historical Financial and Other Data

The following table shows our summary historical consolidated financial and other data for the periods and as of the dates indicated. The summary consolidated statements of operations and cash flow data for the six months ended June 30, 2024 and 2023 and the balance sheet data as of June 30, 2024 have been derived from our Quarterly Financial Statements included elsewhere in this prospectus. The summary consolidated statements of operations and cash flow data for the years ended December 31, 2023, 2022 and 2021 and the balance sheet data as of December 31, 2023 and 2022 have been derived from our Annual Financial Statements included elsewhere in this prospectus.

Our historical results are not necessarily indicative of the results to be expected in any future period. You should read the following summary financial and other data in conjunction with the sections titled "Management's Discussion and Analysis of Financial Condition and Results of Operations" and our Financial Statements and related notes included elsewhere in this prospectus.

	Six Months Ended June 30,		Year Ended December 31,		
(dollars in thousands)	2024	2023	2023	2022	2021
Statement of Operations Data:					
Revenues:					
Vessel revenues	$283,207	$ 256,487	$528,780	$406,034	$214,680
Non-vessel revenues	23,569	21,902	44,669	45,192	41,620
	306,776	278,389	573,449	451,226	256,300
Costs and expenses:					
Operating expense	181,818	141,501	305,463	214,788	142,819
Depreciation expense	18,093	11,753	26,355	18,601	15,672
Amortization expense	12,163	10,366	21,496	10,339	2,711
General and administrative expense	32,430	32,366	66,108	58,946	40,632
Stock-based compensation expense	4,423	15,363	19,097	5,330	3,372
Terminated debt refinancing costs	—	3,633	3,693	—	—
	248,927	214,982	442,212	308,004	205,206
Gain on sale of assets	31	2,566	2,702	21,837	2,679
Operating income	57,880	65,973	133,939	165,059	53,773
Net interest expense	10,430	18,142	30,047	38,340	35,284
Other expense, net	61	4,634	12,859	38,783	13,969
Income before income taxes	47,389	43,197	91,033	87,936	4,520
Income tax expense	3,163	6,362	16,495	7,174	1,533
Net income	$ 44,226	$ 36,835	$ 74,538	$ 80,762	$ 2,987

(dollars in thousands)	June 30, 2024	December 31, 2023	December 31, 2022
Balance Sheet Data (at period end):			
Cash and cash equivalents	$ 91,078	$ 120,055	$ 217,303
Total current assets	272,799	270,824	357,933
Property, plant and equipment, net	625,270	602,422	449,249
Total assets	987,252	946,519	860,220
Total current liabilities	132,917	130,415	88,203
Total long-term debt, net of original issue discount and deferred financing costs	349,001	349,001	410,258
Total liabilities	585,976	585,226	589,388
Total stockholders' equity	401,276	361,293	270,832

	Six Months Ended June 30,		Year Ended December 31,		
(dollars in thousands)	2024	2023	2023	2022	2021
Statement of Cash Flows Data					
Net Cash provided by (used in):					
Operating activities	$ 26,666	$ 62,349	$ 146,115	$ 112,967	$ 49,611
Investing activities	(49,482)	(43,972)	(168,345)	(109,157)	(4,124)
Financing activities	(3,942)	(6,978)	(76,038)	32,875	37,624
Other Financial Data (unaudited):					
EBITDA(1)	$ 88,075	$ 83,458	$ 168,931	$ 155,216	$ 58,187
Adjusted EBITDA(1)	94,809	111,817	213,629	204,830	77,219
Adjusted Free Cash Flow(1)	30,828	75,566	132,688	171,284	47,726
Capital expenditures	75,626	62,144	201,071	151,196	21,382

(1) EBITDA, Adjusted EBITDA and Adjusted Free Cash Flow are non-GAAP financial measures. As such, they should not be considered in isolation or as a substitute for operating income, net income or loss, cash flows provided by operating, investing and financing activities, or other income or cash flow statement data prepared in accordance with GAAP. See "—Non-GAAP Financial Measures" below for our definitions of EBITDA, Adjusted EBITDA and Adjusted Free Cash Flow and reconciliations of each to the most directly comparable GAAP financial measure.

Non-GAAP Financial Measures

We disclose and discuss EBITDA, Adjusted EBITDA and Adjusted Free Cash Flow as non-GAAP financial measures in this prospectus. We define EBITDA as earnings (net income or loss) before interest, income taxes, depreciation and amortization. Adjusted EBITDA reflects certain adjustments to EBITDA for gains or losses on early extinguishment of debt, terminated debt refinancing costs, stock-based compensation expense and interest income. In addition, Adjusted EBITDA excludes non-cash gains or losses on the fair value adjustment of liability-classified warrants. We define Adjusted Free Cash Flow as Adjusted EBITDA less cash paid for deferred drydocking charges, cash paid for maintenance capital improvements and non-vessel capital expenditures, cash paid for interest and cash paid for (refunds of) income taxes. Our measures of EBITDA, Adjusted EBITDA and Adjusted Free Cash Flow may not be comparable to similarly titled measures presented by other companies. Other companies may calculate EBITDA, Adjusted EBITDA and Adjusted Free Cash Flow differently than we do, which may limit their usefulness as comparative measures.

We view EBITDA, Adjusted EBITDA and Adjusted Free Cash Flow primarily as liquidity measures and, as such, we believe that the GAAP financial measure most directly comparable to those measures is cash flows provided by operating activities. Because EBITDA, Adjusted EBITDA and Adjusted Free Cash Flow are not

measures of financial performance calculated in accordance with GAAP, they should not be considered in isolation or as a substitute for operating income, net income or loss, cash flows provided by operating, investing and financing activities, or other income or cash flow statement data prepared in accordance with GAAP. Additionally, Adjusted Free Cash Flow does not represent the total increase or decrease in our cash balance, and it should not be inferred that the entire amount of Adjusted Free Cash Flow is available for dividends, debt or share repurchases or other discretionary expenditures, since we have non-discretionary expenditures that are not deducted from this measure.

EBITDA, Adjusted EBITDA and Adjusted Free Cash Flow are widely used by investors and other users of our consolidated financial statements as supplemental financial measures that, when viewed with our GAAP results and the accompanying reconciliations, we believe provide additional information that is useful to gain an understanding of the factors and trends affecting our ability to service debt, pay income taxes and fund drydocking charges, maintenance capital improvements and non-vessel capital expenditures. We also believe the disclosure of EBITDA, Adjusted EBITDA and Adjusted Free Cash Flow helps investors or lenders meaningfully evaluate and compare our cash flow generating capacity from quarter to quarter and year to year.

EBITDA, Adjusted EBITDA and Adjusted Free Cash Flow are also financial metrics used by management as supplemental internal measures 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 the EBITDA, Adjusted EBITDA and Adjusted Free Cash Flow of other companies, vessels or other assets when evaluating potential acquisitions; to assess our ability to service existing fixed charges and incur additional indebtedness; and to purchase, convert or construct additional vessels. Additionally, we have historically made certain adjustments to EBITDA to internally evaluate our performance based on the computation of ratios used in certain financial covenants of our credit agreements with various lenders, whenever applicable. Currently, our credit agreements have incurrence tests and other financial covenants, including coverage and leverage ratios. These ratios are calculated using certain adjustments to EBITDA defined by our credit agreements, which adjustments are consistent with those reflected in Adjusted EBITDA in this prospectus. In addition, we believe that, based on covenants in prior credit facilities, future debt arrangements may require compliance with certain ratios that will likely include EBITDA or Adjusted EBITDA in the computations. Adjusted EBITDA is also currently utilized in connection with the Company’s short-term cash bonus incentive compensation programs.

The following tables reconcile cash flows provided by operating activities to EBITDA, Adjusted EBITDA and Adjusted Free Cash Flow, as we define those terms, for the six months ended June 30, 2024 and 2023, and the years ended December 31, 2023, 2022 and 2021, respectively:

	Six Months Ended June 30,		Year Ended December 31,		
(dollars in thousands)	2024	2023	2023	2022	2021
EBITDA Reconciliation to GAAP:					
Net cash flows provided by operating activities	$26,666	$ 62,349	$ 146,115	$ 112,967	$ 49,611
Cash paid for deferred drydocking charges	26,106	15,416	29,828	19,114	14,113
Cash paid for interest	14,556	15,502	32,970	8,868	8,467
Cash paid for income taxes	13,035	1,136	9,311	474	2,399
Recovery of (provision for) credit losses	34	(386)	(551)	(257)	(44)
Changes in other operating assets and liabilities	11,805	7,260	(19,166)	38,995	(516)
Stock-based compensation expense	(4,423)	(15,363)	(19,097)	(5,330)	(3,372)
Amortization of deferred contract-specific costs of sales	(431)	(489)	(1,028)	—	—
Fair value adjustment of liability-classified warrants	696	(4,533)	(10,917)	(41,408)	(15,150)
Loss on early extinguishment of debt, net	—	—	(1,236)	(44)	—
Gain on sale and disposal of assets	31	2,566	2,702	21,837	2,679
EBITDA	$88,075	$ 83,458	$ 168,931	$ 155,216	$ 58,187
Adjusted EBITDA Reconciliation to GAAP:					
Net cash flows provided by operating activities	$26,666	$ 62,349	$ 146,115	$ 112,967	$ 49,611
Cash paid for deferred drydocking charges	26,106	15,416	29,828	19,114	14,113
Cash paid for interest	14,556	15,502	32,970	8,868	8,467
Cash paid for income taxes	13,035	1,136	9,311	474	2,399
Recovery of (provision for) credit losses	34	(386)	(551)	(257)	(44)
Changes in other operating assets and liabilities	11,805	7,260	(19,166)	38,995	(516)
Amortization of deferred contract-specific costs of sales	(431)	(489)	(1,028)	—	—
Interest income	3,007	4,830	9,755	2,832	510
Gain on sale and disposal of assets	31	2,566	2,702	21,837	2,679
Terminated debt refinancing costs	—	3,633	3,693	—	—
Adjusted EBITDA	$94,809	$ 111,817	$ 213,629	$ 204,830	$ 77,219
Adjusted Free Cash Flow Reconciliation to GAAP:					
Net cash flows provided by operating activities	$26,666	$ 62,349	$ 146,115	$ 112,967	$ 49,611
Cash paid for maintenance capital improvements	(9,969)	(3,782)	(7,745)	(3,762)	(3,826)
Cash paid for non-vessel capital expenditures	(315)	(415)	(1,087)	(1,328)	(688)
Recovery of (provision for) credit losses	34	(386)	(551)	(257)	(44)
Changes in other operating assets and liabilities	11,805	7,260	(19,166)	38,995	(516)
Amortization of deferred contract-specific costs of sales	(431)	(489)	(1,028)	—	—
Interest income	3,007	4,830	9,755	2,832	510
Gain on sale and disposal of assets	31	2,566	2,702	21,837	2,679
Terminated debt refinancing costs	—	3,633	3,693	—	—
Adjusted Free Cash Flow	$30,828	$ 75,566	$ 132,688	$ 171,284	$ 47,726

The following table provides the detailed components of EBITDA, Adjusted EBITDA and Adjusted Free Cash Flow as we define those terms, for the six months ended June 30, 2024 and 2023, and the years ended December 31, 2023, 2022 and 2021 (in thousands):

	Six Months Ended June 30,		Year Ended December 31,		
	2024	2023	2023	2022	2021
Components of EBITDA:					
Net income	$ 44,226	$ 36,835	$ 74,538	$ 80,762	$ 2,987
Interest, net					
Interest expense	13,437	22,972	39,802	41,172	35,794
Interest income	(3,007)	(4,830)	(9,755)	(2,832)	(510)
Total interest, net	10,430	18,142	30,047	38,340	35,284
Income tax expense	3,163	6,362	16,495	7,174	1,533
Depreciation	18,093	11,753	26,355	18,601	15,672
Amortization	12,163	10,366	21,496	10,339	2,711
EBITDA	$ 88,075	$ 83,458	$168,931	$155,216	$ 58,187
Loss on early extinguishment of debt, net	$ —	$ —	$ 1,236	$ 44	$ —
Stock-based compensation expense	4,423	15,363	19,097	5,330	3,372
Interest income	3,007	4,830	9,755	2,832	510
Fair value of liability-classified warrants	(696)	4,533	10,917	41,408	15,150
Terminated debt refinancing costs	—	3,633	3,693	—	—
Adjusted EBITDA	$ 94,809	$111,817	$213,629	$204,830	$ 77,219
Cash paid for deferred drydocking charges[1]	$(26,106)	$ (15,416)	$ (29,828)	$ (19,114)	$(14,113)
Cash paid for maintenance capital improvements[1]	(9,969)	(3,782)	(7,745)	(3,762)	(3,826)
Cash paid for non-vessel capital expenditures[1]	(315)	(415)	(1,087)	(1,328)	(688)
Cash paid for interest	(14,556)	(15,502)	(32,970)	(8,868)	(8,467)
Cash paid for income taxes	(13,035)	(1,136)	(9,311)	(474)	(2,399)
Adjusted Free Cash Flow	$ 30,828	$ 75,566	$132,688	$171,284	$ 47,726

(1) For additional information concerning these items, see "Management's Discussion and Analysis of Financial Condition and Results of Operations—Liquidity and Capital Resources—Capital Expenditures and Related Commitments."

Set forth below are the material limitations associated with using EBITDA, Adjusted EBITDA and Adjusted Free Cash Flow as non-GAAP financial measures compared to cash flows provided by operating activities:

- EBITDA, Adjusted EBITDA and Adjusted Free Cash Flow do not reflect the future capital expenditure requirements that may be necessary to replace our existing vessels upon expiration of their useful lives;
- EBITDA, Adjusted EBITDA and Adjusted Free Cash Flow do not reflect the interest, future principal payments and other financing-related charges necessary to service the debt that we have incurred in acquiring and constructing our vessels;
- EBITDA, Adjusted EBITDA and Adjusted Free Cash Flow do not reflect the deferred income taxes that we will eventually have to pay once we are no longer in an overall NOL carryforward position, as applicable; and

- EBITDA, Adjusted EBITDA and Adjusted Free Cash Flow do not reflect changes in our net working capital position.

Management compensates for the above-described limitations in using EBITDA, Adjusted EBITDA and Adjusted Free Cash Flow as non-GAAP financial measures by only using EBITDA, Adjusted EBITDA and Adjusted Free Cash Flow to supplement our GAAP results.

Other Operating Data

(dollars in thousands)	Six Months Ended June 30, 2024	Six Months Ended June 30, 2023	Year Ended December 31, 2023	Year Ended December 31, 2022	Year Ended December 31, 2021
Offshore Supply Vessels:					
Average number of OSVs[1]	57.9	53.6	53.8	57.0	58.8
Average number of active OSVs[2]	36.9	31.4	32.2	26.7	22.2
Average OSV fleet capacity (DWT)[3]	256,552	232,419	235,514	229,001	228,256
Average OSV capacity (DWT)[4]	4,432	4,338	4,374	4,020	3,885
Average OSV utilization rate[5]	42.1%	44.4%	44.3%	37.7%	31.2%
Active OSV utilization rate[6]	66.0%	75.9%	74.0%	80.7%	82.8%
Average OSV dayrate[7]	$ 41,030	$ 37,587	$ 39,297	$ 32,305	$ 19,785
Effective OSV dayrate[8]	$ 17,274	$ 16,689	$ 17,409	$ 12,179	$ 6,173
Multi-Purpose Support Vessels:					
Average number of MPSVs[1]	12.0	12.0	12.0	12.0	12.0
Average number of active MPSVs[2]	12.0	11.0	11.2	10.4	8.9
Average MPSV utilization rate[5]	72.4%	71.1%	68.4%	65.2%	46.7%
Active MPSV utilization rate[6]	72.4%	77.5%	73.6%	75.0%	63.0%
Average MPSV dayrate[7]	$ 64,130	$ 61,231	$ 62,372	$ 53,421	$ 40,245
Effective MPSV dayrate[8]	$ 46,430	$ 43,535	$ 42,662	$ 34,830	$ 18,794

(1) Represents the weighted-average number of vessels owned during the period, adjusted to reflect date of acquisition or disposition of vessels. We owned 55 and 54 OSVs and 12 MPSVs as of December 31, 2023 and December 31, 2022, respectively. Excluded from the data as of December 31, 2023 and 2022 are four non-owned vessels that we now manage for the U.S. Navy, one OSV acquired from the U.S. Department of Transportation's Maritime Administration that is currently undergoing conversion into a MPSV for dual-service as either a C/SOV or flotel, and two partially constructed Jones Act-qualified MPSV newbuilds to be completed pursuant to our settlement with the Surety. We owned 60 and 53 OSVs and 12 MPSVs as of June 30, 2024 and June 30, 2023, respectively. Excluded from the data as of June 30, 2024 and June 30, 2023 are four non-owned vessels that we manage for the U.S. Navy, one OSV acquired from the U.S. Department of Transportation's Maritime Administration that is currently undergoing conversion into a MPSV for dual-service as either a C/SOV or flotel 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, 2022, nine such vessels, (ii) as of December 31, 2023, five such vessels and (iii) as of June 30, 2023, seven such vessels. The Company also sold two and ten OSVs during 2023 and 2022, 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 capacity of OSVs during the same period.

(4) Represents actual capacity of the OSVs owned during the period on a weighted-average basis, adjusted to reflect date of acquisition or disposition of vessels.
(5) 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 revenue 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.

RISK FACTORS

An investment in our common stock involves a high degree of risk. You should carefully consider the risks described below, together with the other information in this prospectus, before deciding whether to purchase our common stock. If any of the risks described below actually occur, our business, financial condition, results of operations or prospects could be materially adversely affected. In any such case, the trading price of our common stock could decline and you could lose all or part of your investment.

Risks Relating to Our Business

We derive 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 our 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 we operate 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 invasion of Ukraine and sanctions related thereto, as well as the ongoing conflict in Israel and the surrounding region;
- 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 we operate 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 we anticipate 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 our services and any decreases, over a sustained period of time, could have a material adverse effect on our business, financial condition, results of operations and cash flows.

Our business also depends on our 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 our customers, could result in significant periodic fluctuations in our 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 us arise, or if we encounter disputes with customers involving such payment obligations, we may face difficulties in collecting payment of amounts due to us, including for costs we previously incurred.

Impairment of our long-term assets may adversely impact our financial position and results of operations.

We periodically evaluate our long-lived assets, including our property and equipment, and intangible assets. In performing these assessments, we project future cash flows on an undiscounted basis for long-lived assets and compare these cash flows to the carrying amount of the related assets. These cash flow projections are based on our current operating plans, estimates and judgmental assumptions. We perform the assessment of potential impairment for our 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 we determine that our estimates of future cash flows were inaccurate or our actual results are materially different from what we have predicted, we could record additional impairment charges in future periods, which could have a material adverse effect on our financial position and results of operations.

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

Substantial portions of our 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 us 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 our business, financial position, results of operations, cash flows and growth prospects.

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

Because we own and operate 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 the capital stock of the Company must be owned

and controlled by U.S. citizens. We are responsible for monitoring the ownership of our equity securities and subsidiaries to ensure compliance with the citizenship requirements of the Jones Act. If we do not continue to comply with such requirements, we would be prohibited from operating our 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.

Our operations may be impacted by changing macroeconomic conditions, including inflation.

Inflation has been an ongoing concern in the U.S. since 2021. Ongoing inflationary pressures have resulted in and may result in additional increases to the costs of goods, services and personnel, which in turn could cause our capital expenditures and operating costs to rise. Sustained levels of high inflation caused the U.S. Federal Reserve and other central banks to increase interest rates multiple times in 2022 and 2023 in an effort to curb inflationary pressure on the costs of goods and services, which could have the effects 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 our business. Further, we are unable to predict the impact of efforts by the U.S. Federal Reserve and other central banks to combat elevated levels of inflation. If their efforts are too aggressive, they may lead to a recession. Alternatively, if they are insufficient or are not sustained long enough to lower inflation to more acceptable levels, consumer spending may be adversely impacted for a prolonged period of time, which could impact oil prices. Any of these events could materially affect our business and operating results.

High oil prices are also inflationary and governmental or economic responses to high oil prices could impact the operations of our 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 our 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, our financial performance.

Certain developments in the global oil and gas markets, such as the Russian invasion of Ukraine and related sanctions, and the ongoing conflict in Israel and the surrounding region have had, and may continue to have, material adverse consequences for general economic, financial and business conditions, and could materially and adversely affect our business, financial condition, results of operations and liquidity and those of our customers, suppliers and other counterparties.

Changes in the supply of and demand for oil and gas impacts the level of services that we provide to customers, which in turn impacts our financial position, results of operations and cash flows.

Although as of the date of this prospectus we have not been materially impacted by the resulting supply chain disruptions, the Russian invasion of Ukraine and related sanctions have significantly disrupted supply chains for crude oil and natural gas. We cannot predict the level of future demand, effects on domestic pricing, and impacts on U.S. oil and gas production. Further, the Russia Ukraine conflict 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 economic slowdown or recession in Europe or globally, 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 we handle, which could have significant adverse consequences on our financial condition and the financial condition of our customers, suppliers and other counterparties, and could diminish our 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 our vessels may support. While the geographic areas in which we operate are largely unaffected by these sanctions, they could negatively impact our business and financial condition. Further, the ongoing conflict in Israel and the surrounding region could escalate into a broader conflict that could disrupt energy operations and supply chains globally.

Our 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 our 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 our business, results of operations or cash flows. In the event of extreme prolonged adverse market events, such as a global credit crisis, we could incur significant losses. The future impact of these current events on our financial condition, results of operations and cash flows depends largely on developments outside our control which cannot be predicted with certainty.

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

Our operations are subject to extensive federal, state and local laws and regulations, including complex environmental laws and occupational health and safety laws. We 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 us to administrative, civil, and criminal penalties. In the event of environmental violations or accidental spills or releases, we 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 our 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 our 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 GHGs or other climate change concerns, could require us to devote capital or other resources to comply with these laws and regulations. These changes could also subject us to additional costs and restrictions, including increased fuel costs. Such changes in laws or regulations could increase costs of compliance and doing business for our customers and thereby decrease the demand for our services. Because our 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 our business if such laws and regulations reduce the worldwide demand for oil and gas or limit drilling opportunities for our customers.

Additionally, we operate our vessels in a number of international markets and are subject to various international treaties and the local laws and regulations in jurisdictions where our 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 our ability to carry out operations overseas.

The Inflation Reduction Act of 2022 could accelerate the transition to a low carbon economy and impose increased costs on our customers.

In August 2022, President Biden signed the Inflation Reduction Act of 2022 ("IRA 2022") into law. The IRA 2022 contains incentives for the development of renewable energy, clean hydrogen, clean fuels, electric vehicles and supporting infrastructure and carbon capture and sequestration, among other provisions. These incentives could further accelerate the transition of the U.S. economy away from the use of fossil fuels towards lower-or zero-carbon emissions alternatives, which could decrease demand for oil and gas and consequently reduce demand for our services in that sector. In addition, the IRA 2022 imposes the first ever federal fee on the emission of GHGs through a methane emissions charge. The IRA 2022 amends the federal Clean Air Act ("CAA") to impose a fee on the emission of methane above certain thresholds established in the IRA 2022 from sources required to report their GHG emissions to the U.S. Environmental Protection Agency ("EPA"). The methane emissions charge will begin accruing during calendar year 2024 at a rate of $900 per ton of methane above applicable emissions thresholds, increase to $1,200 per ton above thresholds in 2025, and be set at $1,500 per ton above thresholds for 2026 and each year thereafter. In January 2024, the EPA issued a proposed rule that would require facilities to calculate and pay these methane emissions charges for the prior year's emissions by March 31, 2025, with future filings due on an annual basis. The methane emissions charge and other related initiatives targeting methane emissions could increase our customers' operating costs in the oil and gas industry and reduce demand for our services.

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 our services and products and have a material adverse effect on our business, financial condition or results of operations.

We provide services for oil and natural gas exploration and production customers operating offshore in the deepwaters of the U.S. and in other countries. In the U.S., President Biden issued an executive order in January 2021 that commits to substantial action on climate change, calling for, among other things, the elimination of subsidies provided to the fossil fuel industry and an increased emphasis on climate-related risks across government agencies and economic sectors. In September 2023, the Biden Administration announced that federal agencies will be directed to consider the social cost of GHGs in agency budgeting, procurement, and other agency decisions, including in environmental reviews conducted pursuant to the National Environmental Policy Act, where appropriate. Additionally, regulatory agencies under the Biden Administration may issue new or amended rulemakings regarding deepwater and ultra-deepwater leasing, permitting or drilling that could result in more stringent or costly restrictions, delays or cancellations in offshore oil and natural gas exploration and production activities. Additionally, decisions regarding federal offshore leasing have been subject to legal challenges that could delay or suspend offshore lease auctions, adversely affecting our customers' businesses and reducing demand for our services. In December 2023, the U.S. Department of the Interior ("DOI") finalized a new five-year offshore leasing plan for the U.S. GoM. The plan calls for a maximum of three offshore lease sales, in 2025, 2027 and 2029, and no lease sales will be held in 2024. The five-year lease plan represents the smallest number of planned sales in the history of the offshore leasing program. In early 2024, legal challenges to the plan were filed by both industry and environmental groups.

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 our 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 our 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 our services. We cannot predict with any certainty the full impact of any new laws, regulations, executive actions or regulatory initiatives on our 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 our business, financial condition and results of operations.

We operate 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. Our 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 our profitability. A sustained inability to win contracts in our key markets would put pressure on our ability to service our debt.

Our financial and operating performance may be subject to the state of the offshore wind energy market.

Our results of operations may be subject to the state of the offshore wind energy market and the inherent complexity of developing wind energy projects. In addition to the state and federal government policies supporting 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.

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

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

In crewing our vessels, we require 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 our vessels. We face strong competition within the broader oilfield industry for employees and potential employees, including competition from drilling rig operators for fleet personnel. We may have difficulty hiring employees or finding suitable replacements as needed and it is possible that we would have to raise wage rates or increase benefits offered to attract workers and to retain current employees. In such circumstances, if we are unable to increase our service rates to customers to compensate for wage increases or recruit qualified personnel to operate vessels at full utilization, our financial condition and results of operations may be adversely affected.

Additionally, the ongoing viability and potential growth of our contractual relationship with the U.S. military is dependent on our 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 our operations could adversely affect our current and future business with the military and, in turn, adversely affect our financial results.

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

We may be adversely affected by potential litigation.

In the future, we 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 our financial results. It is not possible to predict the potential litigation that we may become party to nor the final resolution of such litigation. The impact of any such litigation on our 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, we have in the past elected, and may in the future elect, to stack certain vessels in our 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 we can deploy to service our customers and limits potential revenues. If market conditions should decline, we may be required to stack additional vessels.

When we elect to reactivate the stacked vessels, we 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 our fleet, the cost of replacement parts for existing vessels, the geographic location of the vessels or the length of contracts. We 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 our financial results and operations.

If we are unable to fund these capital expenditures with our liquidity, we may be required to incur additional borrowings, or seek out additional financing arrangements with banks or other capital providers. Our failure to

obtain the funds for necessary future capital expenditures could have a material adverse effect on our business and on our financial position, results of operations and cash flows.

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

As of July 31, 2024, within our fleet, 18 U.S.-flagged OSVs and three foreign-flagged OSVs were stacked. Certain of our competitors have also stacked OSVs and may also stack additional OSVs from time to time. To the extent that we or our 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 our 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 our 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 our 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 our business.

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

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

Certain contracts for our vessels, including contracts with the United States government, allow for early termination at the customer's option. Many of our contracts that contain early termination provisions contain remedies or other provisions that would compensate us 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 us for the loss of the contract.

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

Until we replace the terminated contracts with new contracts, our 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 we 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 our services may be impacted by volatility in oil and gas markets, which could ultimately adversely affect our financial position, results of operations or cash flows. As of July 31, 2024, within our fleet, 18 U.S.-flagged OSVs and three foreign-flagged OSVs were stacked. Further, as of July 31, 2024, we had 46 existing contracts for our vessels that are currently operating, which have durations ranging from 8 days to five years. When oil and natural gas prices are low or it is expected that such prices will decrease in the future, we may be unable to obtain

contracts at attractive dayrates or at all. We may not be able to obtain new contracts in direct continuation with existing contracts, or depending on prevailing market conditions, we may enter into contracts at dayrates substantially below the existing dayrates or on terms otherwise less favorable.

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

We began constructing two Jones Act-qualified MPSVs under our prior newbuild program. These vessels are large and complex. We estimate that the cost to complete these vessels will exceed the $53.8 million total contract price we are required to pay for their completion and that the sureties that have taken over their construction will be required to pay significant sums in excess of our remaining original contract contribution. While the sureties are contractually required to fund these excess costs, they might not do so, which would result in delay and disputes. Moreover, the vessels are complex and the shipyard performing the completion work for the sureties may be unable or unwilling to perform on the anticipated timeline or at all, also potentially causing delay and disruption to our planned uses for the vessels.

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

We routinely engage 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 our ability to perform under our contracts, and significant cost overruns could adversely affect our operations and profitability.

At July 31, 2024, our total contracted backlog was $666.8 million. 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. 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. 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. We may not be able to realize the full amount of our total contracted backlog due to events beyond our control. In addition, some of our 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 our customers to seek bankruptcy protection or to seek to repudiate, cancel or renegotiate these agreements for various reasons. Our inability to realize the full amount of our total contracted backlog may have an adverse effect on our financial position, results of operations or cash flows.

In addition to industry concentrations, we have certain customer concentrations, and the loss of a significant customer would adversely impact our financial results.

For the six months ended June 30, 2024 and the year ended December 31, 2023, Occidental Petroleum Company accounted for 15% and 20% of our consolidated revenues, respectively, and MSC accounted for 16%

of our consolidated revenues. The loss or material reduction of business from a significant customer could therefore have a material adverse effect on our results of operations and cash flows. Moreover, our customer contracts subject us to counterparty risks. See "—We may be unable to collect amounts owed to us by customers." The ability of each of our counterparties to perform their obligations under a contract with us will depend on a number of factors that are beyond our control such as the overall financial condition of the counterparty. Should a significant customer fail to honor its obligations under an agreement with us, we could sustain losses, which could have a material adverse effect on our business, financial condition and results of operations.

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

We regularly consider possible acquisitions of single vessels, vessel fleets and businesses, such as our purchases of 19 OSVs since 2017. The success of this strategy is dependent upon our ability to identify appropriate acquisition targets, negotiate transactions on favorable terms, finance transactions, complete transactions and successfully integrate them into our existing business. Subject to the terms of our indebtedness, we 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 we consummate an acquisition, the process of integrating the new acquisition into our 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 our acquisitions and strategic investments could change rapidly and integration may be more costly to accomplish than we expect. Moreover, our 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 our ability to achieve anticipated levels of utilization, profitability or other benefits from the acquisitions, and ultimately could materially and adversely affect our 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, because of the upcoming United States presidential and congressional elections may have a material adverse effect on our results of operations, cash flows and financial position.

We and our customers, particularly in the oil and natural gas industry, face regulatory and tax uncertainties due to the upcoming United States presidential and congressional elections in the fall of 2024. The nature, timing

and economic effects of any potential change to the current legal and regulatory framework affecting our and our customers' businesses are uncertain. Some changes may adversely affect our or our customers' operations and have an adverse impact on our business, financial condition, results of operations and growth prospects. In addition, a significant portion of our revenue is generated from contracts with the United States government. For the six months ended June 30, 2024, charters with the MSC accounted for 16% of our 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 the presidential election or otherwise, the United States government's budget deficits, 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 our revenue through an inability to enter into favorable charters with the United States government.

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

In 2023, we were informed that the MSC was conducting a market survey of companies capable of providing services we currently perform pursuant to a ten-year O&M contract scheduled to expire in February, 2025. We were subsequently informed that the MSC would seek to renegotiate that O&M contract with us on a sole-source basis. Due to factors outside our control, including government budget cuts or other political events, such as a prolonged government shutdown, we 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.

Our contracts with the United States government may impose requirements related to climate change, such as requirements that we disclose information about our GHG emissions or that we set and publicize emissions reductions targets for our operations. For example, in November 2022, the Federal Acquisition Regulatory Council proposed a rule under which we would qualify as a "major" contractor with at least $50 million in annual federal contracts, and thus would be required to disclose our Scope 1 and 2 GHG emissions and our relevant Scope 3 GHG emissions, make annual disclosures aligned with the recommendations of the Task Force on Climate-Related Financial Disclosures, and set science-based emissions reduction targets. See "Business—Government Regulation—Climate Change." Our government contracts may be impacted by regulatory or legislative requirements related to climate change that could increase the cost of our government operations or accelerate obsolescence of vessels we employ for the government.

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

Our vessels are subject to operating risks, including, but not limited to:

- catastrophic marine disaster;
- adverse weather and sea conditions;
- 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 us to liability or costs.

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

Additionally, certain of our 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 our premiums or deductible levels could adversely affect our operating costs.

While we believe that our insurance coverage is adequate and insures against risks that are customary in the industry, we 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 we do 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 our 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, we may also be affected by actions of third-parties. For example, a third-party marine vessel may damage or destroy our assets or an accident caused by a third-party marine vessel may cause us 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 our vessels and increased costs, these hazards could cause serious injuries, fatalities, contamination or property damage for which we 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 our business and on our financial position, results of operations and cash flows.

Our 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 GoM, 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. In addition, climate change could result in an increase in the frequency and severity of tropical storms, hurricanes or other extreme weather events. In the future, during a tropical storm or hurricane, we 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, our customers would contract for our vessels in general and cause damage to our 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 our business, financial condition and results of operations.

Cybersecurity attacks may result in potential liability or reputational damage or otherwise adversely affect our business.

Many of our business and operational processes are heavily dependent on traditional and emerging technology systems, some of which are managed by us 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. We

use computerized systems to help run our financial and operations functions, including the processing of payment transactions, store confidential records and conduct vessel operations, which may subject our business to increased risks. If any of our financial, operational or other technology systems fail or have other significant shortcomings, our financial results could be adversely affected. Our financial results could also be adversely affected if an employee or other third party causes our operational systems to fail, either as a result of inadvertent error or by deliberately tampering with or manipulating our operational systems. In addition, dependence upon automated systems, including those on board our 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. We have experienced attempted cybersecurity attacks but have not suffered any material adverse effect to our business and operations as a result of such attempts. We have implemented security measures, internal controls and testing that are designed to detect and protect against cyberattacks. The Company regularly updates and reviews its testing protocols, however, no security measure is infallible. Despite these measures and any additional measures we may implement or adopt in the future, our facilities, vessels and systems, and those of our 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 our critical operations technologies and process control networks. Third-party systems on which we rely could also suffer such attacks or operational system failures. Any of these occurrences could result in material harm to our 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 the company's competitiveness, stock price and long-term shareholder value, or otherwise have an adverse effect on our 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.

Our operations in international markets and shipyard activities in foreign shipyards subjects us to risks inherent in conducting business internationally.

We derive a portion of our revenues from foreign sources. In addition, certain of our shipyard repair and procurement activities are being conducted with foreign vendors. We therefore face 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. We do not hedge against foreign currency risk. While we endeavor 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. We also face 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. For instance, since the fourth quarter of 2023, maritime regulators in Mexico have implemented new approaches in their oversight of Navieras that historically have had permissible levels of non-Mexican ownership, such as ours. As a result, we took legal action in Mexico to preserve our cabotage privileges there and a Mexican court has ordered that our cabotage privileges be reinstated. Despite favorable court rulings, Mexican maritime regulators have continued to limit our enjoyment of all privileges of a Mexican Naviera, including the ability to perform Mexican cabotage activities. Since the fourth quarter of 2023, we have moved all but one of our Mexican-flagged vessels into various non-Mexican international markets to continue utilizing our highly-skilled Mexican mariners and shore-based employees as part of our international

services, which we believe will result in a temporary reduction of revenue for some of those vessels. All of these risks associated with our international operations are beyond our control and difficult to insure against. We 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 our financial condition and results of operations.

Our employees are covered by federal laws that may subject us 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 our 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 we are generally not protected by the damage limits imposed by state workers' compensation statutes for these types of claims, we may be exposed to higher damage awards for these types of claims.

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

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

We may be unable to collect amounts owed to us by customers.

We typically grant customers credit on a short-term basis. Because we do not typically collect collateralized receivables from customers, we are subject to credit risk on the credit we extend. We estimate uncollectible accounts in our financial statements based on historical losses, current economic conditions, and individual customer evaluations. However, our estimates may not be accurate and the receivables due from customers as reflected in our financial statements may not be collectible.

Our 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 our 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 our insurance costs or risk retention, limit insurance availability or reduce the areas in which, or the number of days during which, our customers would contract for our vessels in general and in the U.S. GoM in particular. Such conditions could also cause damage to our assets. Any of these impacts, individually or in the aggregate, could materially and adversely affect our business, financial conditions, and results of operations. We are currently unable to predict the manner or extent of any such effect. Our ability to mitigate the adverse physical impacts of climate change depends in part upon our disaster preparedness and response and business continuity planning.

Combating the effects of climate change continues to attract considerable attention in the United States and internationally, 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, such as those contained in the IRA 2022, 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 ourselves or our customers, could adversely affect our business and the oil and gas industry. Accordingly, our business and operations, and those of our 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 our costs and require substantial capital, compliance, operating and maintenance costs, reduce demand for petroleum and related marine transportation services, reduce our 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 us or our 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 our services. Further, the U.S. Securities and Exchange Commission (the “SEC”) adopted its final rules for climate-related disclosures in March 2024 (the “SEC Climate Rules”), which will mandate extensive disclosure of certain climate-related information, including, among other items, material climate-related risks and related governance, strategy and risk management processes, and certain financial impacts. The SEC Climate Rules are currently stayed pending completion of judicial review and are widely expected to face additional legal challenges going forward. We cannot currently predict with certainty the timing and costs of implementation or any potential adverse impacts resulting from the SEC Climate Rules. However, assuming they take effect, we could incur additional operational and compliance burdens and increased costs relating to the assessment and disclosure of climate-related matters, including costs relating to establishment of additional internal controls and collecting, measuring and analyzing information related to such matters. Further, we cannot predict how any information disclosed pursuant to the rules may be used by financial institutions or investors. We may face increased litigation and enforcement risks, or limits or restrictions on our access to capital, related to disclosures made pursuant to the SEC Climate Rules.

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 our revenues. Furthermore, as our 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, we may be placed at a competitive disadvantage or may be forced by competitive pressures to implement new technologies at substantial costs. We 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 we use now or in the future were to become obsolete, our 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 our services or reduce our 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 our or our customers' operating and compliance costs, reduce demand for our services, and, together with negative investor sentiment, may have a material adverse effect on our business, financial condition, results of operations and cash flows. For further discussion, please see "Business—Government Regulation—Climate Change."

Increased scrutiny and changing stakeholder expectations with respect to ESG matters may impact our business and expose us to additional risks.

In recent years, companies across all industries are facing increasing scrutiny from stakeholders related to their ESG and 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 our ESG strategy or achieve sustainability goals and targets we have set, could damage our reputation, causing our investors or other stakeholders to lose confidence in the Company, and negatively impact our operations. There can be no assurance that we will be able to accomplish any announced goals, targets initiatives, commitments or objectives related to our ESG strategy, as statements regarding the same reflect our current plans and aspirations and are not guarantees that we will be able to achieve them within the timelines we announce, or at all. In certain circumstances, we could determine in our discretion that it is not feasible or practical to implement or complete certain of our ESG goals, targets, initiatives, policies or procedures based on cost, timing or other considerations. Our continuing efforts to research, establish, accomplish and accurately report on the implementation of our ESG strategy, including any ESG goals, may also create additional operational risks and expenses and expose us to reputational, legal and other risks. Moreover, while we may create and publish voluntary disclosures regarding ESG 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 ESG matters. The occurrence of any of the foregoing could have a material adverse effect on our business and financial condition.

Further, our business and growth opportunities require us to have strong relationships with various key stakeholders, including our investors, employees, suppliers, customers and others. We may face pressures from stakeholders, many of whom are increasingly focused on climate change, to prioritize sustainable energy practices, reduce our carbon footprint and promote sustainability while at the same time remaining a successfully operating business. If we do not successfully manage expectations across these varied stakeholder interests, it could erode our stakeholder trust and thereby affect our brand and reputation. Such erosion of confidence could negatively impact

our 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 for evaluating companies on their approach to ESG matters. Such ratings are used by some investors to inform their investment decisions and thus unfavorable ESG ratings could have a negative impact on our access to and cost of capital as well as our reputation.

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

Our reliance on third-party suppliers, manufacturers and service providers to secure equipment and materials used in our operations exposes us 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 our vessels. When we seek to reactivate stacked vessels, upgrade our active vessels or purchase additional vessels, these reductions and global supply chain constraints could make it more difficult for us to find equipment, materials, parts and labor for our vessels. If an alternative vendor to obtain equipment or parts is unavailable, many of the specialized parts and equipment we utilize 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, we have a sufficient fleetsize with legacy technology to use component parts from certain vessels to keep our 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 our routes or operations resulting in an adverse effect on our business. While we believe we maintain 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 our vessels, there can be no assurance that these measures would be sufficient to avoid an adverse impact on our 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 our ability to meet our commitments to customers on a timely basis and adversely impact our 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 our operating costs.

We may be unable to effectively and efficiently manage our fleet as we expand our business, which could have an adverse effect on our business, financial condition and results of operations.

We have expanded, and plan to continue to expand, the size, scope and nature of our business through mergers and acquisitions, resulting in an increase in the breadth of our fleet and service offerings and an expansion of our business geographically, including in traditional oilfield as well as offshore wind, military and other non-oilfield applications. Business expansion places increasing demands on us and/or our fleet. We must anticipate demand well into the future in order to service our extensive customer base. The inability to effectively and efficiently manage our assets to meet the current and future needs of our customers, which may vary widely from what is originally forecast due to a number of factors beyond our control, including periods of difficult market conditions or slowdowns in any of the business sectors or various regions in which we operate, could have an adverse effect on our business, financial condition and results of operations. We could experience any of these conditions at the same time, resulting in a relatively greater impact on our results of operations than they might have on other companies that have more diversified operations.

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

Certain of our directors, including those directors appointed by our 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 our 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 our interests. Although our 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 our interests. Additionally, the involvement of our directors with other business ventures may require their time and attention be shared with their other business ventures.

Our 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 our other investors and lenders. In addition, our 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 our business, as well as businesses that are significant existing or potential customers or service providers. Our principal stockholders or their investment managers or respective affiliates may also seek to acquire businesses and/or assets that we seek to acquire and, as a result, these acquisition opportunities may not be available to us or may be more expensive for us to pursue.

Risks Relating to Legal, Regulatory, Accounting and Tax Matters

We may be unable to maintain an effective system of disclosure controls and procedures or internal control over financial reporting and produce timely and accurate financial statements or comply with applicable regulations.

As a public company, we will be subject to the reporting requirements of the Securities Exchange Act of 1934, as amended (the "Exchange Act") the Sarbanes-Oxley Act of 2002 (the "Sarbanes-Oxley Act"), and, if approved for listing, the rules and regulations and the listing standards of NYSE.

The Sarbanes-Oxley Act requires, among other things, that we maintain effective disclosure controls and procedures and internal control over financial reporting. We are continuing to develop and refine our disclosure controls and other procedures that are designed to ensure that information required to be disclosed by us in the reports that we will file with the SEC is recorded, processed, summarized and reported within the time periods specified in SEC rules and forms and that information required to be disclosed in reports under the Exchange Act is accumulated and communicated to our principal executive and financial officers. We are also continuing to improve our internal control over financial reporting. In order to maintain and improve the effectiveness of our disclosure controls and procedures and internal control over financial reporting, we have expended, and anticipate that we will continue to expend, significant resources, including accounting-related costs and significant management oversight.

We may discover weaknesses in our disclosure controls and procedures and internal control over financial reporting in the future. Any failure to develop or maintain effective controls or any difficulties encountered in their implementation or improvement could harm our operating results or cause us to fail to meet our reporting obligations and may result in a restatement of our financial statements for prior periods. Any failure to implement and maintain effective internal control over financial reporting also could adversely affect the results of periodic management evaluations and annual independent registered public accounting firm attestation reports regarding the effectiveness of our internal control over financial reporting that we will eventually be required to include in our periodic reports that will be filed with the SEC. Ineffective disclosure controls and procedures and internal control over financial reporting could cause delays in our ability to comply with public company reporting requirements (including under the Exchange Act or stock exchange rules) and could also cause investors to lose confidence in our reported financial and other information, which could have a negative effect on the trading price of our common stock. In addition, if we are unable to continue to meet these requirements, we may not be

able to remain listed on the NYSE. We are not currently required to comply with the SEC rules that implement Section 404 of the Sarbanes-Oxley Act and are therefore not required to make a formal assessment of the effectiveness of our internal control over financial reporting for that purpose. As a public company, we will be required to provide an annual management report on the effectiveness of our internal control over financial reporting commencing with our second annual report.

Our independent registered public accounting firm is not currently required to formally attest to the effectiveness of our internal control over financial reporting. Once such reporting becomes required, our independent registered public accounting firm may issue a report that is adverse in the event it is not satisfied with the level at which our internal control over financial reporting is documented, designed or operating. Any failure to maintain effective disclosure controls and internal control over financial reporting could have a material adverse effect on our business and operating results and could cause a decline in the price of our common stock.

We and our directors and executive officers may be subject to litigation for a variety of claims, which could harm our reputation and adversely affect our business, results of operations and financial condition.

In the ordinary course of business, we have in the past and may in the future be involved in and subject to litigation for a variety of claims or disputes and receive regulatory inquiries. These claims, lawsuits and proceedings could include labor and employment, wage and hour, commercial, regulatory, antitrust, alleged securities law violations or other investor claims, environmental damage, claims that our employees have wrongfully disclosed or we have wrongfully used proprietary information of our employees' former employers and other matters. Claims under any such litigation may be material or may be indeterminate. The number and significance of these potential claims and disputes may increase as our business expands. Further, our general liability insurance may not cover all potential claims made against us or be sufficient to indemnify us for all liability that may be imposed. Any claim against us, regardless of its merit, could be costly, divert management's attention and operational resources, and harm our reputation.

Our directors and executive officers may also be subject to litigation. The limitation of liability and indemnification provisions that are included in our amended and restated certificate of incorporation, our amended and restated bylaws and indemnification agreements that we have entered into with our directors and executive officers provide that we will indemnify our directors and officers to the fullest extent permitted by Delaware law and may discourage stockholders from bringing a lawsuit against our directors and executive officers for breach of their fiduciary duties. Such provisions may also reduce the likelihood of derivative litigation against our directors and executive officers, even though an action, if successful, might benefit us and other stockholders. Further, a stockholder's investment may be harmed to the extent that we pay the costs of settlement and damage awards against our directors and executive officers as required by these indemnification provisions. We have obtained insurance policies under which, subject to the limitations of the policies, coverage is provided to our directors and executive officers against loss arising from claims made by reason of breach of fiduciary duty or other wrongful acts as a director or executive officer, including claims relating to securities matters, and to us with respect to payments that may be made by us to these directors and executive officers pursuant to our indemnification obligations or otherwise as a matter of law. These insurance policies may not cover all potential claims made against our directors and executive officers, may not be available to us in the future at a reasonable rate and may not be adequate to indemnify us for all liability that may be imposed.

As litigation is inherently unpredictable, we cannot assure you that any potential claims or disputes will not harm our business, results of operations and financial condition.

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.

In connection with the closing of this offering, we will amend and restate our Third Amended and Restated Trade Name and Trademark License Agreement, dated September 4, 2020 (the "Third A&R License Agreement"). Pursuant to the Fourth A&R License Agreement (as defined herein) between us and HFR, LLC ("HFR"), we will have an exclusive license to use the various Hornbeck trade names and trademarks provided in the Fourth A&R License Agreement, which include "Hornbeck," "Hornbeck Offshore," "Hornbeck Offshore Services," "HOS," "HOSMAX," "HOSS" and our current horse head logos (the "Hornbeck Brands"). The Fourth A&R License Agreement will have a term of ten years, which can be extended at the option of the Company, provided that Todd M. Hornbeck is our CEO or Chairman of our Board of Directors and the Company pays a renewal fee of $10 million to HFR (as adjusted for inflation over the first ten-year term). The Fourth A&R License Agreement will be terminable for our material breach of the Fourth A&R License Agreement, or if Todd Hornbeck is no longer our CEO or Chairman of our Board of Directors and has been terminated with or without cause or has resigned or departed the Company for good reason as set forth in his employment agreement. In each of these events, the Company is entitled to a wind-down period of between two and five years, depending upon the event and the date of its occurrence, or by us for convenience.

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

Our success also depends in part upon successful prosecution, maintenance, enforcement and protection of our owned and licensed intellectual property, including the Hornbeck Brands that we license from HFR. Under the Fourth A&R License Agreement, we will be obligated to take actions to obtain, maintain, enforce and protect the Hornbeck Brands. Should we fail to maintain, enforce or protect the Hornbeck Brands or other intellectual property, we could be materially harmed. See "Certain Relationships and Related Party Transactions—Third and Fourth Amended and Restated License Agreement."

Defending against intellectual property claims could adversely affect our business.

We may from time to time face allegations that we are infringing, misappropriating or otherwise violating the intellectual property rights of third parties, including the intellectual property rights of our competitors. We may be unaware of the intellectual property rights that others may claim cover some or all of our technology or services. Irrespective of the validity of any such claims, we 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 our business, contracts, financial condition, operating results, liquidity and prospects.

Even if these matters do not result in litigation or are resolved in our 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 our management team and harm our business, our operating results and our reputation.

Subjective estimates and judgments used by management in the preparation of our financial statements, including estimates and judgments that may be required by new or changed accounting standards, may impact our 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 our 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 our financial statements. These changes can materially impact how we record and report our financial condition and results of operations. In some instances, we could be required to apply a new or revised standard retrospectively. If the estimates and judgments we use in preparing our financial statements are subsequently found to be incorrect or if we are required to restate prior financial statements, our financial condition or results of operations could be significantly affected.

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

Changes in tax laws in any of the multiple jurisdictions in which we operate, or adverse outcomes from tax audits that we may be subject to in any such jurisdiction, could result in an unfavorable change in our effective tax rate, which could adversely affect our business, financial condition and operating results. In particular, in the United States, the recently enacted IRA 2022 introduced, among other changes, a 15% corporate minimum tax on certain United States corporations and a 1% excise tax on certain stock redemptions by publicly traded United States corporations. We do not currently expect that the 15% corporate minimum tax or 1% excise tax would have an effect on our overall effective tax rate. However, we are currently unable to predict the ultimate impact of the IRA 2022 or any further changes in U.S. tax law on our business, financial condition and operating results. In addition, tax laws are dynamic and subject to change as new laws are passed and new interpretations of the law are issued or applied. For example, the Biden administration has proposed several tax increases, including raising the U.S. corporate income tax rate from 21% to 28%.

Further, we operate in a number of jurisdictions, which contributes to the volatility of our effective tax rate. Changes in tax laws or the interpretation of tax laws in the jurisdictions in which we operate may affect our 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 our tax obligations. In addition, we are required under GAAP to place valuation allowances against our 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 our 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, our effective tax rate will likely continue to experience significant fluctuations. Furthermore, certain foreign jurisdictions may take actions to delay our ability to collect value-added tax refunds.

Our ability to utilize our NOL carryforwards may be limited.

As of December 31, 2023, we had deferred tax assets related to U.S. federal NOL carryforwards of approximately $55.6 million and state NOL carryforwards of approximately $6.0 million. Our ability to utilize our U.S. federal and state NOL carryforwards depends on many factors, including our future income, which cannot be assured. Section 382 of the Internal Revenue Code of 1986, as amended (the “Code”) 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 of the Code). 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 increase their aggregate ownership by more than 50 percentage points over their lowest ownership percentage within a rolling three-year period. In the event that an ownership change occurs, utilization of the relevant corporation’s NOLs would be subject to an annual limitation under Section 382 of the Code, generally determined, subject to certain adjustments, by multiplying (i) the fair market value of the

corporation's equity at the time of the ownership change by (ii) the highest percentage approximately equivalent to the yield on long-term tax-exempt bonds for any month in the three-calendar month period ending with the calendar month in which the ownership change occurs. Any unused annual limitation may be carried over to later years. A portion of our NOLs is already limited under Section 382 of the Code as a result of an ownership change that occurred in connection with our reorganization in September 2020. We do not currently expect that this offering would result in an additional ownership change under Section 382 of the Code; however, future changes in our stock ownership, which may be outside of our control, may trigger an additional ownership change and, consequently, additional limitations under Section 382 of the Code. Any such limitations on our ability to use our NOL carryforwards to offset future taxable income could adversely affect our future cash flows. Many states have similar laws, in addition to laws that suspend, reduce or eliminate the ability to carry losses forward. Our state NOLs relate to Louisiana and a portion of such NOLs are subject to an annual limitation due to the ownership change described above. Accordingly, our state NOLs totaling $6.0 million as of December 31, 2023 may be carried forward indefinitely, but the deductibility of a portion of such state NOLs may be limited to the lesser of 72% of the current year taxable income or the available NOL carryforward for returns filed on or after July 1, 2015.

We are 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 our business, financial condition and results of operations.

We are 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. Our 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.

We strive to conduct our business activities in compliance with relevant anti-corruption laws and regulations, and we have adopted proactive procedures to promote such compliance. While we are 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 our 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 our business, financial condition and results of operation. Moreover, we 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.

Our Creditor Warrants are accounted for as liabilities and changes in the value of these warrants could have a material effect on our financial results.

Our Creditor Warrants (warrants entitling holders to purchase common stock at a strike price set at an enterprise value of $621.2 million, or $27.83 per share ($ per share after giving effect to the stock split) (subject to adjustment)), were issued on September 4, 2020. ASC 815-40 provides for the remeasurement of the fair value of such derivatives at each balance sheet date, with a resulting non-cash gain or loss related to the change in the fair value being recognized in the consolidated statements of operations. As a result of the recurring fair value measurement, for so long as the Creditor Warrants remain outstanding or not amended, our financial statements and results of operations may fluctuate quarterly based on factors which are outside of our control. Due to the recurring fair value measurement, we expect that we will recognize non-cash gains or losses on the Creditor Warrants each reporting period that they remain outstanding or not amended and that the amount

of such gains or losses could be material. See Note 11 to our Annual Financial Statements and Note 9 to our Quarterly Financial Statements included elsewhere in this prospectus for additional information about the Creditor Warrants.

Risks Relating to Our Indebtedness

Our indebtedness could materially adversely affect our financial condition.

We have a significant amount of indebtedness. As of June 30, 2024, our total indebtedness was approximately $349.0 million, consisting of outstanding principal amount of Second Lien Term Loans under the Second Lien Credit Agreement.

Our substantial indebtedness could have important consequences, including the following:

- making it more difficult for us to satisfy our other obligations;
- limiting our ability to obtain additional financing to fund future working capital, capital expenditures, acquisitions or other general corporate requirements;
- requiring us to dedicate a substantial portion of our 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 our vulnerability to general adverse economic and industry conditions;
- limiting our flexibility in planning for and reacting to changes in the industry in which we compete;
- placing us at a disadvantage compared to other, less leveraged competitors; and
- increasing our cost of borrowing.

In addition, each of the First Lien Credit Agreement and the Second Lien Credit Agreement contains restrictive covenants that limit our ability to engage in activities that may be in our long-term best interest. Our 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 our debt and/or the exercise of other remedies by the lenders and other secured parties thereunder. See “Management’s Discussion and Analysis of Financial Condition and Results of Operations—Liquidity and Capital Resources.”

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

Our ability to make scheduled payments on or refinance our debt obligations depends on our 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 our control. We cannot be sure that our business will generate sufficient cash flows from operating activities, or that future borrowings will be available, to permit us to pay the principal, premium, if any, and interest on our indebtedness.

If our cash flows and capital resources are insufficient to fund our debt service obligations, we 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 our indebtedness. We may not be able to implement any such alternative measures, if necessary, on a timely basis or at all. Even if successful, we may not be able to negotiate such alternative actions on favorable terms and such actions may not be sufficient to allow us to meet our scheduled debt service obligations.

For example, the loans under the Second Lien Credit Agreement mature in March 2026. If, at such time, market conditions are materially different or our credit profile has deteriorated, the cost of refinancing our debt may be significantly higher than our indebtedness existing at that time and may require us to comply with more onerous covenants that could further restrict our business operations, or we 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 our future debt instruments may restrict, our ability to dispose of assets and use the proceeds from those dispositions and may also restrict our ability to raise debt or equity capital to be used to repay other indebtedness when it becomes due. We 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 "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 us or to comply therewith could have a material adverse effect on our business, financial condition and results of operations.

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

We and our 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 us from incurring obligations that do not constitute indebtedness, such as the remaining $48.5 million commitment under the MPSV construction contracts as of June 30, 2024.

The terms of the First Lien Credit Agreement and the Second Lien Credit Agreement restrict our current and future operations, including our 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 our ability to engage in acts that may be in our long-term best interest. See "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 our ability to:

- incur additional indebtedness and guarantee indebtedness;
- pay dividends or make other distributions or repurchase or redeem our 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 our 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 our and our 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 our 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, we may be:

- limited in how we conduct our 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 our ability to grow in accordance with our 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 our bankruptcy or liquidation. Our principal stockholders hold $281.2 million of the Second Lien Term Loans.

Risks Related to this Offering and Ownership of Our Common Stock

No market currently exists for our common stock, and an active, liquid trading market for our common stock may not develop, which may cause shares of our common stock to trade at a discount from the initial offering price and make it difficult to sell the shares of common stock you purchase.

Prior to this offering, there has not been a public trading market for shares of our common stock. We cannot predict the extent to which investor interest in us will lead to the development of a trading market or how active and liquid that market may become. If an active and liquid trading market does not develop or continue, you may have difficulty selling your shares of our common stock at an attractive price or at all. The initial public offering price per share of common stock will be determined by negotiations between us and the underwriters, and may not be indicative of the price at which shares of our common stock will trade in the public market after this offering. The market price of our common stock may decline below the initial offering price and you may not be able to sell your shares of our common stock at or above the price you paid in this offering, or at all.

You will incur immediate and substantial dilution.

Existing stockholders have paid substantially less per share of our common stock than the price in this offering. The initial public offering price per share of our common stock will be substantially higher than the as adjusted net tangible book value per share of outstanding common stock prior to completion of this offering. Based on our as adjusted net tangible book value as of June 30, 2024, and upon the issuance and sale of shares of our common stock by us at an initial public offering price of $ per share (which is the midpoint of the estimated offering price range shown on the cover page of this prospectus), if you purchase our common stock in this offering, you will pay more for your shares than the amounts paid by our existing stockholders for their
shares and you will suffer immediate dilution of approximately $ per share. Dilution is the amount by which the offering price paid by purchasers of our common stock in this offering will exceed the as adjusted net tangible book value per share of our common stock upon completion of this offering. If the underwriters exercise their option to purchase additional shares you will experience additional dilution. You may experience additional

dilution upon future equity issuances or upon the exercise of our outstanding Jones Act Warrants or Creditor Warrants, exercise of options to purchase our common stock or the settlement of restricted stock units granted to our employees, executive officers and directors under our 2020 Management Incentive Plan or our 2024 Omnibus Incentive Plan. See "Dilution."

Our stock price may change significantly following this offering, and you may not be able to resell shares of our common stock at or above the price you paid or at all, and you could lose all or part of your investment as a result.

We and the underwriters will negotiate to determine the initial public offering price. You may not be able to resell your shares at or above the initial public offering price due to a number of factors such as those listed in "—Risks Relating to Our Business" and the following:

- results of operations that vary from the expectations of securities analysts and investors;
- results of operations that vary from those of our competitors;
- changes in expectations as to our future financial performance, including financial estimates and investment recommendations by securities analysts and investors;
- changes in economic conditions for companies in our industry;
- changes in market valuations of, or earnings and other announcements by, companies in our industry;
- declines in the market prices of stocks generally, particularly those of companies in our industry;
- additions or departures of key management personnel;
- strategic actions by us or our competitors;
- announcements by us, our competitors or our suppliers of significant contracts, price reductions, new products or technologies, acquisitions, joint marketing relationships, joint ventures, other strategic relationships or capital commitments;
- dilution as a result of the exercise of our outstanding Jones Act Warrants or Creditor Warrants;
- changes in preference of our customers;
- changes in general economic or market conditions or trends in our industry or the economy as a whole;
- changes in business or regulatory conditions;
- future sales of our common stock or other securities;
- investor perceptions of or the investment opportunity associated with our common stock relative to other investment alternatives;
- the public's response to press releases or other public announcements by us or third parties, including our filings with the SEC;
- announcements relating to litigation or governmental investigations;
- guidance, if any, that we provide to the public, any changes in this guidance or our failure to meet this guidance;
- the development and sustainability of an active trading market for our stock;
- changes in accounting principles; and
- other events or factors, including those resulting from informational technology system failures and disruptions, natural disasters, war, acts of terrorism, pandemics or responses to these events.

Furthermore, the stock market may experience extreme volatility that, in some cases, may be unrelated or disproportionate to the operating performance of particular companies. These broad market and industry fluctuations may adversely affect the market price of our common stock, regardless of our actual operating performance. In addition, price volatility may be greater if the public float and trading volume of our common stock is low.

In the past, following periods of market volatility, stockholders have instituted securities class action litigation. If we were to become involved in securities litigation, it could have a substantial cost and divert resources and the attention of executive management from our business regardless of the outcome of such litigation.

Because we have no current plans to pay cash dividends on our common stock, you may not receive any return on investment unless you sell your common stock for a price greater than that which you paid for it.

We have no current plans to pay cash dividends on our common stock. The declaration, amount and payment of any future dividends on our common stock will be at the sole discretion of our Board of Directors. Our Board of Directors may take into account general and economic conditions, our financial condition and results of operations, our available cash and current and anticipated cash needs, capital requirements, contractual, legal, tax and regulatory restrictions and implications on the payment of dividends by us to our stockholders or by our subsidiaries to us, including restrictions under the First Lien Credit Agreement and the Second Lien Credit Agreement, and such other factors as our Board of Directors may deem relevant. See "Dividend Policy."

As a result, you may not receive any return on an investment in our common stock unless you sell our common stock for a price greater than your purchase price.

Our common stock is subject to restrictions on foreign ownership and possible required divestiture by non-U.S. citizen stockholders.

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

Our amended and restated certificate of incorporation and our amended and restated bylaws authorize our Board of Directors to establish with respect to any class or series of capital stock of Hornbeck 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, our amended and restated certificate of incorporation provides that all non-U.S. citizens in the aggregate may not own more than 24% of the outstanding shares of our common stock. Our Jones Act trading privileges are conditioned upon foreign ownership of our common stock never exceeding 25%. While we 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. If foreign ownership exceeds 25%, we can take steps to force sales by foreign stockholders or issue additional stock to dilute the foreign ownership to an acceptable level, which could also dilute all common stockholders. Moreover, the USCG may temporarily or permanently revoke our coastwise trading privileges if we are not in compliance with the citizenship requirements, which would have a significant negative impact on our operations and financial results.

As of December 31, 2023, less than 24% of our outstanding common stock was owned by non-U.S. citizens. At and during such time that the permitted limit of ownership by non-U.S. citizens is reached with respect to shares of common stock, Hornbeck will be unable to issue any further shares of common stock or approve transfers of common stock to non-U.S. citizens. Any purported issuance or transfer of shares of our 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 existence and enforcement of these requirements could

have an adverse impact on the liquidity or market value of our equity securities in the event that U.S. citizens were unable to transfer Hornbeck shares to non-U.S. citizens. Furthermore, under certain circumstances, this ownership requirement could discourage, delay or prevent a change of control of Hornbeck.

If securities analysts do not publish research or reports about our business or if they downgrade our stock or our sector, our stock price and trading volume could decline.

The trading market for our common stock will rely in part on the research and reports that industry or financial analysts publish about us or our business. We do not control these analysts. Furthermore, if one or more of the analysts who do cover us downgrade our stock or our industry, or the stock of any of our competitors, or publish inaccurate or unfavorable research about our business, the price of our stock could decline. If one or more of these analysts stop covering us or fail to publish reports on us regularly, we could lose visibility in the market, which in turn could cause our stock price or trading volume to decline.

We will incur significantly increased costs and become subject to additional regulations and requirements as a result of becoming a public company, and our management will be required to devote substantial time to new compliance matters, which could lower our profits or make it more difficult to run our business.

As a public company, we will incur significant legal, regulatory, finance, accounting, investor relations and other expenses that we have not incurred as a private company, including costs associated with public company reporting requirements. As a result of having publicly traded common stock, we will also be required to comply with, and incur costs associated with such compliance with, the Sarbanes-Oxley Act and the Dodd-Frank Wall Street Reform and Consumer Protection Act, or the Dodd-Frank Act, as well as rules and regulations implemented by the SEC and the exchange on which we list our shares. The expenses incurred by public companies generally for reporting and corporate governance purposes have been increasing. We expect these rules and regulations to increase our legal and financial compliance costs and to make some activities more time-consuming and costly. Our management will need to devote a substantial amount of time to ensure that we comply with all of these requirements, diverting the attention of management away from revenue-producing activities. These laws and regulations also could make it more difficult or costly for us to obtain certain types of insurance, including director and officer liability insurance, and we may be forced to accept reduced policy limits and coverage or incur substantially higher costs to obtain the same or similar coverage. These laws and regulations could also make it more difficult for us to attract and retain qualified persons to serve on our Board of Directors, our board committees or as our executive officers. Furthermore, if we are unable to satisfy our obligations as a public company, we could be subject to delisting of our common stock, fines, sanctions and other regulatory action and potentially civil litigation.

Failure to comply with requirements to design, implement and maintain effective internal control over financial reporting could have a material adverse effect on our business and stock price.

As a privately-held company, we were not required to evaluate our internal control over financial reporting in a manner that meets the standards of publicly traded companies required by Section 404(a) of the Sarbanes-Oxley Act, or "Section 404."

As a public company, we will have significant requirements for enhanced financial reporting and internal controls. The process of designing and implementing effective internal controls is a continuous effort that requires us to anticipate and react to changes in our business and the economic and regulatory environments and to expend significant resources to maintain a system of internal controls that is adequate to satisfy our reporting obligations as a public company. If we are unable to establish or maintain appropriate internal financial reporting controls and procedures, it could cause us to fail to meet our reporting obligations on a timely basis, result in material misstatements in our consolidated financial statements and harm our results of operations. In addition, we will be required, pursuant to Section 404, to furnish a report by management on, among other things, the effectiveness of our internal control over financial reporting in the second annual report following the completion

of this offering. This assessment will need to include disclosure of any material weaknesses identified by our management in our internal control over financial reporting. The rules governing the standards that must be met for our management to assess our internal control over financial reporting are complex and require significant documentation, testing and possible remediation. Testing and maintaining internal controls may divert our management's attention from other matters that are important to our business. In addition, our independent registered public accounting firm will be required to issue an attestation report on the effectiveness of our internal control over financial reporting in the second annual report following the completion of this offering.

In connection with the implementation of the necessary procedures and practices related to internal control over financial reporting, we may identify deficiencies that we may not be able to remediate in time to meet the deadline imposed by the Sarbanes-Oxley Act for compliance with the requirements of Section 404. In addition, we may encounter problems or delays in completing the remediation of any deficiencies identified by our independent registered public accounting firm in connection with the issuance of their attestation report.

Our testing, or the subsequent testing by our independent registered public accounting firm, may reveal deficiencies in our internal controls over financial reporting that are deemed to be material weaknesses which could result in a material misstatement of our annual or quarterly consolidated financial statements or disclosures that may not be prevented or detected.

We may not be able to conclude on an ongoing basis that we have effective internal control over financial reporting in accordance with Section 404 or our independent registered public accounting firm may not issue an unqualified opinion. If either we are unable to conclude that we have effective internal control over financial reporting or our independent registered public accounting firm is unable to provide us with an unqualified opinion, investors could lose confidence in our reported financial information, which could have a material adverse effect on the trading price of our common stock.

Future sales, or the perception of future sales, by us or our existing stockholders in the public market following this offering could cause the market price for our common stock to decline.

After this offering, the sale of shares of our common stock in the public market, or the perception that such sales could occur, including sales by our existing stockholders and holders of our Jones Act Warrants and Creditor Warrants, could harm the prevailing market price of shares of our common stock. These sales, or the possibility that these sales may occur, also might make it more difficult for us to sell equity securities in the future at a time and at a price that we deem appropriate.

Upon completion of this offering and after giving effect to the stock split, we will have a total of shares of our common stock outstanding (shares if the underwriters exercise in full their option to purchase additional shares). Additionally, shares of our common stock will be issuable upon the exercise of Jones Act Warrants and shares of our common stock will be issuable upon the exercise of Creditor Warrants, with an exercise price of $0.00001 per share and $ per share, respectively, and shares of our common stock will be issuable upon exercise of outstanding options, at an average weighted exercise price of $, or upon settlement of restricted stock units under the 2020 Management Incentive Plan. Of the outstanding shares, the shares sold in this offering (or shares if the underwriters exercise in full their option to purchase additional shares) will be freely tradable, other than certain shares sold pursuant to our directed share program that are subject to "lock up" restrictions as described under "Underwriting (Conflicts of Interest)," without restriction or further registration under the Securities Act, except that any shares held by our affiliates, as that term is defined under Rule 144 of the Securities Act, or Rule 144, including our directors, executive officers and other affiliates (including our principal stockholders), may be sold only in compliance with the limitations described in "Shares Eligible for Future Sale."

The shares of common stock held by our principal stockholders and certain of our directors and executive officers after this offering, representing % of the total outstanding shares of our common stock following this

offering, will be "restricted securities" within the meaning of Rule 144 and subject to certain restrictions on resale. Restricted securities may be sold in the public market only if they are registered under the Securities Act or are sold pursuant to an exemption from registration such as Rule 144, as described in "Shares Eligible for Future Sale."

In connection with this offering, we, our directors and executive officers and certain holders of our outstanding common stock prior to this offering, including our principal stockholders, will sign lock-up agreements with the underwriters that will, subject to certain exceptions, restrict the disposition of, or hedging with respect to, the shares of our common stock or securities convertible into or exchangeable for shares of common stock, each held by them for 180 days following the date of this prospectus, except with the prior written consent of J.P. Morgan Securities LLC and Barclays Capital Inc. See "Underwriting (Conflicts of Interest)" for a description of these lock-up agreements. J.P. Morgan Securities LLC and Barclays Capital Inc., on behalf of the underwriters, may, in their sole discretion, release all or some portion of the shares subject to the 180-day lock-up agreements prior to the expiration of such period.

Upon the expiration of the lock-up agreements described above, all of such shares (other than shares under the 2020 Management Incentive Plan that are subject to contractual transfer restrictions) will be eligible for resale in a public market, subject, in the case of shares held by our affiliates, to volume, manner of sale and other limitations under Rule 144. We expect that our principal stockholders and their respective affiliates may be considered our affiliates based on their respective expected share ownership (consisting of approximately shares held by funds, investment vehicles or accounts managed or advised by Ares or its affiliates, shares held by Whitebox and shares held by Highbridge), as well as their board designation rights. Certain other of our stockholders may also be considered affiliates at that time.

In addition, pursuant to the Registration Rights Agreement (as defined herein), upon the completion of this offering, certain of our existing securityholders party thereto will have the right, subject to certain conditions, to require us to register the offer and sale of certain shares of our common stock owned by them (including shares of common stock issuable upon exercise of any Jones Act Warrants or Creditor Warrants owned by them) under the Securities Act. Registration of any of these shares of common stock would result in such shares becoming freely tradable without compliance with Rule 144 upon effectiveness of the registration statement. For a further description of these rights, see the section entitled "Certain Relationships and Related Party Transactions—Registration Rights Agreement." Following completion of this offering, the outstanding shares of our common stock covered by registration rights would represent approximately % of our outstanding common stock (or %, if the underwriters exercise in full their option to purchase additional shares). Additionally, shares of our common stock issuable upon the exercise of Jones Act Warrants and shares of our common stock issuable upon the exercise of Creditor Warrants will be covered by these registration rights.

As soon as practicable following this offering, we intend to file one or more registration statements on Form S-8 under the Securities Act to register all shares of our common stock subject to outstanding stock options and subject to issuance upon settlement of restricted stock units the shares of our common stock subject to issuance under our 2020 Management Incentive Plan and our 2024 Omnibus Incentive Plan to be adopted in connection with this offering. Any such Form S-8 registration statements will automatically become effective upon filing. Accordingly, shares registered under such registration statements will be available for sale in the open market. We expect that the initial registration statement on Form S-8 will cover shares of our common stock.

As restrictions on resale end, or if the existing stockholders exercise their registration rights, the market price of our shares of common stock could drop significantly if the holders of these shares sell them or are perceived by the market as intending to sell them. These factors could also make it more difficult for us to raise additional funds through future offerings of our shares of common stock or other securities.

In the future, we may also issue our securities in connection with investments or acquisitions. The amount of shares of our common stock issued in connection with an investment or acquisition could constitute a material portion of our then-outstanding shares of our common stock. Any issuance of additional securities in connection with investments or acquisitions may result in additional dilution to you.

The exercise of all or any number of outstanding Jones Act Warrants or Creditor Warrants or the issuance or vesting of equity awards may dilute your ownership of shares of common stock.

Hornbeck has a number of outstanding securities that provide for the right to purchase or receive shares of common stock, including two series of warrants and certain compensatory equity awards.

As of July 31, 2024, Hornbeck had 11.4 million shares of common stock issuable upon the exercise of Jones Act Warrants and 1.6 million shares of common stock issuable upon the exercise of Creditor Warrants (and , respectively, after giving effect to the stock split), with an exercise price of $0.00001 per share and $27.83 per share ($ per share after giving effect to the stock split), respectively. Investors could be subject to voting dilution upon the exercise of such warrants, each subject to Jones Act-related foreign ownership restrictions. With respect to compensatory equity awards, a total of 1.8 million shares (shares after giving effect to the stock split) of our common stock have been reserved for issuance under our 2020 Management Incentive Plan as equity-based awards to Hornbeck employees, directors and certain other persons.

The grant or vesting of equity awards, including any that we may grant or assume in the future, whether under our 2020 Management Incentive Plan, our 2024 Omnibus Incentive Plan to be adopted in connection with this offering, or any other equity plan sponsored by Hornbeck, and the exercise of warrants and the subsequent issuance of shares of common stock, could have an adverse effect on the market for our common stock, including the price that an investor could obtain for their shares of common stock.

We have a high level of concentrated stock ownership.

Certain of our stockholders, including our principal stockholders, have significant influence over us as a result of their share ownership. This concentration could lead to conflicts of interest and difficulties for non-insider investors to effect corporate changes, and could adversely affect our Company's share price. Our principal stockholders, collectively, would hold approximately % of our issued and outstanding shares of common stock upon the completion of this offering (giving effect to the exercise of our outstanding Jones Act Warrants and Creditor Warrants) and have the ability to influence all matters submitted to our stockholders for approval (including the election and removal of directors and any merger, consolidation or sale of all or substantially all of our assets). Accordingly, this concentration of ownership may have the effect of delaying, deferring or preventing a change in control of our Company, impeding a merger, consolidation, takeover or other business combination involving us or discouraging a potential acquirer from making a tender offer or otherwise attempting to obtain control of us, which in turn could have a material adverse effect on the market price of our shares. The issuance of stock options and warrants could lead to greater concentration of share ownership among insiders and could lead to dilution of share ownership which could lead to depressed share prices. In addition, our principal stockholders may have different interests than investors in this offering.

Anti-takeover provisions in our organizational documents could delay or prevent a change of control.

Certain provisions of our amended and restated certificate of incorporation and amended and restated bylaws may have an anti-takeover effect and may delay, defer or prevent a merger, acquisition, tender offer, takeover attempt, or other change of control transaction that a stockholder might consider in its best interest, including those attempts that might result in a premium over the market price for the shares held by our stockholders.

These provisions will provide for, among other things:

- limitations on the removal of directors;
- if the Appointing Persons (as defined in the amended and restated certificate of incorporation), in the aggregate, hold less than 35% of the outstanding shares of common stock, our amended and restated certificate of incorporation may only be amended by the affirmative vote of the holders of at least two-thirds of the voting power our then outstanding common stock; and
- establishing advance notice and certain information requirements for nominations for election to our Board of Directors or for proposing matters that can be acted upon by stockholders at stockholder meetings.

These anti-takeover provisions could make it more difficult for a third party to acquire us, even if the third party's offer may be considered beneficial by many of our stockholders. As a result, our stockholders may be limited in their ability to obtain a premium for their shares in such circumstances. See "Description of Capital Stock and Warrants."

Our Board of Directors will be authorized to issue and designate shares of our preferred stock without stockholder approval.

Our amended and restated certificate of incorporation authorizes our Board of Directors, without the approval of our stockholders, to issue shares of our preferred stock, subject to limitations prescribed by applicable law, rules and regulations and the provisions of our amended and restated certificate of incorporation, as shares of preferred stock in series, to establish from time to time the number of shares to be included in each such series and to fix the designation, powers, preferences and rights of the shares of each such series and the qualifications, limitations or restrictions thereof. The powers, preferences and rights of these series of preferred stock may be senior to or on parity with our common stock, which may reduce its value.

After the completion of this offering, our amended and restated certificate of incorporation will impose certain restrictions that may affect our ability to approve certain corporate actions.

Subject to certain conditions, under our amended and restated certificate of incorporation, for so long as our principal stockholders who maintain director nomination rights collectively own at least % of our Fully Diluted Securities (as defined in the amended and restated certificate of incorporation), certain corporate actions will require the prior written consent of Ares and at least one of Whitebox or Highbridge, including, among other things: changing the size of our Board of Directors, consummating a change of control transaction, acquiring or disposing of certain assets, incurring certain indebtedness, certain issuances of equity, entering into voluntary liquidation or the commencement or bankruptcy proceedings, or entering into certain transactions with related parties. Our principal stockholders may have different interests than our other stockholders and may exercise these consent rights in ways that are adverse to the interests of such other stockholders. For more information about the director nomination rights, see "Management—Composition of the Board of Directors," and for more information about the principal stockholders' consent rights under our amended and restated certificate of incorporation, see "Description on Capital Stock and Warrants—Consent Rights."

Our amended and restated certificate of incorporation designates 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 our stockholders, which could limit our stockholders' ability to obtain a favorable judicial forum for disputes with us or our directors, officers, employees or agents.

Our amended and restated certificate of incorporation provides that, unless we consent 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 our behalf, (ii) any action asserting a claim of breach of a fiduciary duty owed by any of our directors, officers, employees or agents to us or our stockholders, (iii) any action asserting a claim arising pursuant to any provision of the Delaware General Corporation Law (the "DGCL"), our amended and restated certificate of incorporation or our amended and restated bylaws, or (iv) any action asserting a claim against us that is governed by the internal affairs doctrine, in each such case subject to such Court of Chancery having personal jurisdiction over the indispensable parties named as defendants therein. Notwithstanding the foregoing sentence, the federal district courts of the United States of America will be the exclusive forum for the resolution of any complaint asserting a cause of action arising under U.S. federal securities laws, including the Securities Act and the Exchange Act. Any person or entity purchasing or otherwise acquiring any interest in shares of our capital stock will be deemed to have notice of, and consented to, the provisions of our amended and restated certificate of incorporation described in the preceding sentences. 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 us or our directors, officers, employees or agents, which may discourage such lawsuits against us and such persons. Alternatively, if a court were to find these provisions of our amended and restated certificate of incorporation inapplicable to, or unenforceable in respect of, one or more of the specified types of actions or proceedings, we may incur additional costs associated with resolving such matters in other jurisdictions, which could adversely affect our business, financial condition or results of operations.

USE OF PROCEEDS

We estimate that the net proceeds to us from this offering, after deducting estimated underwriting discounts and commissions and estimated offering expenses payable by us, will be approximately $ million (or approximately $ million if the underwriters exercise in full their option to purchase additional shares of common stock from us), assuming an initial public offering price of $ per share (which is the midpoint of the estimated offering price range shown on the cover page of this prospectus).

We intend to use the net proceeds to us from this offering for general corporate purposes.

A $1.00 increase (decrease) in the assumed initial public offering price of $ per share, based on the mid-point of the estimated offering price range set forth on the cover page of this prospectus, would increase (decrease) the net proceeds to us from this offering by approximately $ million, assuming the number of shares offered by us, as set forth on the cover page of this prospectus, remains the same and after deducting estimated underwriting discounts and commissions and estimated offering expenses payable by us. An increase (decrease) of 1,000,000 shares from the expected number of shares to be sold by us in this offering, assuming no change in the assumed initial public offering price per share, the mid-point of the estimated offering price range set forth on the cover page of this prospectus, would increase (decrease) our net proceeds from this offering by $ million. To the extent we raise more proceeds in this offering than currently estimated, we will use such proceeds for general corporate purposes. To the extent we raise less proceeds in this offering than currently estimated, we will use less proceeds for general corporate purposes.

We will not receive any proceeds from the sale of our common stock by the selling stockholders. We will, however, bear the costs associated with the sale of shares of common stock by the selling stockholders, other than underwriting discounts and commissions. For more information, see “Principal and Selling Stockholders” and “Underwriting (Conflicts of Interest).”

DIVIDEND POLICY

We do not currently anticipate paying any dividends on our common stock immediately following this offering and currently expect to retain all future earnings for use in the operation and expansion of our business. Following this offering and upon repayment of certain outstanding indebtedness, we may reevaluate our dividend policy. The declaration, amount and payment of any future dividends on our common stock will be at the sole discretion of our Board of Directors, which may take into account general and economic conditions, our financial condition and results of operations, our available cash and current and anticipated cash needs, capital requirements, contractual, legal, tax and regulatory restrictions and implications on the payment of dividends by us to our stockholders or by our subsidiaries to us, including restrictions under the First Lien Credit Agreement and the Second Lien Credit Agreement, and such other factors as our Board of Directors may deem relevant. If we elect to pay such dividends in the future, we may reduce or discontinue entirely the payment of such dividends at any time.

CAPITALIZATION

The following table sets forth our cash and cash equivalents and capitalization as of June 30, 2024:

- on an actual basis; and
- on an as adjusted basis giving effect to (i) the filing and effectiveness of our amended and restated certificate of incorporation in connection with the completion of this offering and the implementation of the -for-one stock split and increase in our authorized shares of common stock to be effected pursuant thereto and (ii) the sale of shares of our common stock in this offering at the assumed initial offering price of $ per share (the midpoint of the estimated offering price range on the cover page of this prospectus), after deducting underwriting discounts, commissions and estimated offering expenses and the application of the net proceeds to us as described in "Use of Proceeds."

You should read the information in this table in conjunction with our Financial Statements and the notes to those Financial Statements appearing in this prospectus, as well as the information under the headings "Use of Proceeds" and "Management's Discussion and Analysis of Financial Condition and Results of Operations."

	As of June 30, 2024	
(in thousands, except for share amounts)	Actual	As Adjusted[1]
Cash and cash equivalents[2]	$ 91,078	$
Long-term indebtedness[3]		
Second Lien Term Loans	$349,001	$
Stockholders' equity:		
Common stock, including paid-in capital: par value $0.00001 per share; 50,000,000 shares authorized and 5,641,968 shares issued and outstanding, actual; shares authorized and shares issued and outstanding, as adjusted	$ —	$
Additional paid in capital	211,389	
Retained earnings	192,654	
Accumulated other comprehensive income	(2,767)	
Total stockholders' equity	$401,276	$
Total capitalization	$750,277	$

(1) Each $1.00 increase (decrease) in the assumed initial public offering price of $ per share, based on the midpoint of the estimated offering price range set forth on the cover page of this prospectus, would increase (decrease), as applicable, cash and cash equivalents, additional paid-in-capital, total stockholders' equity and total capitalization by approximately $ million, assuming the number of shares offered by us, as set forth on the cover page of this prospectus, remains the same and after deducting estimated underwriting discounts and commissions and estimated offering expenses payable by us. We may also increase or decrease the number of shares we are offering. An increase (decrease) of 1,000,000 shares offered by us from the expected number of shares to be sold by us in this offering, assuming no change in the assumed initial public offering price per share, the midpoint of the estimated offering price range set forth on the cover page of this prospectus, would increase (decrease), as applicable, cash and cash equivalents, additional paid-in capital, total stockholders' equity and total capitalization by approximately $ million, after deducting estimated underwriting discounts and commissions and estimated offering expenses payable by us.

(2) Does not give effect to $183.4 million remaining to be incurred in connection with the two newbuild MPSVs and the C/SOV + Flotel conversion.

(3) On August 13, 2024, we entered into the First Lien Revolving Credit Facility. As of August 14, 2024, there were no Revolving Loans outstanding under the First Lien Revolving Credit Facility.

The outstanding share information in the table above is based on shares of our common stock outstanding as of June 30, 2024, after giving effect to the stock split, and does not reflect:

- shares of common stock that may be issued upon exercise of outstanding Jones Act Warrants, at an exercise price of $0.00001 per share;
- shares of common stock that may be issued upon exercise of outstanding Creditor Warrants, at an exercise price of $ per share;
- shares of common stock that may be issued upon the exercise of outstanding options at an average weighted exercise price of $ or the vesting of restricted stock units issued under our 2020 Management Incentive Plan; and
- shares of common stock that may be issued pursuant to future awards under our 2020 Management Incentive Plan or our 2024 Omnibus Incentive Plan to be in effect following this offering.

DILUTION

If you invest in our common stock in this offering, your ownership interest in us will be diluted to the extent of the difference between the initial public offering price per share of our common stock and the as adjusted net tangible book value per share of our common stock after this offering. Dilution results from the fact that the per share offering price of the common stock is substantially in excess of the book value per share attributable to the shares of common stock held by existing stockholders. Because the stock split will take place prior to or concurrently with the closing of this offering, we have presented dilution in as adjusted net tangible book value per share before this offering assuming the implementation of a -for-one stock split with respect to our common stock, in order to more meaningfully present the dilutive impact on the investors in this offering.

Our as adjusted net tangible book value as of June 30, 2024 was approximately $ million, or $ per share of our common stock ($ per share after giving effect to the stock split). We calculate as adjusted net tangible book value per share by taking the amount of our total tangible assets, reduced by the amount of our total liabilities, and then dividing that amount by the total number of shares of common stock outstanding after giving effect to the stock split.

After giving effect to (i) the sale of shares of our common stock in this offering by the Company and the selling stockholders at an initial public offering price of $ per share (the midpoint of the estimated offering price range shown on the cover of this prospectus), after deducting the underwriting discounts and commissions and estimated offering expenses payable by us, (ii) the application of the net proceeds to us from this offering as set forth under "Use of Proceeds," and (iii) the stock split, our as adjusted net tangible book value as of June 30, 2024 would have been $ million, or $ per share of our common stock. This amount represents an immediate increase in net tangible book value of $ per share to existing stockholders and an immediate and substantial dilution in net tangible book value of $ per share to investors purchasing shares in this offering at the initial public offering price.

The following table illustrates this dilution on a per share basis:

Initial public offering price per share of common stock (the midpoint of the estimated offering price range shown on the cover page of this prospectus)	$	$
Net tangible book value per share as of June 30, 2024	$	$
Increase in tangible book value per share attributable to investors in this offering	$	$
As adjusted net tangible book value per share after this offering	$	$
Dilution per share to investors in this offering	$	$

Dilution is determined by subtracting as adjusted net tangible book value per share of common stock after the offering from the initial public offering price per share of common stock.

If the underwriters exercise in full their option to purchase additional shares from us, the as adjusted net tangible book value per share after giving effect to the offering and the use of proceeds therefrom and the stock split would be $ per share. This represents an increase in as adjusted net tangible book value of $ per share to existing stockholders and results in dilution in as adjusted net tangible book value of $ per share to investors purchasing shares in this offering at the initial public offering price.

The following table summarizes, as of June 30, 2024, the differences between the number of shares purchased from us, the total consideration paid to us, and the average price per share paid by existing stockholders and by new investors. As the table shows, new investors purchasing shares in this offering will pay an average price per share substantially higher than our existing stockholders paid. The table below is based on an initial public offering price of $ per share for shares purchased in this offering and excludes underwriting discounts and commissions and estimated offering expenses payable by us:

	Shares Purchased		Total Consideration		
($ in millions, except per share amounts)	Number	%	Amount	%	Avg/Share
Existing stockholders	(1)	%		%	$
New investors in this offering		%		%	
Total		%		%	$

(1) Reflects shares owned by the selling stockholders that will be purchased by new investors as a result of this offering:

	Shares Purchased		Total Consideration		
	Number	%	Amount	%	Avg/Share
Selling stockholders		%		%	

If the underwriters were to fully exercise their option to purchase additional shares of our common stock, the percentage of shares of our common stock held by existing stockholders as of June 30, 2024 would be % and the percentage of shares of our common stock held by new investors would be %.

The discussion and tables above are based on shares of our common stock outstanding as of June 30, 2024, after giving effect to the stock split, and excludes million shares of common stock issuable upon exercise of the Jones Act Warrants and Creditor Warrants, with an exercise price of $0.00001 per share and $ per share, respectively, and shares of our common stock issuable upon exercise of options or settlement of restricted stock units under the 2020 Management Incentive Plan.

To the extent that outstanding Jones Act Warrants or Creditor Warrants are exercised, outstanding options or restricted stock units settle, or we grant options, restricted stock, restricted stock units or other equity-based awards to our employees, executive officers and directors in the future, or other issuances of common stock are made, there will be further dilution to new investors.

MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

The following Management's Discussion and Analysis of Financial Condition and Results of Operations should be read in conjunction with the information contained in "Summary—Summary Financial and Other Data," "Business," "Risk Factors" and the Financial Statements and related notes included elsewhere in this prospectus. Unless the context otherwise requires, all references in this section to "the Company," "Hornbeck," "we," "us," or "our" refer to the business of Hornbeck Offshore Services, Inc. Additionally, unless noted otherwise, discussions surrounding our vessels are as of July 31, 2024. Such discussions also include two partially constructed Jones Act-qualified MPSV newbuilds to be completed pursuant to our settlement with the Surety, as discussed further in "Management's Discussion and Analysis of Financial Condition and Results of Operations—Recent Developments—Resumption of MPSV Newbuild Construction," and one OSV currently undergoing conversion into a MPSV for dual-service as either a C/SOV or flotel. Our vessels exclude four OSVs formerly owned by us that we now operate and maintain for the U.S. Navy.

During the fourth quarter of 2022, the Company reclassified certain vessels from OSVs to MPSVs and MPSVs to OSVs based on the nature of each vessel's current operations and technical capabilities. For purposes of the following discussion and analysis, we have comparably calculated and classified prior-period amounts to conform with the current vessel classifications.

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 prospectus. See "Special Note Regarding Forward-Looking Statements."

Company Overview

Hornbeck is a leading provider of marine transportation services to customers in the offshore oilfield market and diversified non-oilfield markets, including military support services, renewable energy development and other non-oilfield service offerings. Since our founding more than 27 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 covering the United States and Latin America. Our team brings substantial industry expertise built through decades of experience and has leveraged that knowledge to amass what we believe is one of the largest, highest specification fleets of Offshore Supply Vessels ("OSVs") and Multi-Purpose Support Vessels ("MPSVs") in the industry. Approximately 75% of our total fleet consists of high-spec or ultra high-spec vessels, and 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, measured by DWT capacity. We own a fleet of 75 multi-class OSVs and MPSVs, 58 of which are U.S. Jones Act-qualified vessels. Our Jones Act-qualified high-spec and ultra high-spec OSVs account for approximately 26% of the total industry supply of such vessels. We opportunistically expand our fleet within existing and/or into new, high-growth, cabotage-protected markets from time to time to enhance our fleet offerings to customers. Our mission is to be recognized as the energy industry's marine transportation and service Company of Choice® for our customers, employees and investors through innovative, high-quality, value-added business solutions delivered with enthusiasm, integrity and professionalism with the utmost regard for the safety of individuals and the protection of the environment.

Our fleet of 60 OSVs primarily provides transportation of equipment, materials and supplies to offshore drilling rigs, production platforms, subsea construction projects and other non-oilfield applications. Increasingly, given their versatility, our OSVs are being deployed in a variety of non-oilfield applications including military support services, renewable energy development for offshore wind, humanitarian aid and disaster relief, aerospace and telecommunications. Our OSVs differ from other marine service vessels in that they provide increased cargo-carrying flexibility and capacity that can transport large quantities of deck cargoes, as well as various liquid and dry bulk cargoes in below-deck tanks providing flexibility for a variety of jobs. Moreover, our

OSVs are outfitted with advanced technologies, including DP capabilities, which allows each vessel to safely interface with another offshore vessel, exploration and production facility or an offshore asset by maintaining an absolute or relative station-keeping position when performing its work at sea.

Our fleet of 15 MPSVs provides commissioning and decommissioning support services, asset construction capabilities, recurring inspection, repair and maintenance services and flotel accommodations. Such vessels primarily serve the oil and gas market, with capabilities including the installation of subsea and top-side oilfield infrastructure necessary in the modern deepwater and ultra-deepwater oilfields. Further, these vessels are capable of supporting a variety of other non-oilfield offshore infrastructure projects, including the development of offshore windfarms, by providing the equipment and capabilities to support the installation and maintenance of wind turbines and platforms. Because of our ability to serve a diverse set of end markets, MPSV operations are typically less directly linked with the number of active drilling rigs in operation and therefore can be less cyclical. Our high- and ultra high-spec OSVs can be contracted alongside our MPSVs on major projects, providing operating efficiencies and pull-through revenue. Most of our MPSVs have one or more deepwater or ultra-deepwater cranes fitted on the deck, deploy one or more Remotely Operated Vehicles ("ROVs") to support subsea work, and have an installed helideck to facilitate the on-/off-boarding of specialist service providers and personnel. MPSVs can also be outfitted as flotels to provide accommodations, offices, catering, laundry, medical, and recreational facilities to large numbers of offshore workers for the duration of a project. When configured as flotels, our MPSVs have capacities to house up to 245 workers for major installation, maintenance and overhaul projects. Included in our total MPSV fleet count are the two HOS 400 class MPSVs that are currently under construction and one of our U.S.-flagged, HOSMAX 280 class OSVs that is currently undergoing conversion into a MPSV for dual-service as either a C/SOV or flotel. Based on overall length and total lifting capacity, the two HOS 400 class MPSVs are expected to be the largest Jones Act-qualified MPSVs in the market and will have additional capabilities due to their size and sophistication. In addition to the services performed by our existing fleet of MPSVs, the two newbuild vessels will be equipped with systems that we expect will make them suitable for complex services, including light well intervention, that require larger or more versatile vessels than the fleet of MPSVs currently available in the U.S. market. Once converted, our C/SOV+Flotel MPSV will be capable of providing services to the U.S. offshore wind market both during the commissioning phase of an offshore wind farm and during its operational life. We expect the converted MPSV to be placed into active service as either a C/SOV or flotel in 2025, while the two newbuild MPSVs are now expected to be placed into active service in 2026 or possibly thereafter.

After enduring a multi-year industry downturn in addition to the COVID-19 pandemic, market conditions have continued to improve. As global economies have reopened, demand for hydrocarbons improved against a backdrop of rising geopolitical tensions, the war in Ukraine, the ongoing conflict in Israel and the surrounding region and constrained supply, mostly due to several years of low investment by our customers in deepwater and ultra-deepwater offshore exploration and production activities. During 2022, the domestic oil price peaked at $124 per barrel, representing a near 14-year high. Over the past 12 months, the price has ranged from $67.71 per barrel to $94.17 per barrel and currently resides at $78.56 per barrel as of July 31, 2024. The improved outlook for oil prices is having a positive impact on spending by our customers, which is creating improved demand for our services. This improved demand has come at a time when vessel owners have kept a significant number of vessels in stack for multiple years, intensifying the demand for active vessels. The higher cost of reactivating vessels, together with labor shortages, supply chain constraints and capital restraints affecting vessel owners dampens the prospect of large-scale reactivations of stacked vessels in the short-term. These general conditions have favorably impacted our utilization rates and our pricing. Simultaneously, however, we have experienced significant upward pressure on operating expense stemming mostly from increased wages for licensed mariners and general inflationary trends.

The U.S. GoM active floating rig count has increased since 2020 and has remained stable at about 20 rigs over the past several quarters. We expect the active rig count to remain relatively flat in the U.S. GoM through 2026. In Brazil, the rig count has risen significantly since 2020 and is expected to continue growing to

approximately 33 units through 2026. Brazil's growth has drawn U.S.-flagged vessels, including some of our own, which has reduced the available vessel supply in the U.S. GoM and other markets in which we operate.

We have experienced difficulties in executing our strategic plans in Mexico since November 2023. Mexican maritime regulators have challenged our right to perform cabotage in Mexico with our fleet of 14 Mexican-flagged vessels. Despite our prevailing in various court rulings, Mexican regulators continue to resist our operating rights in Mexican domestic trade. In order to mitigate these actions, we have repositioned 10 of our 11 active Mexican-flagged vessels to international markets. Our Mexican operating subsidiary has been successful in these international activities with long-tenured Mexican crews and shore-based employees that are highly trained in our operating practices, core values and company culture.

During late 2023 and early 2024, the redeployment of our Mexican-flagged vessels had a transitory negative effect on their utilization levels. Such redeployment also adversely impacted the planned international utilization of some of our U.S.-flagged vessels. We believe that the negative effects on our financial results for the fourth quarter of 2023 and first quarter of 2024 have been mostly mitigated and we have made the adjustments necessary to operate with a smaller Mexican footprint until such time as the regulatory uncertainty there is resolved.

The 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 budgeted for an increase of approximately 10% in such costs in 2024 compared to 2023. 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 secure 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.

Recent Developments

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 current aggregate commitments for the Revolving Loans under the First Lien Revolving Credit Facility total $75 million, all of which remain undrawn. 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. See "—Liquidity and Capital Resources—Debt Agreements."

Resumption of MPSV Newbuild Construction

In October 2023, we entered into a final settlement of a dispute with the 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 was contracted by the Surety to complete construction of the two MPSVs. We are obligated to pay only the remaining portion of the original shipyard contract price for the two MPSVs, which amounted to $53.8 million in the aggregate on the settlement date. The Surety is required to cure all defaults of Gulf Island and pay all completion costs in excess of the $53.8 million remaining original contract price, excluding any approved change orders arising after the settlement date. There is no cap on the Surety's completion cost. As of June 30, 2024, we had paid $5.3 million to Eastern related to the completion of these two MPSVs.

Pursuant to the settlement, the Surety is contractually required to deliver both MPSVs in 2025. We were provided an updated schedule by the Surety and Eastern indicating that they currently expect a six-month shipyard delay for the delivery of the first of the two MPSVs. An updated delivery schedule has not yet been provided for the second vessel. Following physical delivery by the shipyard, we expect each vessel to undergo crane and other system installations, which we expect will make the first vessel available for commercial service in the first half of 2026, and the second vessel thereafter. In addition to the remaining $48.5 million of the original contract price as of June 30, 2024, we expect to incur an incremental $91.2 million in the aggregate for outfitting, overhead and the post-delivery discretionary enhancements, of which $63.6 million solely relates to the purchase and installation of cranes on both vessels. As of June 30, 2024, we had incurred $0.8 million of such incremental amounts, excluding capitalized interest. Once placed in service, we expect that our book carrying value for each vessel will be approximately $80.0 million, which is significantly below the expected market value of Jones Act-qualified vessels of this age, type, size and specifications.

ECO Acquisitions

In January 2024, we took delivery of the sixth and final vessel under ECO Acquisitions #2 and paid $15.3 million for the remaining 90% of the original purchase price and $0.1 million for purchase price adjustments related to discretionary enhancements completed in the shipyard by Nautical. As of June 30, 2024, we had paid an aggregate of $102.0 million for the original purchase price, including deposits, and $10.6 million in purchase price adjustments associated with discretionary enhancements, additional outfitting and post-closing modifications for the ECO Acquisitions #2 vessels. Delivery of this final vessel marks the completion of the combined 12 vessel acquisitions under the ECO Acquisitions. We expect to incur an incremental $0.2 million related to additional outfitting, discretionary enhancements and post-closing modifications for certain of these vessels during the remainder of 2024.

Mexico Cabotage Status

In the fourth quarter of 2023, maritime regulators in Mexico implemented new approaches in their oversight of Navieras that have historically had permissible levels of non-Mexican ownership, such as ours. As a result, we took legal action in Mexico to preserve our cabotage privileges there and a Mexican court ordered that our cabotage privileges be reinstated. Despite favorable court rulings, Mexican maritime regulators have continued to limit our enjoyment of all privileges of a Mexican Naviera, including the ability to perform Mexican cabotage activities. Since the fourth quarter of 2023, we have moved all but one of our Mexican-flagged vessels into various non-Mexican international markets, while continuing to utilize our highly-skilled Mexican mariners and shore-based employees as part of our international services.

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 effective 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.

	Six Months Ended June 30,		Year Ended December 31,		
	2024	2023	2023	2022	2021
Offshore Supply Vessels:					
Average number of OSVs[1]	57.9	53.6	53.8	57.0	58.8
Average number of active OSVs[2]	36.9	31.4	32.2	26.7	22.2
Average OSV fleet capacity (DWT)[3]	256,552	232,419	235,514	229,001	228,256
Average OSV capacity (DWT)[4]	4,432	4,338	4,374	4,020	3,885
Average OSV utilization rate[5]	42.1%	44.4%	44.3%	37.7%	31.2%
Active OSV utilization rate[6]	66.0%	75.9%	74.0%	80.7%	82.8%
Average OSV dayrate[7]	$ 41,030	$ 37,587	$ 39,297	$ 32,305	$ 19,785
Effective OSV dayrate[8]	$ 17,274	$ 16,689	$ 17,409	$ 12,179	$ 6,173
Multi-Purpose Support Vessels:					
Average number of MPSVs[1]	12.0	12.0	12.0	12.0	12.0
Average number of active MPSVs[2]	12.0	11.0	11.2	10.4	8.9
Average MPSV utilization rate[5]	72.4%	71.1%	68.4%	65.2%	46.7%
Active MPSV utilization rate[6]	72.4%	77.5%	73.6%	75.0%	63.0%
Average MPSV dayrate[7]	$ 64,130	$ 61,231	$ 62,372	$ 53,421	$ 40,245
Effective MPSV dayrate[8]	$ 46,430	$ 43,535	$ 42,662	$ 34,830	$ 18,794

(1) Represents the weighted-average number of vessels owned during the period, adjusted to reflect date of acquisition or disposition of vessels. We owned 55 and 54 OSVs and 12 MPSVs as of December 31, 2023 and December 31, 2022, respectively. Excluded from the data as of December 31, 2023 and 2022 are four non-owned vessels that we manage for the U.S. Navy, one OSV acquired from the U.S. Department of Transportation's Maritime Administration that is currently undergoing conversion into a MPSV for dual-service as either a C/SOV or flotel, and two partially constructed Jones Act-qualified MPSV newbuilds to be completed pursuant to our settlement with the Surety. We owned 60 and 53 OSVs and 12 MPSVs as of June 30, 2024 and June 30, 2023, respectively. Excluded from the data as of June 30, 2024 and June 30, 2023 are four non-owned vessels that we manage for the U.S. Navy, one OSV acquired from the U.S. Department of Transportation's Maritime Administration that is currently undergoing conversion into a MPSV for dual-service as either a C/SOV or flotel 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, 2022, nine such vessels, (ii) as of December 31, 2023, five such vessels and (iii) as of June 30, 2023, seven such vessels. The Company also sold two and ten OSVs during 2023 and 2022, 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 capacity of OSVs during the same period.

(4) Represents actual capacity of the OSVs owned during the period on a weighted-average basis, adjusted to reflect date of acquisition or disposition of vessels.

(5) 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 revenue 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 June 30, 2024, we had 18 U.S.-flagged OSVs and three foreign-flagged OSVs stacked. By removing these vessels from our active operating fleet, we significantly reduced our operating costs, including crew costs. As of June 30, 2024, our fixed operating costs were spread over 51 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.

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 and amounts per day):

	Three Months Ended June 30,				Six Months Ended June 30,				Twelve Months Ended December 31,			
	2024		2023		2024		2023		2023		2022	
Operating expense												
Contract-related cost of sales	$ 5,568	6.2%	$ 5,325	7.1%	$ 10,748	5.9%	$ 9,012	6.4%	$ 20,804	6.8%	$ 8,804	4.1%
Personnel expense	54,509	60.5%	46,866	62.8%	107,859	59.3%	91,116	64.4%	194,091	63.5%	144,874	67.4%
Maintenance and repair	17,387	19.3%	11,549	15.5%	36,401	20.0%	21,293	15.0%	46,095	15.1%	28,750	13.4%
Insurance	3,098	3.4%	3,050	4.1%	6,285	3.5%	4,931	3.5%	9,925	3.2%	7,935	3.7%
Materials and supplies	4,868	5.4%	3,257	4.4%	10,476	5.8%	6,592	4.7%	16,329	5.3%	8,554	4.0%
Other	4,723	5.2%	4,545	6.1%	10,049	5.5%	8,557	6.0%	18,219	6.1%	15,871	7.4%
Total operating expense	$90,153	100.0%	$74,592	100.0%	$181,818	100.0%	$141,501	100.0%	$305,463	100.0%	$214,788	100.0%
Active OSV opex	$53,363	59.2%	$44,293	59.4%	$106,409	58.5%	$ 83,037	58.7%	$178,784	58.5%	$114,702	53.4%
Active MPSV opex	26,168	29.0%	21,134	28.3%	52,033	28.6%	41,436	29.3%	84,260	27.6%	65,927	30.7%
Stacked Vessel opex	2,373	2.6%	1,781	2.4%	6,865	3.8%	2,365	1.7%	12,414	4.1%	6,138	2.9%
Non-vessel opex	8,249	9.2%	7,384	9.9%	16,511	9.1%	14,663	10.3%	30,005	9.8%	28,021	13.0%
Total operating expense	$90,153	100.0%	$74,592	100.0%	$181,818	100.0%	$141,501	100.0%	$305,463	100.0%	$214,788	100.0%
Active OSV opex per day	$15,432		$15,354		$ 15,845		$ 14,610		$ 15,212		$ 11,770	
Active MPSV opex per day	$23,963		$21,113		$ 23,825		$ 20,812		$ 20,612		$ 17,367	
Stacked vessel opex per day	$ 1,241		$ 870		$ 1,796		$ 563		$ 1,518		$ 527	
Total vessel opex per day	$12,677		$11,453		$ 25,988		$ 21,483		$ 11,469		$ 7,416	

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 % of revenue and amounts per day):

	Three Months Ended June 30,		Six Months Ended June 30,		Twelve Months Ended Dec. 31	
	2024	2023	2024	2023	2023	2022
General and administrative expense	$ 16,882	$ 15,609	$ 32,430	$ 32,366	$ 66,108	$ 58,946
G&A as a % of total revenues	9.6%	10.6%	10.6%	11.6%	11.5%	13.1%
G&A per active vessel day	$ 3,710	$ 4,017	$ 3,644	$ 4,217	$ 4,173	$ 4,353
G&A per total vessel day	$ 2,613	$ 2,631	$ 2,549	$ 2,726	$ 2,753	$ 2,341

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 is 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."

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 (in thousands except as noted):

	Three Months Ended June 30,		Six Months Ended June 30,		Twelve Months Ended December, 31	
	2024	2023	2024	2023	2023	2022
Capital expenditures[1]						
Growth capital expenditures	$ 6,146	$ 21,403	$ 26,313	$ 32,254	$ 128,547	$ 116,047
Maintenance capital expenditures	15,185	11,543	36,075	19,198	37,573	22,872
Commercial capital expenditures	8,474	3,315	12,923	10,277	33,864	10,949
Non-vessel capital expenditures	—	303	315	415	1,087	1,328
Total capital expenditures	$ 29,805	$ 36,564	$ 75,626	$ 62,144	$ 201,071	$ 151,196
Drydock downtime						
OSVs						
Number of vessels commencing drydock activities	3	1	6	6	15	10
Out-of-service time for drydock activities (in days)	72	187	188	298	608	333
MPSVs						
Number of vessels commencing drydock activities	1	2	4	2	5	4
Out-of-service time for drydock activities (in days)	63	82	316	82	191	200

(1) For further explanation on what these items consist of, see "—Liquidity and Capital Resources—Capital Expenditures and Related Commitments."

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 Adjusted EBITDA and Adjusted Free Cash Flow and generating the highest possible rate of return on invested capital without a permanent commitment to geographic region or customer market.

Results of Operations

Three Months Ended June 30, 2024 Compared to Three Months Ended June 30, 2023

Summarized financial information for the three months ended June 30, 2024 and 2023, respectively, is shown below in the following table (in thousands except % change):

	Three Months Ended June 30,		Change	
	2024	2023	$	%
Revenues:				
Vessel revenues				
Domestic	$115,459	$ 99,776	$15,683	15.7%
Foreign	48,539	36,136	12,403	34.3
	163,998	135,912	28,086	20.7
Non-vessel revenues	11,982	10,986	996	9.1
	175,980	146,898	29,082	19.8
Operating expenses	90,153	74,592	15,561	20.9
Depreciation and amortization	15,870	11,684	4,186	35.8
General and administrative expenses	16,882	15,609	1,273	8.2
Stock-based compensation expense	2,584	2,361	223	9.4
Terminated debt refinancing costs	—	3,633	(3,633)	100.0
	125,489	107,879	17,610	16.3
Gain on sale of assets	27	2,576	(2,549)	(99.0)
Operating income	50,518	41,595	8,923	21.5
Foreign currency loss	(537)	(629)	92	(14.6)
Interest expense	(6,706)	(11,123)	4,417	39.7
Interest income	1,327	2,614	(1,287)	(49.2)
Fair value adjustment of liability-classified warrants	(8,490)	(7,947)	(543)	6.8
Other income	—	42	(42)	(100.0)
Income tax expense	(3,014)	(4,168)	1,154	(27.7)
Net income	$ 33,098	$ 20,384	$12,714	62.4%

Revenues. Revenues for the three months ended June 30, 2024 and 2023 were $176.0 million and $146.9 million, respectively. Our weighted-average active operating fleet for the three months ended June 30, 2024 and 2023 was 50.0 and 42.7 vessels, respectively. For the three months ended June 30, 2024, we had a weighted-average of 21.0 vessels stacked compared to a weighted-average of 22.5 vessels stacked in the prior-year period.

Vessel revenues for the three months ended June 30, 2024 and 2023 were $164.0 million and $135.9 million, respectively. Vessels acquired since the first quarter of 2023 contributed $12.0 million to the increase in revenue from the prior-year period, while the remaining variance was due to improved market conditions for our vessels. Revenues from our OSV fleet increased $15.0 million, or 17.6% for the three months ended June 30, 2024 compared to the prior-year period. Average OSV dayrates were $41,898 for the three months ended June 30, 2024 compared to $37,569 for the same period in 2023. Our average OSV utilization was 44.7% for the three months ended June 30, 2024 compared to 47.0% for the same period in 2023. Our OSVs incurred 72 days of aggregate downtime for regulatory drydockings and were stacked for an aggregate of 1,911 days during the three months ended June 30, 2024 compared to 187 and 1,953 days, respectively, for the same period in 2023. Excluding stacked vessel days, our active OSV utilization was 69.4% and 78.8% for the same periods, respectively. Our effective, or utilization-adjusted, OSV dayrates were $18,728 for the three months ended June 30, 2024 compared to $17,657 for the same period in 2023. Revenues from our MPSV fleet increased $13.0 million, or 25.8% for the three months ended June 30, 2024 compared to the prior-year period. Average

MPSV dayrates were $70,601 for the three months ended June 30, 2024 compared to $59,933 for the three months ended June 30, 2023. Our MPSV utilization was 82.4% for the three months ended June 30, 2024 compared to 77.2% for the same period in 2023. Our MPSVs incurred 63 days of aggregate downtime for regulatory drydockings and were stacked for an aggregate of zero days during the three months ended June 30, 2024 compared to 82 and 91 days, respectively, for the same period in 2023. Excluding stacked vessel days, our active MPSV utilization was 82.4% and 84.2% during the three months ended June 30, 2024 and the same period in 2023, respectively. Our effective, or utilization-adjusted, MPSV dayrates were $58,175 for the three months ended June 30, 2024 compared to $46,268 for the same period in 2023. Domestic vessel revenues for the three months ended June 30, 2024 increased $15.7 million, or 15.7%, from the year-ago period primarily due to the addition of acquired vessels and an increase in other active vessels and improved market conditions during 2024. Foreign vessel revenues increased $12.4 million, or 34.3%, primarily due to improved market conditions for vessels operating in Brazil and other Latin American markets (excluding Mexico) during the three months ended June 30, 2024. Foreign vessel revenues for the three months ended June 30, 2024 comprised 29.6% of our total vessel revenues compared to 26.6% for the year-ago period.

Non-vessel revenues for the three months ended June 30, 2024 and 2023 were $12.0 million and $11.0 million, respectively. The 9.1% year-over-year increase in non-vessel revenues was primarily due to higher revenues earned from non-owned vessels that we manage on behalf of the U.S. Navy during the three months ended June 30, 2024.

Operating Expense. Operating expense for the three months ended June 30, 2024 and 2023 was $90.2 million and $74.6 million, respectively. Acquired vessels placed in service since the first quarter of 2023 contributed $9.8 million to the increase in operating expense, while the remaining variance was due to increases in maintenance and repair costs, mariner headcount, and local taxes on revenue for vessels operating in Brazil.

Depreciation and Amortization. Depreciation and amortization for the three months ended June 30, 2024 and 2023 was $15.9 million and $11.7 million, respectively. Depreciation increased from the prior year due to eight newly acquired vessels being placed into service subsequent to the first quarter of 2023. Amortization also increased as a result of 28 vessel recertification drydockings being completed since March 31, 2023.

General and Administrative Expense. G&A expense for the three months ended June 30, 2024 and 2023 was $16.9 million and $15.6 million, respectively. The year-over-year increase in G&A expense was primarily attributable to increases in shoreside employee headcount and wages.

Stock-Based Compensation Expense. Stock-based compensation expense for the three months ended June 30, 2024 and 2023 was $2.6 million and $2.4 million, respectively.

Terminated Debt Refinancing Costs. Terminated debt refinancing costs for the three months ended June 30, 2024 and 2023 were $0.0 million and $3.6 million, respectively. The year-over-year decrease in terminated debt refinancing costs was attributable to expenses incurred in connection with a debt refinancing process that was postponed during the second quarter of 2023.

Operating Income. Operating income for the three months ended June 30, 2024 and 2023 was $50.5 million and $41.6 million, respectively. Operating income increased by $8.9 million, or 21.4% for the reasons discussed above, but primarily due to improved market conditions for our vessels. Operating income as a percentage of revenues was 28.7% for the three months ended June 30, 2024 and 28.3% for the same period in 2023.

Interest Expense. Interest expense for the three months ended June 30, 2024 and 2023 was $6.7 million and $11.1 million, respectively. Interest expense decreased primarily due to the contractual conversion of our second-lien term loans 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.

Interest Income. Interest income for the three months ended June 30, 2024 and 2023 was $1.3 million and $2.6 million, respectively. Our average cash balance decreased to $95.5 million during the three months ended June 30, 2024 compared to $231.0 million for the same period in 2023. The average interest rate earned on our invested cash balances was 5.6% and 4.5% for the three months ended June 30, 2024 and 2023, respectively. The decrease in average cash balance was primarily due to new vessels acquired under the ECO Acquisitions and the repayment in full of our Replacement First Lien Term Loans in August 2023. The increase in the average interest rate is due to market increases in bank interest rates earned on invested cash balances.

Fair Value Adjustment of Liability-Classified Warrants. Fair value adjustment of liability-classified warrants for the three months ended June 30, 2024 and 2023 was $8.5 million and $7.9 million, respectively. Based on an updated valuation analysis for the three months ended June 30, 2024, the estimated fair value of the outstanding Creditor Warrants increased by $5.34, or 12.8%, per warrant.

Income Tax Expense. Our effective income tax expense rate was 8.3% and 17.0% for the three months ended June 30, 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 tax rate from period to period.

Six Months Ended June 30, 2024 Compared to Six Months Ended June 30, 2023

Summarized financial information for the six months ended June 30, 2024 and 2023, respectively, is shown below in the following table (in thousands except % change):

	Six Months Ended June 30,		Change	
	2024	2023	$	%
Revenues:				
Vessel revenues				
Domestic	$203,601	$192,993	$ 10,608	5.5%
Foreign	79,606	63,494	16,112	25.4
	283,207	256,487	26,720	10.4
Non-vessel revenues	23,569	21,902	1,667	7.6
	306,776	278,389	28,387	10.2
Operating expenses	181,818	141,501	40,317	28.5
Depreciation and amortization	30,256	22,119	8,137	36.8
General and administrative expenses	32,430	32,366	64	0.2
Stock-based compensation expense	4,423	15,363	(10,940)	(71.2)
Terminated debt refinancing costs	—	3,633	(3,633)	(100.0)
	248,927	214,982	33,945	15.8
Gain on sale of assets	31	2,566	(2,535)	(98.8)
Operating income	57,880	65,973	(8,093)	(12.3)
Foreign currency loss	(757)	(857)	100	(11.7)
Interest expense	(13,437)	(22,972)	9,535	(41.5)
Interest income	3,007	4,830	(1,823)	(37.7)
Fair value adjustment of liability-classified warrants	696	(4,533)	5,229	>100.0
Other income	—	756	(756)	(100.0)
Income tax expense	(3,163)	(6,362)	3,199	(50.3)
Net income	$ 44,226	$ 36,835	$ 7,391	20.1%

Revenues. Revenues for the six months ended June 30, 2024 and 2023 were $306.8 million and $278.4 million, respectively. Our weighted-average active operating fleet for the six months ended June 30, 2024 and 2023 was 48.9 and 42.4 vessels, respectively. For the six months ended June 30, 2024, we had an average of 21.0 vessels stacked compared to an average of 23.2 vessels stacked in the prior-year period.

Vessel revenues for the six months ended June 30, 2024 and 2023 were $283.2 million and $256.5 million, respectively. Vessels acquired since the December 31, 2022 contributed $20.0 million to the increase in revenue from the prior-year period, while the remaining variance was due to improved market conditions for our vessels. Revenues from our OSV fleet increased $19.9 million, or 12.3%, for the six months ended June 30, 2024 compared to the prior-year period. Average OSV dayrates were $41,030 for the six months ended June 30, 2024 compared to $37,587 for the same period in 2023. Our average OSV utilization was 42.1% for the six months ended June 30, 2024 compared to 44.4% for the same period in 2023. Our OSVs incurred 188 days of aggregate downtime for regulatory drydockings and were stacked for an aggregate of 3,822 days during the six months ended June 30, 2024 compared to 298 and 4,023 days, respectively, for the same period in 2023. Excluding stacked vessel days, our active OSV utilization was 66.0% and 75.9% for the same periods, respectively. Our effective, or utilization-adjusted, OSV dayrates were $17,274 for the six months ended June 30, 2024 compared to $16,689 for the same period in 2023. Revenues from our MPSV fleet increased $6.8 million, or 7.2%, for the six months ended June 30, 2024 compared to the prior-year period. Average MPSV dayrates were $64,130 for the six months ended June 30, 2024 compared to $61,231 for the same period in 2023. Our MPSV utilization was 72.4% for the six months ended June 30, 2024 compared to 71.1% for the same period in 2023. Our MPSVs incurred 316 days of aggregate downtime for regulatory drydockings and were stacked for an aggregate of zero days during the six months ended June 30, 2024 compared to 82 and 181 days, respectively, for the same period in 2023. Excluding stacked vessel days, our active MPSV utilization was 72.4% and 77.5% during the six months ended June 30, 2024 and the same period in 2023, respectively. Our effective, or utilization-adjusted, MPSV dayrates were $46,430 for the six months ended June 30, 2024 compared to $43,535 for the same period in 2023. Domestic vessel revenues increased $10.6 million, or 5.5%, from the year-ago period primarily due to the addition of acquired vessels and an increase in active vessels and improved market conditions for our vessels during the six months ended June 30, 2024. Foreign vessel revenues increased $16.1 million, or 25.4%, due to improved market conditions for vessels operating in Brazil, Trinidad and Tobago, and other Latin American markets (excluding Mexico) during the six months ended June 30, 2024. Foreign vessel revenues for the six months ended June 30, 2024 comprised 28.1% of our total vessel revenues compared to 24.8% for the prior-year period.

Non-vessel revenues for the six months ended June 30, 2024 and 2023 were $23.6 million and $21.9 million, respectively. The 7.6% year-over-year increase in non-vessel revenues was primarily due to higher revenues earned from non-owned vessels that we manage on behalf of the U.S. Navy during the six months ended June 30, 2024.

Operating Expense. Operating expense for the six months ended June 30, 2024 and 2023 was $181.8 million and $141.5 million, respectively. Vessels acquired since December 31, 2022 contributed $20.6 million to the increase in operating expense, while the remaining variance was due to increases in vessel recertifications and related maintenance and repair costs, mariner headcount, and local taxes on revenue for vessels operating in Brazil.

Depreciation and Amortization. Depreciation and amortization for the six months ended June 30, 2024 and 2023 were $30.3 million and $22.1 million, respectively. Depreciation increased from the prior year due to eight newly acquired vessels being placed into service subsequent to December 31, 2022. Amortization also increased as a result of 30 vessel recertification drydockings being completed since December 31, 2022.

General and Administrative Expense. G&A expense for the six months ended June 30, 2024 and 2023 was $32.4 million and $32.4 million, respectively.

Stock-Based Compensation Expense. Stock-based compensation expense for the six months ended June 30, 2024 and 2023 was $4.4 million and $15.4 million, respectively. The stock-based compensation expense decrease from the prior-year period was primarily attributable to certain long-term incentive grants of time-vesting restricted stock units ("RSUs") under the 2020 Management Incentive Plan that were issued and one-half of which fully vested on the grant date in the first quarter of 2023.

Terminated Debt Refinancing Costs. Terminated debt refinancing costs for the three months ended June 30, 2024 and 2023 were $0.0 million and $3.6 million, respectively. The year-over-year decrease in terminated debt refinancing costs was attributable to expenses incurred in connection with a debt refinancing process that was postponed during the second quarter of 2023.

Operating Income. Operating income for the six months ended June 30, 2024 and 2023 was $57.9 million and $66.0 million, respectively. Operating income decreased by $8.1 million, or 12.3%, during the current-year period compared to the prior-year period for the reasons discussed above, but primarily due to an increase in active vessels combined with decreased utilization driven by increased vessel recertifications, which resulted in reduced revenues and incremental operating expense compared to the prior-year period. Operating income as a percentage of revenues was 18.9% for the six months ended June 30, 2024 and 23.7% for the same period in 2023.

Interest Expense. Interest expense for the six months ended June 30, 2024 and 2023 was $13.4 million and $23.0 million, respectively. Interest expense decreased primarily due to the contractual conversion of our second-lien term loans 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.

Interest Income. Interest income for the six months ended June 30, 2024 and 2023 was $3.0 million and $4.8 million, respectively. Our average cash balance decreased to $107.2 million during the current-year period compared to $232.8 million for the prior-year period. The average interest rate earned on our invested cash balances was 5.6% and 4.1% in the first six months ended June 30, 2024 and 2023, respectively. The decrease in average cash balance was primarily due to new vessels acquired under the ECO Acquisitions and the repayment in full of our Replacement First Lien Term Loans in August 2023. The increase in the average interest rate is due to market increases in bank interest rates earned on invested cash balances.

Fair Value Adjustment of Liability-Classified Warrants. Fair value adjustment of liability-classified warrants for the six months ended June 30, 2024 and 2023 was ($0.7) million and $4.5 million, respectively. Based on an updated valuation analysis as of June 30, 2024, the estimated fair value of the outstanding Creditor Warrants decreased year-to-date by $0.43, or 0.9%, per warrant.

Income Tax Expense. Our effective income tax expense rate was 6.7% and 14.7% for the six months ended June 30, 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 tax rate from period to period.

Year Ended December 31, 2023 Compared to Year Ended December 31, 2022

Summarized financial information for the years ended December 31, 2023 and 2021, respectively, is shown below in the following table (in thousands except % change):

	Year Ended December 31,		Change	
	2023	2022	$	%
Revenues:				
Vessel revenues				
Domestic	$ 387,952	$ 317,638	$ 70,314	22.1%
Foreign	140,828	88,396	52,432	59.3
	528,780	406,034	122,746	30.2
Non-vessel revenues	44,669	45,192	(523)	(1.2)
	573,449	451,226	122,223	27.1
Operating expenses	305,463	214,788	90,675	42.4
Depreciation and amortization	47,851	28,940	18,911	65.3
General and administrative expenses	66,108	58,946	7,162	12.2
Stock-based compensation expense	19,097	5,330	13,767	>100.0
Terminated debt refinancing costs	3,693	—	3,693	—
	442,212	308,004	134,208	43.6
Gain on sale of assets	2,702	21,837	(19,135)	(87.6)
Operating income	133,939	165,059	(31,120)	(18.9)
Loss on early extinguishment of debt	(1,236)	(44)	(1,192)	>100.0
Foreign currency loss	(1,559)	(198)	(1,361)	>100.0
Interest expense	(39,802)	(41,172)	1,370	(3.3)
Interest income	9,755	2,832	6,923	>100.0
Fair value adjustment of liability-classified warrants	(10,917)	(41,408)	30,491	(73.6)
Other income, net	853	2,867	(2,014)	(70.2)
Income tax expense	(16,495)	(7,174)	(9,321)	>100.0
Net income	$ 74,538	$ 80,762	$ (6,224)	(7.7)%

Revenues. Revenues for 2023 and 2022 were $573.4 million and $451.2 million, respectively. Our weighted-average active operating fleet for 2023 and 2022 was 43.4 and 37.1 vessels, respectively. For 2023, we had a weighted average of 22.4 vessels stacked compared to a weighted average of 31.9 vessels stacked in the prior year.

Vessel revenues for 2023 and 2022 were $528.8 million and $406.0 million, respectively. Vessels acquired in 2022 that provided their first full-year contribution to revenues in 2023 and vessels acquired in 2023 contributed $62.7 million to the year-over-year increase in revenues, while the remaining increase was primarily due to improved market conditions for our vessels. Revenues from our OSV fleet increased $88.5 million, or 34.9%, for 2023 compared to 2022. Average OSV dayrates were $39,297 for 2023 compared to $32,305 for the prior year. Our average OSV utilization was 44.3% for 2023 compared to 37.7% for 2022. Our OSVs incurred 586 days of aggregate downtime for regulatory drydockings and were stacked for an aggregate of 7,887 days during 2023 compared to 332 and 11,074 days, respectively, during 2022. Excluding stacked vessel days, our active OSV utilization was 74.0% and 80.7% for the same periods, respectively. Revenues from our MPSV fleet increased $34.2 million, or 22.4%, for 2023 compared to 2022. Average MPSV dayrates were $62,372 for 2023 compared to $53,421 for 2022. Our MPSV utilization was 68.4% for 2023 compared to 65.2% for 2022. Our MPSVs incurred 191 days of aggregate downtime for regulatory drydockings and were stacked for an aggregate of 310 days during 2023 compared to 200 and 569 days, respectively, during 2022. Excluding stacked vessel days, our active MPSV utilization was 73.6% and 75.0% during 2023 and 2022, respectively. Domestic vessel revenues increased $70.3 million, or 22.1%, from 2022 primarily due to an increase in active vessels and

improved market conditions for our vessels operating in the U.S. GoM. Foreign vessel revenues increased $52.4 million, or 59.3% due to improved market conditions for vessels operating in Mexico during the first nine months of 2023 and in Brazil during the full year 2023. Foreign vessel revenues for 2023 comprised 26.6% of our total vessel revenues compared to 21.8% for 2022.

Non-vessel revenues for 2023 and 2022 were $44.7 million and $45.2 million, respectively. The 1.1% year-over-year decrease in non-vessel revenues was primarily due to lower revenues earned from non-military vessel management services during 2023 compared to the prior year. Our non-vessel revenues primarily include our O&M contract with the U.S. Navy, revenues from our port facility located in Port Fourchon, Louisiana (the "HOS Port"), and other vessel management services.

Operating Expense. Operating expense for 2023 and 2022 was $305.5 million and $214.8 million, respectively. Vessels acquired in 2022 that provided their first full-year contribution to operating expense in 2023 and vessels acquired in 2023 contributed $52.1 million to the year-over-year increase in operating expense, while the remaining variance was due to increases in domestic mariner wages, vessel recertifications and related maintenance and repair costs, and contract-specific costs of sales to meet customer charter requirements, which were ultimately recovered through the agreed upon charter dayrate.

Depreciation and Amortization. Depreciation and amortization expense for 2023 and 2022 was $47.9 million and $28.9 million, respectively. Depreciation increased from the prior year due to nine newly acquired vessels being placed into service in or subsequent to the second quarter of 2022. Amortization also increased as a result of 21 vessel recertification drydockings being completed since September 30, 2022.

General and Administrative Expense. G&A expense for 2023 and 2022 was $66.1 million and $58.9 million, respectively. The year-over-year increase in G&A expense was primarily attributable to increases in shoreside employee headcount and wages and related benefits.

Stock-based Compensation Expense. Stock-based compensation expense for 2023 and 2022 was $19.1 million and $5.3 million, respectively. The stock-based compensation expense increase from the prior-year period was primarily attributable to certain new long-term incentive grants of RSUs under the 2020 Management Incentive Plan that were issued and one-half of which vested on the grant date in the first quarter of 2023.

Terminated Debt Refinancing Costs. Terminated debt refinancing costs for 2023 and 2022 were $3.7 million and $0.0 million, respectively. The terminated debt refinancing costs were attributable to costs related to a debt refinancing process that was postponed during the second quarter of 2023.

Operating Income. Operating income for 2023 and 2022 was $133.9 million and $165.1 million, respectively. Operating income decreased by $31.1 million, or 18.9% during the current-year period compared to the prior-year period for the reasons discussed above, but primarily due to the increase in operating expense from newly acquired vessels. Operating income as a percentage of revenues was 23.4% for 2023 and 36.6% for 2022. Excluding the non-recurring effect of the restricted stock grants that were issued and vested in 2023, the terminated debt refinancing costs incurred in the second quarter of 2023, and the gain on sale of assets in the current and prior-year periods, operating income as a percentage of revenue was 25.5% and 31.7% for 2023 and 2022, respectively.

Interest Expense. Interest expense for 2023 and 2022 was $39.8 million and $41.2 million, respectively. The decrease in interest expense was primarily attributable to electing to pay cash interest only in the second quarter of 2023 for the Second Lien Term Loans, which reduced our interest rate on that debt instrument from 11.5% to 10.25%. In addition, effective September 4, 2023, the Second Lien Term Loans contractually converted to full cash-pay obligations with an annual interest rate of 8.25%. The decrease in interest expense is also related to the $68.7 million payoff of the remaining principal balance of the Replacement First Lien Term Loans in August 2023.

Interest Income. Interest income for 2023 and 2022 was $9.8 million and $2.8 million, respectively. Our average cash balance increased to $213.2 million during 2023 compared to $167.8 million for 2022. The average interest rate earned on our invested cash balances was 4.5% and 1.7% in 2023 and 2022, respectively. The increase in average cash balance was primarily due to improved operating results and net cash proceeds received in the fourth quarter of 2022 from the delayed draw that was funded under the Replacement First Lien Term Loans. The increase in the average interest rate is due to market increases in bank interest rates on invested cash balances.

Fair Value Adjustment of Liability-Classified Warrants. Fair value adjustment of liability-classified warrants for 2023 and 2022 was $10.9 million and $41.4 million, respectively. Creditor Warrants (warrants entitling holders to purchase common stock at a strike price set at an enterprise value of $621.2 million, or $27.83 per share ($ per share after giving effect to the stock split)) were issued on September 4, 2020, and we have since recorded a quarterly mark-to-market adjustment beginning with the quarter ended December 31, 2020. Prior to the issuance of these Creditor Warrants, we did not have any issued or outstanding liability-classified warrants. Based on a valuation analysis as of December 31, 2023, the estimated fair value of the outstanding Creditor Warrants increased year-over-year by $6.85, or 16.9%, per warrant.

Income Tax Expense. Our effective income tax expense rate was 18.1% and 8.2% for 2023 and 2022, respectively. Our current income tax expense reflects our current foreign tax liabilities and certain deferred tax liabilities that could not be offset with a valuation allowance. We have offset most of our 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 2023 rate is higher than 2022 due to increased current foreign taxes resulting from a higher proportion of earnings in foreign jurisdictions, while the related foreign tax credits are being reserved.

Net Income. Net income for 2023 and 2022 was $74.5 million and $80.8 million, respectively. This year-over-year decrease was primarily due to an increase in operating expense combined with the net effect of the non-recurring items discussed above in Operating Income.

Year Ended December 31, 2022 Compared to Year Ended December 31, 2021

Summarized financial information for the years ended December 31, 2022 and 2021, respectively, is shown below in the following table (in thousands):

	Year Ended December 31,		Change	
	2022	2021	$	%
Revenues:				
Vessel revenues				
Domestic	$317,638	$154,737	$162,901	>100.0%
Foreign	88,396	59,943	28,453	47.5
	406,034	214,680	191,354	89.1
Non-vessel revenues	45,192	41,620	3,572	8.6
	451,226	256,300	194,926	76.1
Operating expenses	214,788	142,819	71,969	50.4
Depreciation and amortization	28,940	18,383	10,557	57.4
General and administrative expenses	58,946	40,632	18,314	45.1
Stock-based compensation expense	5,330	3,372	1,958	58.1
	308,004	205,206	102,798	50.1
Gain on sale of assets	21,837	2,679	19,158	>100.0
Operating income	165,059	53,773	111,286	>100.0
Loss on early extinguishment of debt	(44)	—	(44)	—
Foreign currency gain (loss)	(198)	(434)	236	(54.5)
Interest expense	(41,172)	(35,794)	(5,378)	15.0
Interest income	2,832	510	2,322	>100.0
Fair value adjustment of liability-classified warrants	(41,408)	(15,150)	(26,258)	>100.0
Reorganization items, net	—	—	—	—
Other income, net	2,867	1,615	1,252	77.5
Income tax benefit (expense)	(7,174)	(1,533)	(5,641)	>100.0
Net income	$ 80,762	$ 2,987	$ 77,775	>100.0%

For comparative purposes, references in the explanations below to 2022 reflect the year ended December 31, 2022. References to 2021 reflect the year ended December 31, 2021.

Revenues. Revenues for 2022 and 2021 were $451.2 million and $256.3 million, respectively. Our weighted-average active operating fleet for 2022 and 2021 was 37.1 and 31.1 vessels, respectively. For 2022, we had a weighted average of 31.9 vessels stacked compared to a weighted average of 39.7 vessels stacked in the prior year.

Vessel revenues for 2022 and 2021 were $406.0 million and $214.7 million, respectively. The increase in vessel revenues was primarily due to improved market conditions for our vessels. Revenues from our OSV fleet increased $121.0 million, or 91.4%, for 2022 compared to 2021. Average OSV dayrates were $32,305 for 2022 compared to $19,785 for the prior year. Our OSV utilization was 37.7% for 2022 compared to 31.2% for 2021. Our OSVs incurred 332 days of aggregate downtime for regulatory drydockings and were stacked for an aggregate of 11,074 days during 2022 compared to 413 and 13,360 days, respectively, during 2021. Excluding stacked vessel days, our active OSV utilization was 80.7% and 82.8% for the same periods, respectively. Revenues from our MPSV fleet increased $70.4 million, or 85.6%, for 2022 compared to 2021. Average MPSV dayrates were $53,421 for 2022 compared to $40,245 for 2021. Our MPSV utilization was 65.2% for 2022 compared to 46.7% for 2021. Our MPSVs incurred aggregate downtime of 200 days for regulatory drydockings and were stacked for an aggregate of 569 days during 2022 compared to an aggregate downtime of 206 days for

regulatory drydockings and being stacked for an aggregate 1,137 days, respectively, during 2021. Excluding stacked vessel days, our active MPSV utilization was 75.0% and 63.0% during 2022 and 2021, respectively. Domestic vessel revenues for 2022 increased $162.9 million, or 105%, from 2021 primarily due to improved market conditions for our vessels operating in the U.S. GoM. Foreign vessel revenues increased $28.5 million, or 47.5%, due to improved market conditions for vessels operating in Brazil, Trinidad and other Latin American markets during 2022. Foreign vessel revenues for 2022 comprised 21.8% of our total vessel revenues compared to 27.9% for 2021.

Non-vessel revenues for 2022 and 2021 were $45.2 million and $41.6 million, respectively. The year-over-year increase in non-vessel revenues was primarily due to higher revenues earned from vessel management services during 2022 compared to the prior year. Our non-vessel revenues primarily include our O&M contract with the U.S. Navy, revenues from our HOS Port facilities, and other vessel management services.

Operating Expense. Operating expenses for 2022 and 2021 were $214.8 million and $142.8 million, respectively. Operating expense increased year-over-year primarily due to increases in active vessels, mariner headcount, domestic mariner wages and benefits, and maintenance and repair costs for vessels and related equipment.

Depreciation and Amortization. Depreciation and amortization expense for 2022 and 2021 was $28.9 million and $18.4 million, respectively. Depreciation expense increased from the prior year due to newly acquired vessels being placed into service.

General and Administrative Expense. G&A expense for 2022 and 2021 was $58.9 million and $40.6 million, respectively. The year-over-year increase in G&A expense was primarily attributable to an increase in shoreside employee headcount and wages, legal costs associated with on-going litigation and costs related to the recruitment of mariners. The increase is also attributable to an advisory fee related to the acquisition of vessels from certain affiliates of ECO and additional trade name and trademark licensing fees incurred in the current year.

Stock-Based Compensation Expense. Stock-based compensation expense for 2022 and 2021 was $5.3 million and $3.4 million, respectively. The year-over-year increase in stock-based compensation expense was attributable to awards granted under the 2020 Management Incentive Plan in the second quarter of 2022, which were valued at a substantially higher stock price per share.

Gain on Sale of Assets. During 2022, we sold seven 200 class DP-1 OSVs, three 240 class DP-2 OSVs and other non-vessel assets for gross proceeds of $23.7 million, resulting in a net gain of $21.8 million. The net gain represents $20.5 million from vessel sales and $1.3 million from sales of non-vessel assets. The gain on sale of assets for 2021 represents gains of $2.2 million from vessel sales and $0.5 million from sales of non-vessel assets.

Operating Income. Operating income for 2022 and 2021 was $165.1 million and $53.8 million, respectively. Operating income increased year-over-year by $111.0 million, or 207%, during 2022 compared to 2021 for the reasons discussed above, but primarily due to improved market conditions for our vessels. Operating income as a percentage of revenues was 36.6% for 2022 compared to 21.0% for 2021.

Interest Expense. Interest expense was $41.2 million, inclusive of $30.4 million of paid-in-kind interest, for 2022 compared to $35.8 million, inclusive of $29.3 million of paid-in-kind interest, for 2021. Interest expense increased primarily due to (i) increases in the interest rates on the Replacement First Lien Term Loans and Second Lien Term Loans during 2022, (ii) higher outstanding balances on the Replacement First Lien Term Loans and Second Lien Term Loans as a result of the $37.5 million delayed draw term loans that were incurred in November 2022 and capitalized accumulated paid-in-kind interest incurred since the prior year, respectively, and (iii) the interest component of our negotiated settlement of the 2014 Mexico tax audit.

Interest Income. Interest income for 2022 and 2021 was $2.8 million and $0.5 million, respectively, representing a year-over-year increase of $2.3 million. Our average cash balance increased to $167.8 million during 2022 compared to $117.8 million during 2021. The average interest rate earned on our invested cash balances was 1.7% and 0.4% during 2022 and 2021, respectively. The increase in average cash balance was primarily due to improved operating results in 2022, net cash proceeds received in December 2021 from the preemptive rights offering and Replacement First Lien Term Loans, and the delayed draw funding under the Replacement First Lien Term Loans in November 2022.

Fair Value Adjustment of Liability-Classified Warrants. Fair value adjustment of liability-classified warrants for 2022 and 2021 was $41.4 million and $15.2 million, respectively. Based on a valuation analysis as of December 31, 2022, the estimated fair value of the outstanding Creditor Warrants increased year-over-year by $26.01, or 179%, per warrant.

Other Income, Net. Other income, net, for 2022 and 2021 was $2.9 million and $1.6 million, respectively. Other income increased year-over-year primarily due to $1.5 million in fees received from certain sellers' terminations of four vessel purchase agreements.

Income Tax Expense. Our effective tax expense rate was 8.2% and 33.9% for 2022 and 2021, respectively. Our income tax expense in 2022 reflects our foreign tax liabilities as of December 31, 2022. Since September 4, 2020, we had been in a net deferred tax asset position and had offset our deferred tax benefit with a valuation allowance, as required in certain circumstances by GAAP. The 2022 period rate is lower than 2021 due to the relatively higher level of income for 2022 compared to 2021.

Net Income. Net income for 2022 and 2021 was $80.8 million and $3.0 million, respectively. This favorable variance in net income was primarily driven by improved market conditions for our vessels. Net income as a percentage of revenues was 17.9% and 1.2% for 2022 and 2021, respectively.

Non-GAAP Financial Measures

We disclose and discuss EBITDA, Adjusted EBITDA and Adjusted Free Cash Flow as non-GAAP financial measures in this prospectus. We define EBITDA as earnings (net income or loss) before interest, income taxes, depreciation and amortization. Adjusted EBITDA reflects certain adjustments to EBITDA for gains or losses on early extinguishment of debt, terminated debt refinancing costs, stock-based compensation expense and interest income. In addition, Adjusted EBITDA excludes non-cash gains or losses on the fair value adjustment of liability-classified warrants. We define Adjusted Free Cash Flow as Adjusted EBITDA less cash paid for deferred drydocking charges, cash paid for maintenance capital improvements and non-vessel capital expenditures, cash paid for interest and cash paid for (refunds of) income taxes. Our measures of EBITDA, Adjusted EBITDA and Adjusted Free Cash Flow may not be comparable to similarly titled measures presented by other companies. Other companies may calculate EBITDA, Adjusted EBITDA and Adjusted Free Cash Flow differently than we do, which may limit their usefulness as comparative measures.

We view EBITDA, Adjusted EBITDA and Adjusted Free Cash Flow primarily as liquidity measures and, as such, we believe that the GAAP financial measure most directly comparable to those measures is cash flows provided by operating activities. Because EBITDA, Adjusted EBITDA and Adjusted Free Cash Flow are not measures of financial performance calculated in accordance with GAAP, they should not be considered in isolation or as a substitute for operating income, net income or loss, cash flows provided by operating, investing and financing activities, or other income or cash flow statement data prepared in accordance with GAAP. Additionally, Adjusted Free Cash Flow does not represent the total increase or decrease in our cash balance, and it should not be inferred that the entire amount of Adjusted Free Cash Flow is available for dividends, debt or share repurchases or other discretionary expenditures, since we have non-discretionary expenditures that are not deducted from this measure.

EBITDA, Adjusted EBITDA and Adjusted Free Cash Flow are widely used by investors and other users of our consolidated financial statements as supplemental financial measures that, when viewed with our GAAP results and the accompanying reconciliations, we believe provide additional information that is useful to gain an understanding of the factors and trends affecting our ability to service debt, pay income taxes and fund drydocking charges, maintenance capital improvements and non-vessel capital expenditures. We also believe the disclosure of EBITDA, Adjusted EBITDA and Adjusted Free Cash Flow helps investors or lenders meaningfully evaluate and compare our cash flow generating capacity from quarter to quarter and year to year.

EBITDA, Adjusted EBITDA and Adjusted Free Cash Flow are also financial metrics used by management as supplemental internal measures 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 the EBITDA, Adjusted EBITDA and Adjusted Free Cash Flow of other companies, vessels or other assets when evaluating potential acquisitions; to assess our ability to service existing fixed charges and incur additional indebtedness; and to purchase, convert or construct additional vessels. Additionally, we have historically made certain adjustments to EBITDA to internally evaluate our performance based on the computation of ratios used in certain financial covenants of our credit agreements with various lenders, whenever applicable. Currently, our credit agreements have incurrence tests and other financial covenants, including coverage and leverage ratios. These ratios are calculated using certain adjustments to EBITDA defined by our credit agreements, which adjustments are consistent with those reflected in Adjusted EBITDA in this prospectus. In addition, we believe that, based on covenants in prior credit facilities, future debt arrangements may require compliance with certain ratios that will likely include EBITDA or Adjusted EBITDA in the computations. Adjusted EBITDA is also currently utilized in connection with the Company’s short-term cash bonus incentive compensation programs.

The following tables reconcile cash flows provided by operating activities to EBITDA, Adjusted EBITDA and Adjusted Free Cash Flow, as we define those terms, for the six months ended June 30, 2024, and 2023 and the years ended December 31, 2023, 2022, and 2021, respectively (in thousands):

	Six Months Ended June 30,		Year Ended December 31,		
(dollars in thousands)	2024	2023	2023	2022	2021
EBITDA Reconciliation to GAAP:					
Net cash flows provided by operating activities	$26,666	$ 62,349	$146,115	$112,967	$ 49,611
Cash paid for deferred drydocking charges	26,106	15,416	29,828	19,114	14,113
Cash paid for interest	14,556	15,502	32,970	8,868	8,467
Cash paid for income taxes	13,035	1,136	9,311	474	2,399
Recovery of (provision for) credit losses	34	(386)	(551)	(257)	(44)
Changes in other operating assets and liabilities	11,805	7,260	(19,166)	38,995	(516)
Stock-based compensation expense	(4,423)	(15,363)	(19,097)	(5,330)	(3,372)
Amortization of deferred contract-specific costs of sales	(431)	(489)	(1,028)	—	—
Fair value adjustment of liability-classified warrants	696	(4,533)	(10,917)	(41,408)	(15,150)
Loss on early extinguishment of debt, net	—	—	(1,236)	(44)	—
Gain on sale and disposal of assets	31	2,566	2,702	21,837	2,679
EBITDA	$88,075	$ 83,458	$168,931	$155,216	$ 58,187
Adjusted EBITDA Reconciliation to GAAP:					
Net cash flows provided by operating activities	$26,666	$ 62,349	$146,115	$112,967	$ 49,611
Cash paid for deferred drydocking charges	26,106	15,416	29,828	19,114	14,113
Cash paid for interest	14,556	15,502	32,970	8,868	8,467
Cash paid for income taxes	13,035	1,136	9,311	474	2,399
Recovery of (provision for) credit losses	34	(386)	(551)	(257)	(44)
Changes in other operating assets and liabilities	11,805	7,260	(19,166)	38,995	(516)
Amortization of deferred contract-specific costs of sales	(431)	(489)	(1,028)	—	—
Interest income	3,007	4,830	9,755	2,832	510
Gain on sale and disposal of assets	31	2,566	2,702	21,837	2,679
Terminated debt refinancing costs	—	3,633	3,693	—	—
Adjusted EBITDA	$94,809	$111,817	$213,629	$204,830	$ 77,219
Adjusted Free Cash Flow Reconciliation to GAAP:					
Net cash flows provided by operating activities	$26,666	$ 62,349	$146,115	$112,967	$ 49,611
Cash paid for maintenance capital improvements	(9,969)	(3,782)	(7,745)	(3,762)	(3,826)
Cash paid for non-vessel capital expenditures	(315)	(415)	(1,087)	(1,328)	(688)
Recovery of (provision for) credit losses	34	(386)	(551)	(257)	(44)
Changes in other operating assets and liabilities	11,805	7,260	(19,166)	38,995	(516)
Amortization of deferred contract-specific costs of sales	(431)	(489)	(1,028)	—	—
Interest income	3,007	4,830	9,755	2,832	510
Gain on sale and disposal of assets	31	2,566	2,702	21,837	2,679
Terminated debt refinancing costs	—	3,633	3,693	—	—
Adjusted Free Cash Flow	$30,828	$ 75,566	$132,688	$171,284	$ 47,726

The following table provides the detailed components of EBITDA, Adjusted EBITDA and Adjusted Free Cash Flow as we define those terms, for the six months ended June 30, 2024 and 2023, and the years ended December 31, 2023, 2022, and 2021, respectively (in thousands):

	Six Months Ended June 30,		Year Ended December 31,		
	2024	2023	2023	2022	2021
Components of EBITDA:					
Net income	$ 44,226	$ 36,835	$ 74,538	$ 80,762	$ 2,987
Interest, net					
Interest expense	13,437	22,972	39,802	41,172	35,794
Interest income	(3,007)	(4,830)	(9,755)	(2,832)	(510)
Total interest, net	10,430	18,142	30,047	38,340	35,284
Income tax expense	3,163	6,362	16,495	7,174	1,533
Depreciation	18,093	11,753	26,355	18,601	15,672
Amortization	12,163	10,366	21,496	10,339	2,711
EBITDA	$ 88,075	$ 83,458	$168,931	$155,216	$ 58,187
Loss on early extinguishment of debt, net	$ —	$ —	$ 1,236	$ 44	$ —
Stock-based compensation expense	4,423	15,363	19,097	5,330	3,372
Interest income	3,007	4,830	9,755	2,832	510
Fair value of liability-classified warrants	(696)	4,533	10,917	41,408	15,150
Terminated debt refinancing costs	—	3,633	3,693	—	—
Adjusted EBITDA	$ 94,809	$111,817	$213,629	$204,830	$ 77,219
Cash paid for deferred drydocking charges[1]	$(26,106)	$(15,416)	$ (29,828)	$ (19,114)	$ (14,113)
Cash paid for maintenance capital improvements[1]	(9,969)	(3,782)	(7,745)	(3,762)	(3,826)
Cash paid for non-vessel capital expenditures[1]	(315)	(415)	(1,087)	(1,328)	(688)
Cash paid for interest	(14,556)	(15,502)	(32,970)	(8,868)	(8,467)
Cash paid for income taxes	(13,035)	(1,136)	(9,311)	(474)	(2,399)
Adjusted Free Cash Flow	$ 30,828	$ 75,566	$132,688	$171,284	$ 47,726

(1) For additional information concerning these items, see "—Liquidity and Capital Resources—Capital Expenditures and Related Commitments."

Set forth below are the material limitations associated with using EBITDA, Adjusted EBITDA and Adjusted Free Cash Flow as non-GAAP financial measures compared to cash flows provided by operating activities:

- EBITDA, Adjusted EBITDA and Adjusted Free Cash Flow do not reflect the future capital expenditure requirements that may be necessary to replace our existing vessels upon expiration of their useful lives;
- EBITDA, Adjusted EBITDA and Adjusted Free Cash Flow do not reflect the interest, future principal payments and other financing-related charges necessary to service the debt that we have incurred in acquiring and constructing our vessels;
- EBITDA, Adjusted EBITDA and Adjusted Free Cash Flow do not reflect the deferred income taxes that we will eventually have to pay once we are no longer in an overall NOL carryforward position, as applicable; and
- EBITDA, Adjusted EBITDA and Adjusted Free Cash Flow do not reflect changes in our net working capital position.

Management compensates for the above-described limitations in using EBITDA, Adjusted EBITDA and Adjusted Free Cash Flow as non-GAAP financial measures by only using EBITDA, Adjusted EBITDA and Adjusted Free Cash Flow to supplement our GAAP results.

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 and term loan agreements and cash received from the sale of assets. We require capital to fund on-going operations, remaining commitments under on-going vessel newbuild and conversion 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 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.

In August 2023, we elected to fully repay the $68.7 million then-outstanding principal balance of the Replacement First Lien Term Loans. As of June 30, 2024, we had $349.0 million of outstanding principal amount of Second Lien Term Loans that mature in March 2026, inclusive of accumulated paid-in-kind interest through June 30, 2024. Effective September 4, 2023, the Second Lien Term Loans contractually converted to full cash-pay obligations with an annual interest rate of 8.25% based on our prevailing Total Leverage Ratio, which was below 3.00 to 1.00.

As of August 14, 2024, we were in compliance with all applicable financial covenants under the First Lien Revolving Credit Facility. There were no revolving loan amounts outstanding under the First Lien Revolving Credit Facility as of such date and we expect such facility to remain undrawn for the foreseeable future. During the second quarter of 2024 and as of August 14, 2024, we were in compliance with all applicable financial covenants under our Second Lien Credit Agreement. We may voluntarily prepay, in whole or in part, any amount of the Second Lien Term Loans without penalty prior to maturity. As of June 30, 2024 and December 31, 2023, we had total cash and cash equivalents of $91.1 million and $120.1 million, respectively, and restricted cash of $0.8 million and $0.8 million, respectively.

Cash Flows for the Years Ended December 31, 2023, 2022, and 2021

The following summarizes our cash flows for the years ended December 31, 2023, 2022 and 2021.

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 $146.1 million, $113.0 million and $49.6 million for the years ended December 31, 2023, 2022 and 2021, respectively. Operating cash flows for the years ended December 31, 2023, 2022 and 2021 were favorably affected by improved market conditions for our vessels. 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 $168.3 million, $109.2 million and $4.1 million for 2023, 2022 and 2021, respectively. Net cash used during 2023 and 2022 was primarily attributable to vessel acquisitions, partially offset by proceeds from vessel sales. Net cash used in investing activities in 2021 primarily consisted of capital improvements for active vessels, partially offset by proceeds from vessel sales.

Financing Activities. Net cash provided by (used in) financing activities was ($76.0) million, $32.9 million and $37.6 million for 2023, 2022 and 2021. 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. Net cash provided by financing activities for the year ended December 31, 2022 primarily resulted from the proceeds received from the delayed draw term loans that were funded under the Replacement First Lien Term Loans, partially offset by a partial repayment of the Replacement First Lien Term Loans. Net cash provided by financing activities for the year ended December 31, 2021 primarily resulted from proceeds received from the Replacement First Lien Term Loans and preemptive rights offering of equity, partially offset by the repayment of the exit first-lien term loans.

Cash Flows for the Six Months Ended June 30, 2024 and 2023

The following summarizes our cash flows for the six months ended June 30, 2024 and 2023.

Operating Activities. Net cash provided by operating activities was $26.7 million and $62.3 million for the six months ended June 30, 2024 and 2023, respectively. Operating cash flows for the first six months of 2024 were unfavorably affected by an increase in operating expense from newly acquired vessels and deferred drydocking charges from vessel recertifications.

Investing Activities. Net cash used in investing activities was $49.5 million and $44.0 million for the six months ended June 30, 2024 and 2023, respectively. Cash used during the first six months of 2024 was primarily attributable to the purchase of the final vessel delivered from ECO Acquisitions #2, costs related to the construction of the two MPSV newbuilds and maintenance capital improvements for active vessels.

Financing Activities. Net cash used in financing activities was $3.9 million and $7.0 million for the six months ended June 30, 2024 and 2023, respectively. Cash used in financing activities was primarily attributable to tax payments made by the Company for employee taxes related to shares withheld from vested and settled RSU awards.

Contractual Obligations

The following table and notes set forth our aggregate contractual obligations as of June 30, 2024 (in thousands):

	Total	Less than 1 Year	1-3 Years	3-5 Years	Thereafter
Contractual Obligations					
MPSV newbuild program[1]	$ 48,549	$ 48,549	$ —	$ —	$ —
C/SOV + Flotel conversion[2]	31,418	31,418	—	—	—
Second Lien Term Loans[3]	349,001	—	349,001	—	—
Interest payments[4]	51,267	29,193	22,074	—	—
Non-cancellable leases	38,275	7,775	7,940	6,865	15,695
Total	$518,510	$116,935	$379,015	$ 6,865	$ 15,695

(1) Our MPSV newbuild program contractual obligations exclude the cost of expected cranes and ancillary equipment to be installed upon completion of the construction of the vessels by the shipyard, as we had not entered into any contractual commitments related to such costs as of June 30, 2024. The total project costs for the completion of the construction of the two MPSVs is currently expected to total $145.0 million upon completion, of which $6.1 million had been incurred as of June 30, 2024. Amounts exclude capitalized interest.

(2) Our C/SOV + Flotel conversion contractual obligations include contractual milestone payments associated with the shipyard and certain purchases of owner-furnished equipment that were contracted as of June 30, 2024. The total project costs for the OSV-to-MPSV conversion is currently expected to total $77.7 million upon completion, of which $33.2 million had been incurred as of June 30, 2024. Amounts exclude capitalized interest.

(3) Our Second Lien Term Loans mature on March 31, 2026 and include $76.4 million of accumulated paid-in-kind interest.
(4) Effective September 4, 2023, the interest rate on the Second Lien Term Loans is variable based on our Total Leverage Ratio at each quarter-end. The amount reflected in this table is consistent with the current annual 8.25% fixed interest rate applicable to our Total Leverage Ratio as of June 30, 2024. Please see Note 8 to our consolidated financial statements for further discussion of the interest rate applicable to the Second Lien Term Loans.

Contracted Backlog

Our total contracted backlog was $666.8 million as of July 31, 2024, 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 June 30, 2024, the Company had the following outstanding debt (in thousands, except effective interest rate):

	Total Debt[1]	Effective Interest Rate	Cash Interest Payments[2]	Payment Dates
Second Lien Term Loans	$ 349,001	8.25%	$ 7,278	March 31, June 30, September 30, December 31
	$ 349,001			

(1) The outstanding principal balance on the Second Lien Term Loans includes accumulated paid-in-kind interest as of June 30, 2024.
(2) Effective September 4, 2023, the interest rate on the Second Lien Term Loans is variable based on the Company's Total Leverage Ratio at each quarter-end. The amount reflected in this table is consistent with the current annual 8.25% fixed interest rate applicable to the Company's Total Leverage Ratio as of June 30, 2024. Please see Note 10 to our Annual Financial Statements and Note 8 to our Quarterly Financial Statements for further discussion of the interest rate applicable to the Second Lien Term Loans.

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 current aggregate commitments for the Revolving Loans under the First Lien Revolving Credit Facility total $75 million, all of which remain undrawn. 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 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 revolving credit facility net leverage ratio (measured by total loans outstanding under the First Lien Revolving Credit Facility, 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 commitments under the First Lien Revolving Credit Facility) 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 debt outstanding under the First Lien Revolving Credit Facility, net of unrestricted cash and cash equivalents of up to $25.0 million) of no less than 3.00 to 1.00, in each case, tested on the Credit Agreement Closing Date, and thereafter at the end of each fiscal quarter, beginning with our first full fiscal quarter ending after the Credit Agreement 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. Additionally, to the extent Revolving Loans are outstanding and the collateral coverage ratio or the revolving credit facility collateral coverage ratio financial covenants under the First Lien Revolving Credit Facility are not met as of the end of any fiscal quarter, we will be required to make 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, and so long as such mandatory prepayment is made, no default or event of default will result from the breach of such financial covenants.

Second Lien Term Loans

On September 4, 2020, we entered into that certain Second Lien Credit Agreement. The initial aggregate principal amount of the initial term loans under the Second Lien Credit Agreement were $287,577,193.66.

The Second Lien Term Loans mature in March 2026 and the borrowings bear interest at a cash interest only rate or, until September 4, 2023, a cash interest plus paid-in-kind (“PIK”) rate, at the Company’s option, as follows:

- From September 4, 2020 and until September 4, 2022, at (i) a cash interest only rate of 9.25% per annum or (ii) a cash interest plus PIK rate, comprised of 1.00% per annum cash interest plus 9.50% per annum PIK interest;
- From September 4, 2022 and until September 4, 2023, at (i) a cash interest only rate of 10.25% per annum or (ii) a cash interest plus PIK rate, comprised of 2.50% per annum cash interest plus 9.00% per annum PIK interest; and
- From and after September 4, 2023, (i) if the total leverage ratio is greater than or equal to 3:00 to 1:00, then at a cash interest only rate of 10.25% per annum and (ii) if the total leverage ratio is less than 3:00 to 1:00, then at a cash interest only rate of 8.25% per annum.

In the second quarter of 2023, we elected to stop accruing paid-in-kind interest and began cash paying the interest on the Second Lien Term Loans. Effective September 4, 2023, the Second Lien Term Loans contractually converted to full cash-pay obligations with an annual interest rate of 8.25% based on our prevailing Total Leverage Ratio, which was below 3.00 to 1.00.

As of June 30, 2024, we had $349.0 million in outstanding principal amount of Second Lien Term Loans (including accumulated PIK interest) under the Second Lien Credit Agreement. Total interest expense relating to the Second Lien Term Loans, including PIK interest, amortization and write off of debt issuance costs and unutilized commitment fees, net of capitalized interest, for the six months ended June 30, 2024 and the years ended December 31, 2023 and 2022 was $12.9 million, $26.6 million and $35.4 million, respectively.

Capital Expenditures and Related Commitments

The following table summarizes the costs incurred for the purposes set forth below for the six months ended June 30, 2024 and 2023, and for the years ended December 31, 2023, 2022 and 2021 (in thousands):

	Six Months Ended June 30,		Year Ended December 31,		
	2024	2023	2023	2022	2021
Capital Expenditures:					
Maintenance Capital Expenditures					
Deferred drydocking charges	$26,106	$15,416	$ 29,828	$ 19,114	$ 14,113
Maintenance capital improvements	9,969	3,782	7,745	3,758	3,826
	36,075	19,198	37,573	22,872	17,939
Growth Capital Expenditures[(1)(2)]					
MPSV Newbuild Construction	6,180	—	—	—	—
ECO Acquisitions #1	412	14,450	27,869	—	—
ECO Acquisitions #2	19,721	9,702	91,580	60,848	—
MARAD acquisition	—	8,102	9,098	55,199	—
	26,313	32,254	128,547	116,047	—
Commercial Capital Expenditures[(2)]					
C/SOV + Flotel Conversion	11,032	1,922	23,737	577	—
Other Commercial Capex	1,891	8,355	10,127	10,372	2,755
	12,923	10,277	33,864	10,949	2,755
Non-vessel Capital Expenditures	315	415	1,087	1,328	688
Total	$75,626	$62,144	$ 201,071	$ 151,196	$ 21,382

(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.

Growth Capital Expenditures

Growth capital expenditures are expenditures undertaken by the Company 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 the 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 was contracted by the Surety to complete construction of the two MPSVs. We are obligated to pay only the remaining portion of the original shipyard contract price for the two MPSVs, which amounted to $53.8 million in the aggregate on the settlement date. The Surety is required to cure all defaults of Gulf Island and pay all completion costs in excess of the $53.8 million remaining original contract price, excluding any approved change orders arising after the settlement date. There is no cap on the Surety's completion cost. As of June 30, 2024, we had paid $5.3 million to Eastern related to the completion of these two MPSVs.

Pursuant to the settlement, the Surety is contractually required to deliver both MPSVs in 2025. We were provided an updated schedule by the Surety and Eastern indicating that they currently expect a six-month shipyard delay for the delivery of the first of the two MPSVs. An updated delivery schedule has not yet been provided for the second vessel. Following physical delivery by the shipyard, we expect each vessel to undergo crane and other system installations, which we expect will make the first vessel available for commercial service in the first half of 2026, and the second vessel thereafter. In addition to the remaining $48.5 million of the original contract price as of June 30, 2024, we expect to incur an incremental $91.2 million in the aggregate for outfitting, overhead and the post-delivery discretionary enhancements, of which $63.6 million solely relates to the purchase and installation of cranes on both vessels. As of June 30, 2024, we had incurred $0.8 million of such incremental amounts, excluding capitalized interest. Once placed in service, we expect that our book carrying value for each vessel will be approximately $80.0 million, which is significantly below the expected market value of Jones Act-qualified vessels of this age, type, size and specifications.

ECO Acquisitions #1

On January 10, 2022, the Company entered into definitive vessel purchase agreements with certain affiliates of 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 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 the 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.

As of June 30, 2024, the Company had paid $82.2 million for the original purchase price and $1.7 million in purchase price adjustments associated with discretionary enhancements of the ECO Acquisitions #1 vessels, prior to the effect of the $1.5 million termination fee paid by ECO. In addition, the Company had incurred $3.9 million of costs associated with additional outfitting of the six vessels through the second quarter of 2024. The Company expects to incur an additional $0.1 million related to post-closing modifications of the sixth vessel during the remainder of 2024.

ECO Acquisitions #2

On December 22, 2022, the Company executed a controlling purchase agreement with Nautical. Pursuant to the controlling purchase agreement, the Company subsequently entered into separate, individual vessel purchase agreements to acquire six high-spec OSVs from Nautical for $17.0 million per vessel. The Nautical vessels are U.S.-flagged, Jones Act-qualified, 280 class DP-2 OSVs with cargo-carrying capacities of circa 4,750 DWT.

Nautical completed regulatory drydocking and reactivation activities for each vessel prior to closing. Payment of 10% of the purchase price for each vessel was made upon arrival of such vessel to the shipyard and the remaining 90% was paid at the closing and delivery of each vessel. We took delivery of the first five vessels during 2023.

In January 2024, the Company took delivery of the sixth and final vessel under ECO Acquisitions #2 and paid $15.3 million for the remaining 90% of the original purchase price and $0.1 million for purchase price adjustments related to discretionary enhancements completed in the shipyard by Nautical. As of June 30, 2024, the Company had paid an aggregate of $102.0 million for the original purchase price, including deposits, and $10.6 million in purchase price adjustments associated with discretionary enhancements, additional outfitting, and post-closing modifications for the ECO Acquisitions #2 vessels. The Company expects to incur an incremental $0.1 million related to additional outfitting, discretionary enhancements and post-closing modifications for certain of these vessels during the remainder of 2024.

MARAD Acquisition

On February 4, 2022, the Company completed the acquisition of three high-spec new generation OSVs from the U.S. Department of Transportation's Maritime Administration, or "MARAD", for an aggregate price of $37.2 million. All three vessels are U.S.-flagged, Jones Act-qualified, 280 class DP-2 OSVs with cargo-carrying capacities of circa 4,500 DWT. Following the physical delivery of the vessels from MARAD, the Company incurred approximately $27.3 million for the reactivation and regulatory drydockings of all three vessels. In September 2022, the Company placed two of these vessels into service for immediate time charters in the U.S. GoM. The third OSV is currently undergoing conversion into a MPSV, as further discussed below under "Commercial Capital Expenditures—C/SOV + Flotel Conversion."

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 24 to 36 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 18, 16 and 14 recertification drydockings in 2023, 2022 and 2021, respectively, and have completed 12 recertification drydockings through the six months ended June 30, 2024. We expect to complete 12 additional drydockings by December 31, 2024.

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 the Company utilizes the downtime during the planned shipyard event as an opportunity to complete the discretionary vessel improvements.

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.

C/SOV + Flotel Conversion

In July 2023, the Company announced that it had contracted Eastern to convert one of its 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 and oilfield markets. The Company has incurred $33.2 million, excluding capitalized interest, through June 30, 2024 and expects to spend an additional $44.5 million for such vessel conversion, including owner-furnished equipment, outfitting, engineering and overhead costs. We currently expect the conversion to be completed by mid-year 2025.

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.

Critical Accounting Estimates

Our 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 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 (1) chartering the Company's 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. The Company has not incurred a material adjustment to revenues as a result of changes in its estimates and assumptions associated with customer contracts during the six months ended June 30, 2024 or during the years ended December 31, 2023, 2022 or 2021. Please see further discussion regarding revenues generated from contracts with customers in Note 4 to our Annual Financial Statements and our Quarterly Financial Statements, respectively.

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 customer's 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. The Company's outstanding Creditor Warrants are currently classified as liabilities pursuant to ASC 815, *Derivatives and Hedging*. Warrants that are classified as liabilities are 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, uses 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. The Company's third-party valuation advisors estimate 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 falls 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, the Company currently considers 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. As of June 30, 2024 and December 31, 2023, every one-dollar change in the estimated fair value per share of the underlying common stock would have an approximate $1.5 million impact on the estimated fair value of the Creditor Warrants.

Changes in the estimated fair value of our liability-classified warrants are 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 Annual Financial Statements and Note 9 to our Quarterly 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 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. Please see further discussion regarding our stock-based compensation in Note 13 to our Annual Financial Statements and Note 10 to our Quarterly 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, 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 $254.8 million and $246.4 million recorded against our deferred tax assets as of December 31, 2023 and 2022, respectively. Such valuation allowances were established because we determined that it was more likely than not such NOL and FTC carryforwards may not be fully utilized prior to their expiration. In addition, each reporting period, we assess and adjust for any significant changes to our liability for unrecognized income tax benefits. 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 Annual Financial Statements and Note 11 to our Quarterly Financial Statements.

Legal Contingencies. We are involved in a variety of claims, lawsuits, investigations and proceedings, as described in Note 16 to our Annual 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 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 2023, 2022 and 2021, we incurred deferred drydocking costs totaling $29.8 million, $19.1 million and $14.1 million, respectively. For the six months ended June 30, 2024, we incurred $26.1 million in deferred drydocking costs. 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 8.25% based on the Company's Total Leverage Ratio pursuant to the Second Lien Credit Agreement, which annual interest rate will become 10.25% if the Company's Total Leverage Ratio becomes greater than or equal to 3:00 to 1:00.

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 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, 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 the Company's 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 June 30, 2024 or December 31, 2023.

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.

BUSINESS

Company Overview

Hornbeck is a leading provider of marine transportation services to customers in the offshore oilfield market and diversified non-oilfield markets, including military support services, renewable energy development and other non-oilfield service offerings. Since our founding more than 27 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 covering the United States and Latin America. Our team brings substantial industry expertise built through decades of experience and has leveraged that knowledge to amass what we believe is one of the largest, highest specification fleets of OSVs and MPSVs in the industry. Approximately 75% of our total fleet consists of high-spec or ultra high-spec vessels, and 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, measured by DWT capacity. We own a fleet of 75 multi-class OSVs and MPSVs, 58 of which are U.S. Jones Act-qualified vessels. Our Jones Act-qualified high-spec and ultra high-spec OSVs account for approximately 26% of the total industry supply of such vessels. We opportunistically expand our fleet within existing and/or into new, high-growth, cabotage-protected markets from time to time to enhance our fleet offerings to customers. Our mission is to be recognized as the energy industry's marine transportation and service Company of Choice® for our customers, employees and investors through innovative, high-quality, value-added business solutions delivered with enthusiasm, integrity and professionalism with the utmost regard for the safety of individuals and the protection of the environment.

Our fleet of 60 OSVs primarily provides transportation of equipment, materials and supplies to offshore drilling rigs, production platforms, subsea construction projects and other non-oilfield applications. Increasingly, given their versatility, our OSVs are being deployed in a variety of non-oilfield applications including military support services, renewable energy development for offshore wind, humanitarian aid and disaster relief, aerospace and telecommunications. Our OSVs differ from other marine service vessels in that they provide increased cargo-carrying flexibility and capacity that can transport large quantities of deck cargoes as well as various liquid and dry bulk cargoes in below-deck tanks providing flexibility for a variety of jobs. Moreover, our OSVs are outfitted with advanced technologies, including DP capabilities, which allows each vessel to safely interface with another offshore vessel, exploration and production facility or an offshore asset by maintaining an absolute or relative station-keeping position when performing its work at sea.

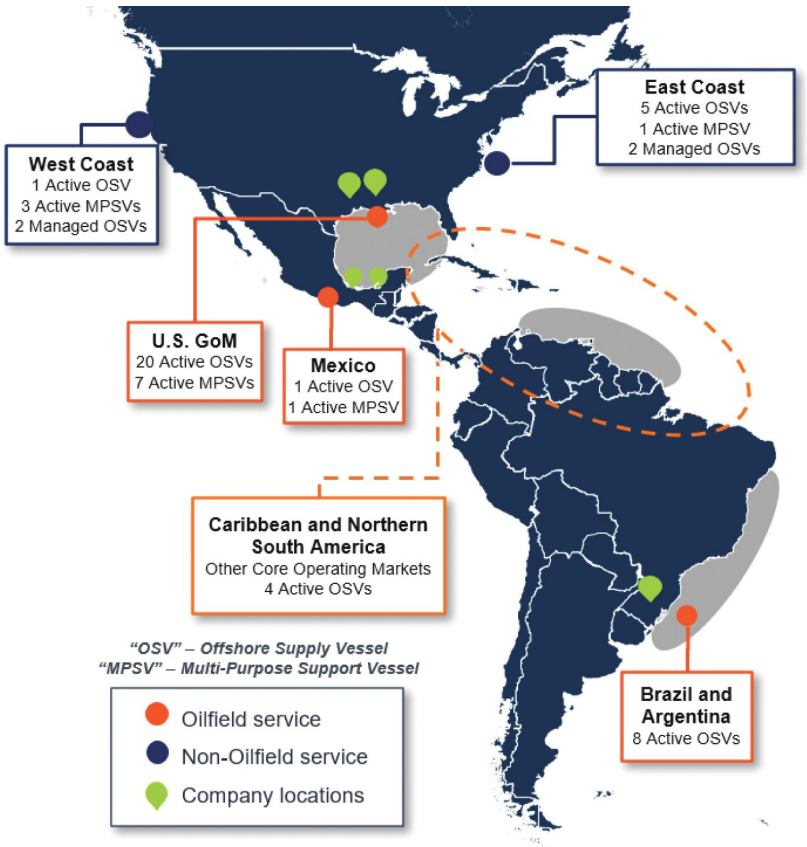
Our fleet of 15 MPSVs provides commissioning and decommissioning support services, asset construction capabilities, recurring inspection, repair and maintenance services and flotel accommodations. Such vessels primarily serve the oil and gas market, with capabilities including the installation of subsea and top-side oilfield infrastructure necessary in the modern deepwater and ultra-deepwater oilfields. Further, these vessels are capable of supporting a variety of other non-oilfield offshore infrastructure projects, including the development of offshore windfarms, by providing the equipment and capabilities to support the installation and maintenance of wind turbines and platforms. Because of our ability to serve a diverse set of end markets, MPSV operations are typically less directly linked with the number of active drilling rigs in operation and therefore can be less cyclical. Our high- and ultra high-spec OSVs can be contracted alongside our MPSVs on major projects, providing operating efficiencies and pull-through revenue. Most of our MPSVs have one or more deepwater or ultra-deepwater cranes fitted on the deck, deploy one or more ROVs to support subsea work, and have an installed helideck to facilitate the on-/off-boarding of specialist service providers and personnel. MPSVs can also be outfitted as flotels to provide accommodations, offices, catering, laundry, medical, and recreational facilities to large numbers of offshore workers for the duration of a project. When configured as flotels, our MPSVs have capacities to house up to 245 workers for major installation, maintenance and overhaul projects. Included in our total MPSV fleet count are the two HOS 400 class MPSVs that are currently under construction and one of our U.S.-flagged, HOSMAX 280 class OSVs that is currently undergoing conversion into a MPSV for dual-service as either a C/SOV or flotel. Based on overall length and total lifting capacity, the two HOS 400 class MPSVs are expected to be the largest Jones Act-qualified MPSVs in the market and will have additional capabilities due to their size and sophistication. In addition to the services performed by our existing fleet of MPSVs, the two newbuild vessels will be equipped with systems that we expect will make them suitable for complex services, including light well intervention, that require larger or more versatile vessels than the fleet of MPSVs currently available in the U.S. market. Once converted our C/SOV + Flotel MPSV will be capable of providing services to the U.S. offshore wind market both during the commissioning phase of an offshore wind farm and during its operational

life. We expect the converted MPSV to be placed into active service as either a C/SOV or flotel in 2025, while the two newbuild MPSVs are now expected to be placed into active service in 2026 or possibly thereafter.

Our ability to reconfigure or modify vessels in our fleet to meet evolving industry demands and the needs of our customers differentiates our success across maritime markets. This enables us to reconfigure stacked OSVs to service oilfield and non-oilfield service customers. As offshore activities expand in scope and become increasingly more complex, the demand for high specification, fit-for-purpose equipment and service capabilities has accelerated, creating disproportionate competitive advantages for companies able to adapt vessels and service offerings quickly to respond to changing customer needs.

With an average of over 37 years of experience in the marine transportation and service industry and having worked together at Hornbeck for over 20 years, our senior management team has the depth of experience necessary to successfully compete in the offshore vessel business. We have confidence that both our team and our strategy have been organized in a manner that best positions our Company to effectively execute in this dynamic and demanding operating environment.

Hornbeck owns and operates what we believe is one of the highest specification, most technologically advanced fleets of OSVs and MPSVs in the industry. Our fleet of 75 vessels primarily operates across our core geographic markets of the United States and Latin America. We predominantly serve our oilfield customers in the GoM, the Caribbean, Northern South America and Brazil, while our vessels primarily serve our non-oilfield customers from the East and West Coasts of the United States and in the U.S. GoM. We operate our Mexican-flagged vessels across the Caribbean and Northern South America when not operated in Mexico, as well as in other international markets, utilizing a highly-skilled workforce of Mexican mariners and shore-side support team that have been trained in our safety systems and culture. A map illustrating our active vessel locations as of July 31, 2024 is below:



Our Competitive Strengths

Leading presence in the United States and Latin America

Hornbeck was established in 1997 and has one of the most capable and high-spec fleets of vessels in the industry. Based on publicly-available information compiled by the Company and data provided by Spinergie, we believe that our fleet of 41 high-spec and ultra high-spec OSVs, totaling 217,140 in DWT capacity, represents 6.6% of the 3,290,183 total DWT of such vessels in the world, making Hornbeck the third largest fleet out of 163 companies that own and operate high-spec or ultra high-spec OSVs worldwide. Furthermore, we believe that our fleet of 15 U.S.-flagged ultra high-spec OSVs, totaling 91,123 in DWT capacity, represents the largest fleet of such vessels operating in the United States measured by DWT capacity. Additionally, we are one of the top operators of OSVs, based on DWT, in each of our two core geographic markets, which include 2,459,593 DWT and constitute 41.7% of the total supply of 5,847,658 DWT to such markets. Our 46 U.S.-flagged OSVs, totaling 206,767 in DWT capacity, comprise the second largest fleet of technologically advanced, OSVs qualified for work in the U.S. GoM under the Jones Act. As of July 31, 2024, our active fleet of OSVs and MPSVs consisted of (i) 20 U.S.-flagged OSVs and seven MPSVs in the U.S. GoM, (ii) five OSVs and one MPSV throughout the U.S. Atlantic, (iii) one OSV and three MPSVs in the U.S. Pacific, (iv) seven OSVs offshore Brazil, (v) one OSV offshore Argentina, (vi) four OSVs in the Caribbean and Northern South America and (vii) one OSV and one MPSV offshore Mexico. We believe that having scale in our core markets with the flexibility to transfer vessels among regions benefits our customers and provides us with operating efficiencies.

Large and diverse fleet of technologically advanced high-spec and ultra high-spec vessels

Over the past 27 years, we have assembled a multi-class fleet of 60 OSVs and 15 MPSVs. Since 2014, we have focused on expanding our line of high-spec and ultra high-spec vessels, increasing our fleet of such vessels from 41% of our fleet in 2014 to 75% of our fleet in 2024. High-spec and ultra high-spec vessels incorporate sophisticated technologies that are designed specifically to operate safely in complex and challenging environments and are equipped with specialty equipment and other features to respond to the needs of our customers through the project development and operation lifecycle of an offshore oilfield. These technologies include DP, roll reduction systems and controllable pitch thrusters, which allow our vessels to maintain a fixed position with minimal variance. Our cargo-handling systems permit high-volume transfer rates of liquid mud and dry bulk materials. In addition, we are able to outfit our vessels with specialty equipment and certain features as needed for specific projects. The greater fuel efficiency, larger cargo-carrying capacity, advanced mud-handling systems and other technical features of our high-spec and ultra high-spec vessels enhance offshore project efficiency and create a compelling value proposition for our customers. As a result of our fleet mix, in-house engineering capabilities, operations history and market strategies, we believe that we earn higher average dayrates compared to our competitors. According to industry data from Fearnley Offshore Supply, our average dayrates were 87%, 41%, and 16% higher than the global average term rates of comparably sized vessels owned by other operators in 2022, 2023, and the six months ended June 30, 2024, respectively.

Strong market position due to qualification under the Jones Act and favorable sector tailwinds

As a leader in marine transportation services to the offshore oilfield industry, we believe Hornbeck is well-positioned to capitalize on favorable industry conditions for significant growth opportunities, particularly in offshore wind development and support services to the U.S. military on the East and West Coasts of the United States. The United States has strict cabotage laws that provide insulation from most sources of foreign competition for our U.S. fleet for coastwise services. 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 believe our reputation for high-quality, safe and reliable operations, complex problem solving, operational flexibility, and world-class vessels allows Hornbeck to compete effectively for and retain qualified mariners, which positions Hornbeck for long-term sustainable growth in a tight labor market. In addition, our robust offering of services, ranging from initial construction to decommissioning, has allowed us to compete effectively and remain a trusted service provider for active offshore companies, as well as the U.S. military.

Successful track record of strategic vessel acquisitions

We have built our fleet through a combination of newbuilds and strategic acquisitions from other operators. Our management team's extensive naval architecture, marine engineering and shipyard experience has enabled us to quickly integrate newly acquired vessels into our fleet and retrofit them to meet our quality standards and customer needs cost-effectively. From time to time, we consider opportunistic acquisitions of single vessels, vessel fleets, and businesses that strategically complement our existing operations to enable us to grow our business and better serve our customers. Since 2017, we have successfully completed the acquisition of 19 OSVs, 18 of which are currently operating as part of our high-spec and ultra high-spec fleet and one of which is currently undergoing conversion into a MPSV for dual-service as either a C/SOV or flotel.

Diversified service offerings and customer markets provide stability to cash flows

We have well-established relationships with leading oilfield and non-oilfield companies and the U.S. government and believe such relationships are in part maintained because of our diversified service offerings in the oilfield and non-oilfield customer markets. Our diversified service offerings allow us to pivot based on our customers' needs and gives our customers confidence to commit to longer-term contracts for our services, which provides us with cash flow stability. Additionally, these large, integrated customers are financially stable and can better withstand economic or market downturns in a volatile market, and we believe maintaining relationships with these customers will ultimately result in better visibility to vessel utilization and greater liquidity for us in the future.

Experienced management team with proven track record

Our founder-led executive management team has an average of over 37 years of domestic and international marine transportation industry-related experience and has worked together at the Company for over 20 years. Our team is comprised of individuals with extensive, global experience with backgrounds across many diverse fields including engineering, project management, military service, finance, accounting, legal, risk management and corporate leadership. We believe that our team has successfully demonstrated its ability to grow our fleet through new construction and strategic acquisitions and to secure profitable contracts for our vessels in both favorable and unfavorable market conditions in domestic and foreign markets.

Attractive growth opportunities

Our fleet of technologically advanced high-spec and ultra high-spec vessels is increasingly being deployed to serve the accelerating needs of the U.S. Military, renewable energy, and aerospace industries. Many of these high-growth markets require U.S.-flagged Jones Act-qualified vessels, which can be custom tailored to address a broad spectrum of services. For these applications, our vessels are typically contracted for greater than three years, providing a counter-balance to cyclicality experienced in our oilfield end-markets.

Our Strategy

Leverage our geographic presence in the United States and Latin America and grow industry leading service capabilities

We have strategically chosen to focus our efforts in two core geographic markets, the United States and Latin America. While the U.S. GoM will continue to be a priority for us, in recent years we expanded our presence in each of the Mexico GoM, the East and West Coasts of the United States, the Caribbean, Northern South America and Brazil, as we anticipate long-term growth in those markets. Given the relative proximity of these markets, we are able to readily move our vessels among them and retain flexibility to relocate those vessels back to the U.S. GoM or into adjacent locations across our operating regions. We believe this allows us to conduct a more thorough on-going alternative analysis for vessel deployments among such markets and, thus, better manage our portfolio of contracts to enhance dayrates and utilization over time as contracting opportunities arise. Our Jones Act-qualified high-spec and ultra high-spec OSVs account for approximately 26% of the total

industry supply of such vessels. Our vessels have been adapted to operate in a range of oilfield specialty configurations, including flotel services, extended-reach well testing, seismic, deepwater and ultra-deepwater well stimulation, other enhanced oil recovery activities, high pressure pumping, deep-well mooring, ROV support, subsea construction, installation, IRM work and decommissioning services. We are also growing our diverse non-oilfield specialty services, such as military applications, offshore wind farms, oceanographic research, telecommunications, and aerospace projects.

Pursue differentiated customer offerings to optimize utilization and free cash flow generation

We seek to balance and diversify our service offerings to customers, to optimize our vessel utilization and stabilize our free cash flow generation. For example, in addition to our long-term charters in oilfield services and with military and renewable energy customers that contribute to contracted backlog and provide utilization stability, we also seek out short-term charters such as spot oilfield services that typically have higher dayrates. This contracting strategy balances our financial profile between longer-term charters and the flexibility to capture current market dayrates for a portion of our fleet. Our current contracting approach allows us to consistently perform well against our OSV peers when comparing average OSV dayrates and gross margins. The flexibility of our vessel capabilities is designed to optimize our utilization and allows us to pivot in response to market conditions and customer needs, which can lead to more stable free cash flow generation.

Apply existing, and develop new, technologies to meet our customers' vessel needs and expand our fleet offerings

Our in-house engineering team has been instrumental in applying existing, and developing new, technologies that meet our customers' vessel needs and provide us with the opportunity to enter new customer markets. For instance, our OSVs and MPSVs are designed to meet the higher capacity and performance needs of our oilfield clients' increasingly complex drilling and production programs and the diverse needs of our U.S. military, renewable energy and humanitarian aid and disaster relief customers. Further, we are able to reconfigure or retrofit existing assets with existing or new technology to participate in new customer markets such as offshore wind, aerospace and telecommunications. Specifically, we are currently deploying capital to upgrade certain of our vessels to dual service capabilities to better service the oilfield services market as well as the emerging offshore wind market. We remain committed to applying existing and developing new technologies to maintain a technologically advanced fleet that will enable us to continue to provide a high level of customer service and meet the developing needs of our customers.

Focus on selective acquisitions that are strategically and financially accretive

We seek to opportunistically grow our fleet through strategic and financially accretive acquisitions. Our screening criteria focuses on expanding the depth and breadth of our fleet mix as well as diversifying service offerings in our core markets. From time to time, we consider opportunistic acquisitions of single vessels, vessel fleets, and businesses that strategically complement our existing operations to enable us to grow our business and better serve our customers. For example, we recently completed the acquisition of 12 high-spec OSVs, which we refer to as the ECO Acquisitions.

Maintain a conservative balance sheet, disciplined growth, and robust free cash flow generation through cycles

We adhere to financial principles designed to maintain a conservative balance sheet, disciplined growth, and robust free cash flow generation. Our balance sheet strategy targets less than 1.0x leverage with ample excess liquidity available to withstand industry cycles or take advantage of disciplined growth opportunities.

Our growth strategy involves a disciplined screening of opportunities for differentiated assets that create competitive advantages and is focused on returns and payback periods. Our cash flow generation abilities are centered around maintaining flexible costs and lean organizational structures that seek efficiencies through continuous operational improvement and working capital management.

Continued commitment to sustainability and safety

Safety is of great importance to us and offshore operators due to the environmental and regulatory sensitivity associated with offshore drilling and production activity and wind development. We believe certain of our efforts, such as adopting shipboard energy efficiency management plans, installing emission monitoring systems and pursuing other operational efficiencies, have been successful, allowing us to meet our customers' needs while supporting our efforts to reduce our emissions of GHG. Additionally, since 2020, our focus on safely addressing operational risk has contributed to maintaining an industry-low TRIR. Our most recent 5-year average TRIR was 0.10, outperforming peer averages from the IMCA and ISOA. Further, in addition to industry standard certifications, as part of our commitment to safety and quality, we have voluntarily pursued and received certifications and classifications that we believe are not generally held by other companies in our industry. We believe that customers recognize our relentless commitment to safety, which contributes to our positive reputation and competitive advantage.

We recently placed into service a high-tech DP simulator that provides an interactive and immersive training experience for current and future mariners who serve in DPO roles on our vessels. Configured to incorporate the controls and models of the three brands of DP systems that we use on our vessels, as well as to simulate four different specific vessel types and classes within our fleet, this highly customized design affords DPOs the opportunity to train on the same or substantially similar DP systems installed on our vessels. The simulator provides us with a sophisticated training platform from which to train our mariners. Our mariners are engaged in a virtual ship-like environment that can subject them to realistic failure situations in a controlled atmosphere, thus facilitating a dynamic learning process. Our DP simulator is designed to make training more efficient, cost effective and risk free, and ultimately provide an optimum outcome for trainees and the Company. The simulator is located at our headquarters in Covington, Louisiana.

We also provide our chief shipmates and other engine-room personnel training on a land-based version of our onboard oily water separator unit, which enhances crew knowledge of a critical environmental safeguard and, we believe, fosters our culture of environmental stewardship and risk mitigation.

Description of Our Business and Fleet

The Company owns and operates OSVs, MPSVs, and a port facility in Port Fourchon, Louisiana. Its fleet of vessels provides logistics support and specialty services to the offshore oil and gas exploration and production industry, primarily in the GoM, 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. GoM. Measured by DWT capacity, we believe the Company has 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 both Jones Act-qualified vessels for U.S. operations, as well as foreign flag vessels for foreign operations. We believe that our reputation for safety and superior vessels, combined with our size and scale in certain core markets, enhances our ability to compete for work awarded by major oil companies, independent oil companies, national oil companies and the U.S. government, who are among our primary customers. These customers demand a high level of safety and technological advancements to meet the industry's stringent regulatory standards and operating policies.

OSVs and MPSVs operate worldwide but are generally concentrated in relatively few offshore regions with high levels of exploration and development activity, such as the GoM, the North Sea, Southeast Asia, West Africa, Latin America and the Middle East. While there is some vessel migration between regions, key factors such as mobilization costs, vessel suitability and government statutes prohibiting non-indigenous-flagged vessels from operating in certain waters, or cabotage laws such as the Jones Act, can limit the migration of OSVs into certain markets. Because MPSVs are generally utilized for non-cargo transportation operations, they are not typically subject to cabotage laws.

We have been successful in deploying our vessels across the United States and Latin America, where proximity and scale allow us to compete effectively with vessels from other international markets that have significantly higher mobilization costs. In addition, because of our significant presence in the United States and Mexico, we have access to shoreside resources and regional crews that we believe give us market advantages compared to international competitors.

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, which includes military, alternative energy development (including offshore wind), telecommunications, aerospace and humanitarian aid and disaster relief. 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 are capable of interfacing with other offshore vessels and facilities through the use of 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 allows OSVs to interface with other offshore facilities and vessels in a safe and efficient manner.

HOSMAX OSV and MPSV flotel servicing an offshore production facility in the U.S. GoM

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. The typical MPSV configured for subsea services is outfitted with one or more deepwater or ultra-deepwater cranes employing "active heave compensation" technology, one or more ROVs and a helideck. Our MPSVs can also be configured (in accordance with applicable regulations) to support installation, commissioning, maintenance, repairs, improvements, and decommissioning of offshore oilfield facilities and windfarms, humanitarian aid and disaster relief and military missions, by providing accommodations for over one hundred people, in addition to crew and service personnel. MPSVs can also be outfitted as flotels to provide accommodations to large numbers of offshore construction and technical personnel involved in large-scale offshore projects, such as the commissioning of a floating offshore production facility or the construction of offshore wind facilities. When in a flotel mode, the MPSV provides living quarters for third-party personnel, catering, laundry, medical services, recreational facilities and offices and has a helicopter heliport for the embarkation and disembarkation of offshore personnel. In addition, flotels are equipped with articulated gangways between the flotel and other offshore structures that allow personnel to "walk to work." Generally, MPSVs command higher dayrates than OSVs due to their significantly larger relative size and versatility, as well as higher construction and operating costs.

Two HOS MPSVs Deployed in GoM

Our Vessels

As of July 31, 2024, we owned a fleet of 75 vessels, including two partially constructed Jones Act-qualified MPSV newbuilds to be completed pursuant to our settlement with the Surety, as discussed in "Management's Discussion and Analysis of Financial Condition and Results of Operations—Recent Developments—Resumption of MPSV Newbuild Construction," and one OSV currently undergoing conversion into a MPSV for dual-service as either a C/SOV or flotel but excluding four vessels formerly owned by us that are now under an O&M contract with the U.S. Navy. A sustained downturn in oil and gas activities from 2015 to late 2020, combined with a global over-supply of vessels, resulted in widespread stacking of OSVs. During this period, we elected to cold-stack our smaller, older and less technologically capable vessels and to continue operating our high-spec and

ultra high-spec vessels. Since 2020, we have divested 14 of these older and smaller vessels. During that same timeframe, we have acquired a total of 19 high-spec and ultra high-spec vessels. We expect that we will continue to seek charter opportunities to re-purpose our remaining 19 non-high spec vessels, 18 of which are currently stacked. Alternatively, we may also sell some of these vessels opportunistically. The net effect of these efforts to "right-size" our overall fleet complement has been a shift in the percentage of high-spec and ultra high-spec vessels from 41% to 75% since 2014.

OSV Fleet

The following table illustrates our fleet of OSVs and the nations in which they are flagged as of July 31, 2024:

	Vessel Class	U.S.	Mexico	Vanuatu	Brazil	Avg DWT	Total in Class
Ultra High-Spec	HOSFLEX 370	2	—	—	—	7,886	2
	HOSMAX 320	9	1	—	—	6,052	10
	HOSMAX 310	3	—	—	1	5,990	4
	HOSMAX 300	2	4	—	—	5,489	6
High-Spec	HOSMAX 280	12	1	1	—	4,666	14
	HOS 270	—	2	—	—	3,803	2
	HOS 265	3	—	—	—	3,677	3
Other[1]	HOS 250	3	—	—	—	2,713	3
	HOS 240	12	2	—	—	2,712	14
	HOS 200	—	2	—	—	1,729	2
	Total Owned OSVs	**46**	**12**	**1**	**1**	—	**60[2]**
Operated	USN T-AGSE	4	—	—	—	DP-2	4[3]
	Total Operated OSVs	**50**	**12**	**1**	**1**	**—**	**64**

(1) Includes mid-spec vessels and low-spec vessels.
(2) Includes 21 stacked vessels, comprised of two HOS 200s, 13 HOS 240s, three HOS 250s, two HOS 265s, and one HOSFLEX 370.
(3) Includes four OSVs formerly owned by us and that we now operate and maintain for the U.S. Navy.

MPSV Fleet

The following table illustrates our fleet of MPSVs and the nations in which they are flagged as of July 31, 2024:

Vessel Class	U.S.	Mexico	Vanuatu	DP Class	Total in Class
HOS C/SOV+FLOTEL(1)	1	—	—	DP-2	1
HOS FLOTEL	1	—	—	DP-2	1
HOS 430	—	1	1	DP-3	2
HOS 400(2)	2	—	—	DP-2	2
HOS 310/310ES	4	—	—	DP-2	4
HOS 265	—	1	—	DP-2	1
HOS 250	2	—	—	DP-2	2
HOS 240	2	—	—	DP-2	2
Total MPSVs	**12**	**2**	**1**		**15**

(1) Includes one HOSMAX 280 OSV currently being converted into a MPSV for dual-service as either a C/SOV or flotel.

(2) Includes two partially constructed Jones Act-qualified MPSV newbuilds to be completed pursuant to our settlement with the Surety, as discussed further in "Management's Discussion and Analysis of Financial Condition and Results of Operations—Recent Developments—Resumption of MPSV Newbuild Construction".

There are a number of third-party services that consistently monitor and assess the value of vessels across the global OSV and MPSV fleets. These firms independently evaluate each vessel based on age, build specification, capabilities and recent comparable vessel sales, among other criteria, to derive a market-based estimate of current vessel value including fair market value, newbuild, or replacement, value, and liquidation value. According to one third-party provider, VesselsValue™, our total fleet of 60 OSVs and 15 MPSVs had a fair market value of approximately $2.7 billion and a newbuild, or replacement, value of approximately $5.7 billion as of July 31, 2024, reinforcing the quality and differentiated capabilities of our vessels in today's market.

Newbuild MPSVs

On October 9, 2023, we entered into a final settlement agreement with the Surety for two MPSVs previously under construction at Gulf Island. Pursuant to the agreement, 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 contracted by the Surety to complete the construction of the two MPSVs. Pursuant to the settlement, the Surety is contractually required to deliver both MPSVs in 2025. We are obligated to pay only the remaining portion of the original shipyard contract price for the two MPSVs, which amounted to $53.8 million in the aggregate on the settlement date. The Surety is required to cure all defaults of Gulf Island and pay all completion costs in excess of the $53.8 million remaining original contract price, excluding any approved change orders subsequent to the settlement date. As of June 30, 2024, we had paid $5.3 million to Eastern related to the completion of these two MPSVs.

Pursuant to the settlement, the Surety is contractually required to deliver both MPSVs in 2025. However, in June 2024, we were provided an updated schedule by the Surety and Eastern indicating that they currently expect a six-month shipyard delay for the delivery of the first of the two MPSVs. An updated delivery schedule has not yet been provided for the second vessel. Following physical delivery by the shipyard, we expect each vessel to undergo crane and other system installations, which we expect will make the first vessel available for commercial service in the first half of 2026, and the second vessel thereafter. In addition to the remaining $48.5 million of the original contract price as of June 30, 2024, we expect to incur an incremental $91.2 million in the aggregate for outfitting, overhead and the post-delivery discretionary enhancements, of which $63.6 million solely relates to the purchase and installation of cranes on both vessels. As of June 30, 2024, the Company had incurred $0.8 million of such incremental amounts, excluding capitalized interest. Once placed in service, we expect that our book carrying value

for each vessel will be approximately $80.0 million, which is significantly below the expected market value of Jones Act-qualified vessels of this age, type, size and specifications.

We believe our two newbuild MPSVs will represent the newest, most technologically advanced MPSVs in the industry; in fact, our vessels will represent the only Jones Act-qualified newbuild vessels that have been delivered since 2016. We believe that the differentiated capabilities of these vessels will allow us to satisfy our customers' more demanding projects and enable us to secure vessel dayrates at the higher end of the spectrum, further enhancing our financial margins and profitability. Upon delivery, we anticipate that both vessels will have the ability to assist in subsea construction, light well intervention, and offshore wind installation projects with the ability to also support our military end-market opportunities.

Rendering of 400' MPSV currently under construction

Shore-Based Facility

We own long-term lease rights to a port facility located in Port Fourchon, Louisiana, referred to as "HOS Port." Port Fourchon's proximity to the deepwater and ultra-deepwater U.S. GoM provides a strategic logistical advantage for servicing drilling rigs, production facilities and other offshore installations and work sites. We also are able to stage equipment and cargos in support of such services and can also perform some of our own maintenance, outfitting and other in-the-water shipyard repair activities. Developed as a multi-use facility, Port Fourchon has historically been a land base for offshore oil support services and the Louisiana Offshore Oil Port, or LOOP. According to the Greater Lafourche Port Commission website as of July 31, 2024, Port Fourchon currently services over 95% of the Gulf of Mexico's deepwater and ultra-deepwater energy production.

HOS Port Facility in Port Fourchon Louisiana

The HOS Port facility has approximately 10 and 11 years remaining through renewal options on the current leases for the two adjacent parcels, respectively. The combined acreage of HOS Port is approximately 60 acres with total waterfront bulkhead of nearly 3,000 linear feet. HOS Port not only supports our existing fleet and customers' deepwater and ultra-deepwater logistics requirements, but it underscores our long-term commitment to and our long-term outlook for the deepwater and ultra-deepwater GoM.

Customer Markets and Applications

The OSV and MPSV market has expanded rapidly since the 1970s, driven initially by growing offshore oil and gas production and more recently supported by diversified non-oilfield customer markets including military support services, renewable energy development and other non-oilfield service offerings. In response to changing market conditions and customer demand, we regularly transfer vessels between our core geographic areas and adapt equipment and features of our vessels to best meet potential revenue opportunities. Each customer market has specialized service needs and vessel requirements. For the six months ended June 30, 2024, approximately 49% of our revenues were attributed to oil and gas drilling support activities. The remaining approximately 51% of our revenues were generated away from the drill bit, comprised of approximately 25% coming from oilfield specialty activities, including offshore IRM, construction and equipment installation, as well as decommissioning and plugging and abandonment work; approximately 19% coming from military support services and HADR; and approximately 7% 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 contribute a greater portion of revenues in the future.

Oilfield Services

We predominantly serve our oilfield customers in the GoM, the Caribbean, Northern South America and Brazil. Our vessels provide support to offshore oil and gas exploration and production companies in two key

areas: (i) oilfield drilling support and (ii) oilfield specialty services. Drilling support provides services that are specifically related to offshore drilling and production activities. This includes the transportation of drilling equipment, such as wellheads and drill pipe, as well as drilling fluids and other bulk products used in the development of new exploration wells and their subsequent production activities. Oilfield specialty services support ongoing or recurring oilfield activities, such as equipment installation services, IRM, flowback, well testing, pipeline flushing, decommissioning, and worker accommodations and transportation. In combination, we offer our oilfield customers a comprehensive range of vessel types and service offerings that cover the entire value chain of offshore hydrocarbon development. Additionally, we operate a port facility located in Port Fourchon, Louisiana, where we are able to stage equipment and cargos in support of such services and can also perform some of our own maintenance, outfitting and other in-the-water shipyard repair activities.

The offshore oil and gas industry operates globally. During the last three decades, the industry has undergone significant technological change driven by the ability to explore and produce hydrocarbons in deepwater and ultra-deepwater regions utilizing floating drilling and production units. In addition to the ability to operate in very deep water, technological advances have also made it possible for hydrocarbon resources to be detected, drilled for and produced at extreme well depths, with some reaching depths of 40,000 feet. These extremely deepwater, deep-well regions are highly prolific, with some achieving production rates exceeding 100,000 barrels per day from deposits that could remain productive for decades. Developing and operating wells in these conditions requires highly specialized knowledge and equipment. In addition to contending with extreme deepwater and deep well depths, these projects present challenges involving high temperatures and pressures within reservoirs and the associated difficulties of safely bringing those resources to the surface, processing them and then transporting them to shoreside locations. Most of the known deepwater and ultra-deepwater deposits are located offshore West Africa, the eastern coast of South America—dominated by Brazil and more recently, Guyana—and the GoM. Certain of our primary markets for oilfield services are the cabotage-protected U.S. GoM, Mexico and Brazil. Today, deepwater and ultra-deepwater production accounts for approximately 90% of all offshore production in the U.S. GoM. According to the 2024 EIA Outlook, the GoM production is expected to account for approximately 14% of total forecast U.S. crude oil production in each of 2024 and 2025. While the GoM is one sea, its hydrocarbon resources are geopolitically divided between the United States and Mexico. Deepwater and ultra-deepwater drilling and production has been active for nearly three decades in the U.S. GoM. The Mexican deepwater and ultra-deepwater GoM, however, is in its early days of development, driven mostly by constitutional and regulatory changes in Mexico that only recently opened these regions to development by international companies that have the required technological and financial capability to develop these complex projects. Because some of the geologic formations are shared, Mexican deepwater and ultra-deepwater reservoirs and lease blocks are expected to prove to be as highly productive as neighboring U.S. formations.

The distance of deepwater and ultra-deepwater projects from shore, together with their water and well depths, require large amounts of bulk drilling materials and related supplies. To address the challenges of deepwater and ultra-deepwater projects for our customers, our in-house team of naval architects and marine engineers have designed, constructed and acquired various classes of proprietary vessels that maximize liquid mud and dry bulk capacities and feature larger open deck space. Moreover, larger vessels reduce the transport-related carbon intensity compared to smaller vessels since they can carry on a single voyage significantly greater amounts of materials than smaller vessels with roughly the same fuel efficiency while in transit. Our fleet of ultra high-spec OSVs equips us to more efficiently and more safely service our customers' offshore operations by reducing the number of vessels required to execute an offshore project. With 6,100 DWT, our HOSMAX 310 and 320 vessels are the largest ultra-deepwater OSVs available in the world, with the exception of our two even larger vessels. With 8,000 DWT, our HOS Flex 370 vessels are the two largest OSVs in the world and are well-qualified to also operate as oil and chemical tankers.

Deepwater and ultra-deepwater successes have driven further innovation around the infrastructure required to produce and transport ashore the abundant resources that have been discovered. The challenges of working in deepwater and ultra-deepwater have pushed the development of technologies to place infrastructure directly onto the seafloor, as opposed to a platform that is fixed to the seafloor, which is characteristic of shallow water regions. The process of building out this subsea oilfield requires vessels to transport infrastructure to location, install infrastructure to subsea points and inspect, repair and maintain them throughout the multi-decade life of a field. When hydrocarbons

are brought to the surface, they are gathered from multiple subsea locations through pipelines to a single deepwater or ultra-deepwater floating "top-side" production facility. These "top-side" production facilities take years to design, engineer, transport and install, and often cost billions of dollars, representing a significant source of demand for vessel services during their installation and commissioning. More recently, deepwater and ultra-deepwater producers have capitalized on their existing deepwater and ultra-deepwater infrastructure to gain efficiencies through the use of "tie-backs." A tie-back allows a deepwater or ultra-deepwater well to be produced without having to install a new top-side facility by "tying the well back" to a nearby existing top-side facility accessible to the new well location. Tie-backs require the installation of subsea infrastructure to connect the well to the remote "top-side" facility, which requires the services of vessels like our MPSVs.

Rendering of Subsea Oil Field Infrastructure

Demand for OSVs, as evidenced by dayrates and utilization rates, is primarily driven by offshore oil and natural gas exploration, development and production activity. Such activity is influenced by a number of factors, including the actual and forecasted price of oil and natural gas, the level of drilling permit activity, capital budgets of offshore exploration and production companies, and the repair and maintenance needs of the floating and subsurface deepwater and ultra-deepwater oilfield infrastructure.

The leading demand indicator for our OSVs is the number of active drilling rigs. Each drilling rig working on deep-well projects typically requires multiple OSVs to service it, and the number of OSVs required depends on many factors, including the type of project, the location of the rig and the size and capacity of the OSVs. During normal operating conditions, based on the historical data for the number of working OSVs and floating rigs, GoM projects typically require two to four OSVs per rig and projects in Brazil occasionally require more OSVs per rig due to longer vessel turnaround times to service drill sites resulting from greater distances and logistical challenges in this region. Typically, during the initial drilling stage, more OSVs are required to supply drilling mud, drill pipe and other materials than at later stages of the drilling cycle. In addition, generally more OSVs are required the farther a drilling rig is located from shore. Under normal weather conditions, the transit time to deepwater and ultra-deepwater drilling rigs in the GoM and Brazil can typically range from six to 24 hours for a vessel. In Brazil, transit time for a vessel to some of the newer, more remote deepwater and ultra-deepwater drilling rig locations are more appropriately measured in days, not hours. As of June 30, 2024, there were 62 floating drilling units operating in the United States and Latin America. Since 2013, that figure has ranged from 39 to 108 with an average of 61.7.

Offshore drilling is also a leading indicator for future IRM and field development activity, which is relevant to our MPSV fleet and, occasionally, some of our OSVs. However, the significant level of existing floating and subsurface infrastructure across the United States and Latin America provides ongoing and growing requirements for MPSVs, which are utilized to inspect, repair, maintain, upgrade, expand and ultimately decommission existing fields.

Our MPSVs are principally commissioned by our deepwater and ultra-deepwater oilfield customers for IRM activities, which includes the subsea installation of well heads, risers, jumpers, umbilicals and other equipment placed on the seafloor. MPSVs are also used in connection with the setting of pipelines, the commissioning and de-commissioning of offshore facilities, the maintenance and/or repair of subsea equipment and the intervention of such wells, well testing and flow-back operations and other sophisticated deepwater and ultra-deepwater operations.

Further, nearly all of our oilfield customers have pledged reductions in their GHG and carbon emissions across their global operations. We believe that these efforts enhance the value of their GoM operations and prospects due to its relatively low carbon intensity. According to Wood Mackenzie's Emissions Benchmarking Tool, U.S. Gulf of Mexico Deepwater's weighted average emissions intensity in 2023 was 8.16 tCO2e/kboe compared to a global weighted average of 20.45 tCO2e/kboe.

HOS Warland Setting Subsea Equipment

Non-Oilfield Services

Military Services (U.S. Government and Navy Support)

Since 2006, we have been a prominent, private sector service provider to the U.S. military by delivering vessels that support their readiness and security. Our military service capabilities are an accelerating 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.

The United States has relied on private vessel owners and operators comprising the U.S. Merchant Marine to provide vessels that support U.S. military readiness and security, as well as peacetime and wartime services. U.S. government charters of specialized vessels, including OSVs and MPSVs, has increased as government customers, particularly the United States Navy, have recognized the broad utility of these vessels. We support our government customers in two key service offerings primarily from the East and West Coasts of the United States. We developed, constructed and sold to the United States Navy four U.S. Navy vessels that provide specialized services to the Ballistic Missile Submarine fleet. Because of the mission and expertise required for the operation of these vessels, we operate and maintain these vessels for the United States Navy pursuant to an operations and management O&M contract. In addition, we own, operate and charter to the U.S. government vessels that perform a variety of other missions for the United States Navy. These missions include submarine rescue and recovery capabilities, transportation services and training drills, autonomous vessel support, subsea survey and other services. We were also awarded a contract by the United States Marine Corps to develop a prototype amphibious landing vessel for its use in the near-shore deployment of troops and vehicles in logistically remote areas around the world.

Most contracts for work that we perform for the United States Navy are awarded by the MSC, which is an agency within the U.S. Navy that charters vessels for all U.S. armed forces. MSC publicizes its requirements for marine services, and we typically engage in a competitive process in order to be awarded such work. Occasionally, we are awarded charters on the basis of a sole-source award if the project requires specialized services. Our current O&M contract was awarded on a sole-source basis.

Performing offshore submarine support

HOS Resolution configured into amphibious landing vessel

Renewable Energy

Renewable energy, and particularly the U.S. offshore wind market is in its early stage of development and shows potential as an emerging market for our services domestically. We expect most of the U.S. offshore wind projects to require U.S.-flagged, Jones Act-qualified vessels like ours. Offshore windfarm construction and operation requires many of the core competencies and vessel requirements developed and utilized in offshore oil and gas operations.

For instance, the use of DP technology and the ability to transfer people and equipment from a vessel to an offshore installation will be required over the life of an offshore windfarm. Offshore wind vessel requirements span three general periods. The pre-construction survey phase requires survey vessels to ascertain sea bottom, sea state and wind conditions. The construction and installation phase is the most vessel-intensive. Among the vessels required are:

- installation vessels that install foundations, monopiles and wind turbines;
- cable-lay vessels required to install electrical transmission lines between and among units in the field and an offshore or shore-based electrical grid;

- MPSVs and flotels necessary to provide a variety of offshore construction, monitoring and accommodation support for windfarm personnel; and
- OSVs to move equipment from shore to offshore locations.

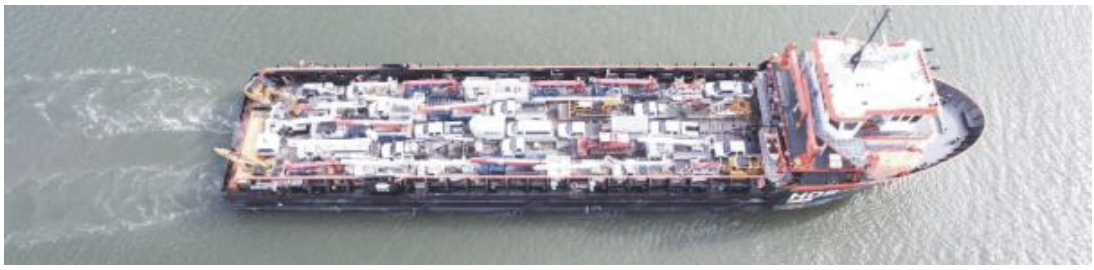
Once an offshore windfarm is installed and operational, it requires ongoing services and maintenance provided by a C/SOV, as well as crew transfer vessels to transfer crew between shoreside locations and among offshore wind sites. While pre-construction and construction period vessels are likely to be required for shorter periods in order to execute specific development tasks, C/SOVs and crew transfer vessels are required for the life-of-farm and are typically contracted for five to ten years.

We currently provide the offshore wind industry with vessels performing subsea survey and site-clearing. We expect that our MPSVs will be utilized in offshore windfarm development, as they possess the necessary lifting, DP-capability and accommodations required for offshore construction support. C/SOVs and crew transfer vessels are required to be Jones Act-qualified to engage in the coastwise trade. We believe that given high U.S. shipyard construction costs, it is more economically feasible to utilize existing high-spec domestic vessels for the offshore wind industry. We are converting one of our U.S.-flagged, Jones Act-qualified, HOSMAX 280 DP-2 OSVs into a dual-use C/SOV + Flotel MPSV, which is expected to be delivered in 2025 and that will be eligible to provide C/SOV services to offshore wind customers. We consider the vessel to be dual-use in that it will be outfitted to also provide accommodation support services in the offshore oilfield market.

HOS Vessel Positioned in New Jersey for Wind Coring

Other Non-Oilfield Services

The versatility of our vessels allows us to support communities in our core geographic areas by providing other non-oilfield services, including humanitarian aid and disaster relief, and service to the aerospace and telecommunications industries. For example, our fleet can support oil spill relief, hurricane recovery, vessel salvage and a broad range of search and rescue operations by deploying vessels to high-need areas in response to natural disasters or crises and providing those affected with lifesaving supplies and equipment. Our humanitarian aid and disaster relief contracts are difficult to predict, given the unexpected and calamitous nature of these projects. Nevertheless, as our reputation, proximity, scale, past experience and fleet relevance for such assistance has grown over the years, we are typically involved in at least one such response annually.



HOS Caledonia responding to Hurricane Maria in Puerto Rico

Additionally, our vessels are equipped to support aerospace launches that call for rocket component landing and recovery capabilities.

Contracting Practices

Non-Government Customers

Our oilfield services customer charters are the product of either direct negotiation or a competitive proposal process, which evaluates vessel capability, availability and price. Our primary method of chartering in the GoM is through direct vessel negotiations with our customers on either a long-term or spot basis. In the international market, we sometimes charter vessels through local entities in order to comply with cabotage or other local requirements. Some charters are solicited by customers through international vessel brokerage firms, which earn a commission that is customarily paid by the vessel owner. Charters to customers in the wind industry and other renewable energy and non-oilfield service customers (other than the U.S. government) are generally consistent with our approach to charters in the oil and gas industry.

We have entered into master agreements with certain non-governmental customers, pursuant to which customers may place individual work orders for specific charters. These master agreements are framework agreements that generally include non-economic terms such as administrative matters and indemnification and insurance provisions. However, these master agreements do not obligate us to provide services to any customers, and do not obligate such customers to hire us for any particular project, absent agreement on specific work orders, and the key economic terms of each charter. Such terms, including the specific vessel, length of charter, operating area, termination provisions and dayrates, are set forth in these individual work orders. The charters with customers with whom we have not entered into a master agreement contain provisions that are generally consistent with the terms contained in the master agreements and individual work orders, but are entered into on an individual basis.

Our charters with these customers, whether on a long-term or spot basis, primarily govern the length of the term and the rate charged by us for a vessel. The charters have terms varying from a few days to three years (or longer in certain circumstances). The charters include a fixed dayrate for the primary term whereby for each day that the vessel is under contract to the customer, we earn a fixed amount of charter hire for making the vessel

available for the customer's use, and the dayrate payable for any extension of the charter. These dayrates area based on market rates at the time of entry into each charter. However, long-term charters sometimes contain "cost pass through" provisions that permit us to increase our dayrates to be compensated for certain increased operational expenses or regulatory changes. Many of these charters require the customer to pay a substantial fee for early termination of the charter. Our charters also contain customary insurance and indemnification provisions. These indemnification provisions generally provide that the Company will indemnify the counterparty for claims for loss or for damage to property, equipment, material and supplies, claims arising from the control, removal, restoration and cleanup of all pollution or contamination, arising from or on account of pollution or contamination which originates from the Company's vessel and other customary coverage.

U.S. Government Customers

The process for entering into charters with the U.S. government entails the applicable agency posting requests for proposals or solicitations for vessel projects and the Company bidding on chosen jobs by completing an offer responsive to such solicitations. Once finalized, the Company and the U.S. government will execute a Solicitation, Offer and Award contract which will incorporate standard forms of contract issued by the U.S. government, such as for example, a "Specialtime" form for the time chartering of vessels, or an O&M contract if the scope of work is to operate and maintain a government vessel. Similar to the work orders for many of our non-government charters, each Solicitation, Offer and Award contract contains the specific commercial terms for a vessel charter, including the fixed term (typically one to five years for government charters), dayrate and place of delivery. If the applicable agency awards the Company the charter, the vessel order is governed by the applicable form of contract related to the services provided, the FARs or the D-FARs. Certain clauses of the FARs and D-FARs are incorporated by reference into the Solicitation, Offer and Award contract or O&M Contract, as applicable, and these clauses contain requirements for managing a contract after the award, including conditions under which contracts may be terminated and customary indemnification. While the specific chartering process with the U.S. government is different from the chartering process for our other customers, the description of the general terms of our charters in the last paragraph of "—Non-Government Customers" above generally applies to our U.S. government charters as well.

Competition

The offshore support vessel industry is highly competitive. Competition primarily involves such factors as:

- quality, capability and age of vessels;
- quality, capability and nationality of the crew members;
- ability to meet the customer's schedule and specific logistical requirements;
- safety record, reputation and experience;
- price; and
- cabotage laws.

The U.S. GoM, Mexico GoM and Brazil each have cabotage laws that provide us varying levels of insulation from foreign sources of competition that may be unwilling to invest capital or otherwise satisfy local ownership, crewing, tax and/or build requirements. As such, cabotage-protected markets create meaningful barriers to entry for foreign-flagged vessels. Since the fourth quarter of 2023, maritime regulators in Mexico have implemented new approaches in their oversight of Navieras that historically have had permissible levels of non-Mexican ownership, such as ours. As a result, we took legal action in Mexico to preserve our cabotage privileges there and a Mexican court has ordered that our cabotage privileges be reinstated. Despite favorable court rulings, Mexican maritime regulators have continued to limit our enjoyment of all privileges of a Mexican Naviera, including the ability to perform Mexican cabotage activities. Since the fourth quarter of 2023, we have moved all but one of our Mexican-flagged vessels into various non-Mexican international markets to continue utilizing our highly-skilled Mexican mariners and shore-based employees as part of our international services, which we believe will result in a temporary reduction of revenue for some of those vessels.

Our high-spec OSVs are predominantly U.S.-flagged vessels, which qualify them under the Jones Act to engage in the U.S. domestic coastwise trade. The Jones Act restricts the ability of vessels that are foreign-built, foreign-owned, foreign-crewed or foreign-flagged from engaging in coastwise trade in the United States. The transportation services typically provided by OSVs constitute coastwise trade as defined by the Jones Act. See "Risk Factors" for a more detailed discussion of the Jones Act. Consequently, competition for our services in the U.S. GoM is largely restricted to other U.S. vessel owners and operators, both publicly and privately held. Internationally, our OSVs compete against other U.S. owners, as well as foreign owners and operators of OSVs. Some of our international competitors may benefit from a lower cost basis in their vessels, which are usually not constructed in U.S. shipyards, as well as from lower crewing costs and favorable tax regimes. While foreign vessel owners cannot engage in U.S. coastwise trade, some cabotage laws in other parts of the world permit temporary waivers for foreign vessels if domestic vessels are unavailable. We and other U.S. and foreign vessel owners have been able to obtain such waivers in the foreign jurisdictions in which we operate.

Many of the services provided by MPSVs do not involve the transportation of passengers or merchandise and therefore are generally not considered coastwise trade under U.S. and foreign cabotage laws. Consequently, MPSVs face competition from both foreign-flagged vessels and U.S.-flagged vessels for non-coastwise trade activities.

Competition in the MPSV industry is significantly affected by the particular capabilities of a vessel to meet the requirements of a customer's project, as well as price. While operating in the U.S. GoM, our MPSVs are required to utilize U.S. crews while foreign-owned vessels have historically been allowed to employ non-U.S. mariners, often from nations with lower, or no, minimum wage standards. U.S. crews are often more expensive than foreign crews. Also, foreign MPSV owners may have more favorable tax regimes than ours. Consequently, prices for foreign-owned MPSVs in the GoM are often lower than prices we can charge. Finally, some potential MPSV customers are also owners of MPSVs that will compete with our vessels.

In Mexico, the cabotage laws limit the citizenship of owners and operators of Mexico-flagged vessels and limit Mexican shipping activities to companies that comply with those ownership restrictions. Foreign vessels can be flagged into the Mexican registry. Mexico-flagged vessels must be Mexican crewed. In Brazil, only vessels constructed in Brazil may be Brazil-flagged. A limited exception to be Brazilian-built requirement is for a vessel that is foreign built and whose maiden voyage is to Brazil and which pays Brazilian importation duties. Brazil-flagged vessels must also employ Brazilian crew, but the citizenship of the owners of a Brazilian shipping company is not regulated.

We continue to observe intense scrutiny by our customers on the safety and environmental management systems of vessel operators. As a consequence, we believe that deepwater and ultra-deepwater customers are increasingly biased towards companies that have demonstrated a financial and operational commitment and capacity to employ such systems. We believe this trend will, over time, make it difficult for small enterprises to compete effectively in the deepwater and ultra-deepwater OSV and MPSV markets.

Although some of our principal competitors are larger or have more extensive international operations than we do, we believe that our operating capabilities and reputation for quality and safety enable us to compete effectively in the market areas in which we operate or intend to operate. Moreover, we believe that the relatively young age and advanced features of our OSV and MPSV fleet provide us with additional competitive advantages. As of July 31, 2024, our total fleet of 60 OSVs and 15 MPSVs included two partially constructed Jones Act-qualified MPSV newbuilds to be completed pursuant to our settlement with Surety, as discussed further in "Management's Discussion and Analysis of Financial Condition and Results of Operations—Recent Developments—Resumption of MPSV Newbuild Construction," and one OSV currently undergoing conversion into a MPSV for dual-service as either a C/SOV or flotel. At that date we operated an active OSV fleet of 39 vessels of which approximately 97% were categorized as high- or ultra high-spec. These high- and ultra high-spec vessels range in age from eight to twenty-two years with a weighted-average fleet age, based on DWT, of 12.6 years. In fact, approximately 79% of these vessels have been constructed since January 1, 2008, and 100% have DP-2 or DP-3 capabilities. Similarly, our active MPSV fleet is comprised of 12 vessels that range in age from eight to twenty-three years with 100% of those vessels possessing DP-2 or DP-3 capabilities.

Customer Dependency

Our oilfield customers are generally large, independent, integrated or nationally-owned oil or oilfield service companies. These firms are relatively few in number. The percentage of revenues attributable to a customer in any particular year depends on the level of oil and natural gas exploration, development and production activities undertaken by such customer, the availability and suitability of our vessels for the customer's projects or products and other factors, many of which are beyond our control. Our primary government customer is the MSC, a department that is responsible for the contracting of marine vessels and services for all branches of the United States Armed Forces. For the six months ended June 30, 2024, a wholly owned subsidiary of Occidental Petroleum Company, MSC, and collectively, subsidiaries of Shell plc each accounted for 10% or more of our consolidated revenues. Our charters with Occidental Petroleum Company are pursuant to a master agreement, a pricing agreement and specific work orders, consistent with our chartering process with other customers as described in "—Contracting Practices—Non-Government Customers." Our charters with MSC are subject to individual Solicitation, Offer and Award contracts or O&M contracts and the applicable FARs and D-FARs, consistent with our chartering process with other U.S. government customers as described in "—Contracting Practices—U.S. Government Customers."

The specific customers accounting for over 10% of our consolidated revenues for any period typically vary from period to period over time, and the multiple separate charters with each of these customers are typically entered into on one-time or "spot" bases with no material ongoing obligations thereunder once completed. For further discussion of significant customers, see Note 18 to our Annual Financial Statements.

Government Regulation

Environmental Laws and Regulations

Our operations are subject to a variety of federal, state, local and international laws and regulations regarding the discharge of materials into the environment, environmental protection and occupational safety and health, and our business is highly dependent on the offshore oil and gas industry, which is also subject to such laws and regulations. The requirements of these laws and regulations have become more complex and stringent in recent years and may, in certain circumstances, impose strict, joint and several liability, rendering a company liable for environmental damages and remediation costs without regard to negligence or fault on the part of such party. Aside from possible liability for damages and costs, including natural resource damages, associated with releases of oil or hazardous materials into the environment, such laws and regulations may expose us to liability for the conditions caused by others or even acts of ours that were in compliance with all applicable laws and regulations at the time such acts were performed. Failure to comply with applicable environmental laws and regulations may result in the imposition of administrative, civil and criminal penalties, revocation of permits, issuance of corrective action orders and suspension or termination of our operations. Moreover, it is possible that future changes in the environmental laws, regulations or enforcement policies that impose additional or more restrictive requirements or claims for damages to persons, property, natural resources or the environment could result in substantial costs and liabilities to us and could have a material adverse effect on our financial condition, results of operations or cash flows. For example, concerns with climate change and the impact of GHG emissions have given rise to proposed legislation and regulations that could impact our operations. We believe that we are in substantial compliance with currently applicable environmental laws and regulations.

The Oil Pollution Act of 1990 ("OPA 90") and regulations promulgated pursuant thereto amend and augment the oil spill provisions of the Clean Water Act and impose strict, joint and several liability and natural resource damages liability on "responsible parties" related to the prevention and/or reporting of oil spills and damages resulting from such spills in or threatening U.S. waters, including the Outer Continental Shelf or adjoining shorelines. A "responsible party" under OPA 90 is the party found to be accountable for the discharge or substantial threat of discharge of oil from a vessel or facility, which includes the owner or operator of an onshore facility, pipeline or vessel or the lessee or permittee of the area in which an offshore facility is located. OPA 90 assigns strict, joint and several liability to each responsible party for containment and oil removal costs, as well as a variety of public and private damages including the costs of responding to a release of oil, natural resource damages,

damages for injury to, or economic losses resulting from, destruction of real or personal property of persons who own or lease such affected property. For any vessels, other than "tank vessels," that are subject to OPA 90, the liability limits are currently the greater of $1,300 per gross ton or $1,076,000. A party cannot take advantage of liability limits if the spill was caused by gross negligence or willful misconduct or resulted from violation of a federal safety, construction or operating regulations. In addition, for an Outer Continental Shelf facility or a vessel carrying crude oil from a well situated on the Outer Continental Shelf, the limits apply only to liability for damages (e.g., natural resources, real or personal property, subsistence use, reserves, profits and earnings capacity, and public services damages). The owner or operator of such facility or vessel is liable for all removal costs resulting from a discharge or substantial threat of discharge without limits. If the party fails to report a spill or to cooperate fully in the cleanup, the liability limits likewise do not apply and certain defenses may not be available. Moreover, OPA 90 imposes on responsible parties the need for proof of financial responsibility to cover at least some costs in a potential spill. As required, we have provided satisfactory evidence of financial responsibility to the USCG for all of our vessels when required by law. OPA 90 does not preempt state law, and states may impose liability on responsible parties and requirements for removal beyond what is provided in OPA 90.

OPA 90 also imposes ongoing requirements on a responsible party, including preparedness and prevention of oil spills and preparation of an oil spill response plan. We have engaged the Marine Spill Response Corporation to serve as our Oil Spill Removal Organization for purposes of providing oil spill removal resources and services for our operations in U.S. waters as required by the USCG. In addition, our Tank Vessel Response Plan and Non-Tank Vessel Response Plan have been approved by the USCG.

The Clean Water Act imposes restrictions and strict controls on the discharge of pollutants into federal waters and provides for civil, criminal and administrative penalties for any unauthorized discharge of oil or other hazardous substances in reportable quantities. The Clean Water Act also imposes liability for the costs of removal and remediation of an unauthorized discharge, including the costs of restoring damaged natural resources. Many states have laws that are analogous to the Clean Water Act and also require remediation of accidental releases of petroleum or other pollutants in reportable quantities. Our OSVs routinely transport diesel fuel to offshore rigs and platforms and also carry diesel fuel for their own use. Our OSVs also transport bulk chemical materials and liquid mud used in drilling activities, which contain oil and hazardous substances. We maintain vessel response plans as required by the Clean Water Act to address potential oil, fuel and hazardous substance spills.

The Comprehensive Environmental Response, Compensation, and Liability Act of 1980, also known as "CERCLA" or the "Superfund" law, and similar laws impose liability on certain classes of persons, without regard to fault or the legality of the original conduct, who are considered to be responsible for releases of hazardous substances, pollutants and contaminants into the environment. CERCLA currently exempts crude oil from the definition of hazardous substances for purposes of the statute, but our operations may involve the use or handling of other materials that may be classified as hazardous substances, pollutants and contaminants. CERCLA assigns strict, joint and several liability to each responsible party for response costs, as well as natural resource damages. Under CERCLA, responsible parties include not only owners and operators of vessels but also any person who arranged for the disposal or treatment, or arranged with a transporter for transport for disposal or treatment, of hazardous substances, and any person who accepted hazardous substances for transport to and selected the disposal or treatment facilities. Thus, we could be held liable for releases of hazardous substances that resulted from operations by third parties not under our control or for releases associated with practices performed by us or others that were standard in the industry at the time and in compliance with existing laws and regulations.

The Resource Conservation and Recovery Act regulates the management, generation, transportation, storage, treatment and disposal of onshore hazardous and non-hazardous wastes and requires states to develop programs to ensure the safe treatment, storage and disposal of wastes. States having jurisdiction over our operations also have their own laws governing the generation and management of solid and hazardous waste. We generate non-hazardous wastes and small quantities of hazardous wastes in connection with routine operations. We believe that all of the wastes that we generate are handled in material compliance with the Resource Conservation and Recovery Act and analogous laws.

On December 4, 2018, the Vessel Incidental Discharge Act was enacted, which requires the EPA to develop, through rulemaking, new national standards of performance for commercial vessel incidental discharges. In October 2020, the EPA proposed national standards of performance, and in October 2023, the EPA supplemented the proposed rulemaking, providing additional USCG data and supplemental regulatory options being considered by the EPA for discharge from ballast tanks, hulls and niche areas, and graywater systems, informed by public comments to the initial proposed rule. The final rule is expected to be published in the Federal Register in Fall of 2024, which will be followed by a USCG rulemaking process to issue enforcement regulations, with a deadline set by the Vessel Incidental Discharge Act of two years after the EPA's final rule. In the interim, the existing vessel discharge requirements established through the 2013 Vessel General Permit under the National Pollutant Discharge Elimination System still apply. In addition, the International Maritime Organization's, or IMO, International Convention for the Control and Management of Ships' Ballast Water and Sediments otherwise known as the Ballast Water Management Convention, or BWMC, became effective on September 8, 2017. The BWMC has similar standards to that of the USCG and EPA ballast water regulations. These regulations require all of our existing vessels to meet certain standards pertaining to ballast water discharges. An exemption to certain compliance requirements in the U.S. is provided for vessels that operate within an isolated geographic region, as determined by the USCG and the EPA, respectively. Most of our vessels operating in the U.S. GoM are exempt from the ballast water treatment requirements. However, for non-exempt vessels, ballast water treatment equipment may be required to be utilized on the vessel. We have currently estimated the cost of compliance with either the EPA's vessel discharge requirements or the BWMC to be approximately $250,000 per vessel that is required to be fitted with a treatment system.

The DOI issues regulations governing oil and gas operations on federal lands and waters and imposes obligations for establishing financial assurance for decommissioning activities. In 2023, the DOI finalized a new five-year offshore leasing plan for the U.S. GoM that substantially limits offshore lease sales. Legal challenges to the leasing plan could delay or suspend offshore lease auctions, adversely affecting our customers' businesses and reducing demand for our services.

The CAA regulates the emission of air pollutants resulting from industrial activities. Between 2008 and 2015, the EPA phased-in Tier 4 emission standards for the exhaust of marine diesel engines applicable to engine manufacturers and vessel owners, including our fleet, which are equivalent to the regulations adopted in IMO amendments to the 1973 International Convention for the Prevention of Pollution of Ships, as modified by the Protocol of 1978 (or MARPOL 73/78), as discussed further below. The standards were adopted to reduce emission of particulate matter and nitrogen oxides and require vessel owners to conduct engine maintenance, periodic surveys and certification requirements for marine diesel engines. In August 2020, the EPA amended the Tier 4 emission standards to allow additional lead time for engines used in certain high-speed vessels due to manufacturing concerns and streamlined engine certification requirements to facilitate or accelerate certification of Tier 4 marine engines with high power densities. Significant costs may be incurred in the event a marine diesel engine requires replacement, and replacement engines may be required to comply with a higher emissions standard than the engine being replaced. In addition, the 2008 California Air Resources Board's Commercial Harbor Craft Regulation requires the phase-out of older engines with engines meeting higher emissions standards by certain compliance timelines in regulated California waters, and in 2022, was amended to expand applicability to additional vessel types and require cleaner upgrades or newer technology. To the extent that such current or future federal or state regulations may apply to our operations or vessels, we could be responsible for the costs associated with compliance.

IMO amendments to the International Convention for the Prevention of Pollution from Ships, 1973, or MARPOL, reduced the permitted sulfur content of any fuel oil used on board ships from 3.5% to 0.5% globally, effective January 1, 2020. While operating within designated Emission Control Areas, such as within 200 nautical miles of North America, the sulfur content limit is 0.1%. The IMO's Anti-Fouling System Convention prohibits the use of certain coatings used to prevent the growth of marine organisms. Amendments to this Convention were adopted in June 2021 and became effective on January 1, 2023, to prohibit anti-fouling systems containing cybutryne. Our vessels are coated with approved anti-fouling paint systems and maintained in accordance with the Convention.

Present and future legislation, regulation and treaties centered on the protection of marine mammals and other ocean life may also impact our operations. For example, in the United States, regulations implemented pursuant to the Marine Mammals Protection Act, the Endangered Species Act and the National Marine Sanctuaries Act impose vessel speed restrictions, minimum marine mammal approach distances and strike reporting, and prohibit vessel entry in certain protected areas, with the same or similar regulations on the international level. Additionally, in March 2023, the United Nations Convention on the Law of the Sea proposed a draft agreement on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction, aiming to promote the conservation and sustainable use of marine biological diversity on the high seas, which was formally adopted in June 2023, and is awaiting ratification. When formally ratified, the agreement will create a legal framework for the establishment of marine protected areas and will require environmental impact assessments for activities with the potential to impact the marine environment on the high seas. We have implemented a Marine Mammal Watch and Avoidance procedure in accordance with guidelines provided by the National Oceanic and Atmospheric Administration ("NOAA") and comply with vessel speed restrictions and other requirements implemented by NOAA.

Climate Change

GHG emissions have increasingly become the subject of international, national, regional, state and local attention. Although no comprehensive federal climate change legislation regulating the emission of GHGs or directly imposing a price on carbon has been implemented to date in the United States, efforts have been made and continue to be made in the international community toward the adoption of international treaties or protocols that would address global climate change issues. For example, over the past decade, the IMO adopted international mandatory measures to improve ships' energy efficiency, as well as an initial strategy on the reduction of GHG emissions from shipping and regulatory measures to implement that strategy. The IMO's Marine Environment Protection Committee adopted a revised and strengthened set of climate goals during its 80th session in July 2023, which sets a target to reach net-zero GHG emissions from shipping by or around 2050. The Biden Administration has also indicated willingness to pursue new climate change legislation, executive actions or other regulatory initiatives to limit GHG emissions, including by rejoining the Paris Agreement treaty on climate change in 2021, issuing several executive orders to address climate change, submitting a U.S. Nationally Determined Contribution that sets a target to cut GHG emissions to 50-52 percent of 2005 levels by 2030, announcing the U.S. Methane Emissions Reduction Action Plan, and participation in the Global Methane Pledge, a pact that aims to reduce global methane emissions at least 30% below 2020 levels by 2030. Most recently, at the 28th Conference of the Parties ("COP28"), President Biden announced the EPA's final standards to reduce methane emissions from existing oil and gas sources. Additionally, at COP28, member countries agreed to the first "global stocktake," which calls on countries to contribute to global efforts to mitigate climate change, including a tripling of renewable energy capacity and doubling energy efficiency improvements by 2030; phasing out inefficient fossil fuel subsidies; and transitioning away from fossil fuels in energy systems. In addition, the IRA 2022 imposes the first-ever federal fee on excess methane emissions from facilities required to report their GHG emissions to the EPA, and also appropriates significant federal funding for renewable and alternative energy sources, which could increase costs and accelerate the transition to alternative fuels. In November 2022, the Federal Acquisition Regulatory Council also proposed a rule that would require companies with at least $7.5 million in annual federal contract obligations to disclose their Scope 1 and 2 GHG emissions and companies that receive at least $50 million in annual federal contracts to additionally disclose their relevant Scope 3 GHG emissions, make annual disclosures aligned with the recommendations of the Task Force on Climate-related Financial Disclosures, and set science-based emissions reduction targets. Under the Biden Administration, the White House Council on Environmental Quality ("CEQ") issued a final rule in April 2022 which included ensuring that agency analysis required under the National Environmental Policy Act ("NEPA") captures the direct, indirect, and cumulative effects of major federal actions. Additionally, in January 2023, the CEQ released guidance to assist federal agencies in assessing the GHG emissions and climate change effects of their proposed actions under NEPA. These or other increases in federal agency attention to GHG emissions and climate change effects may impact our customers' ability or time to receive, or increase restrictions on, offshore leases or permits. Separately, many U.S. state and local leaders as well as foreign national or multinational governments have intensified or stated their intent to intensify efforts to support international climate commitments and treaties, in addition to developing programs that are aimed at reducing GHG emissions such as by means of cap and trade programs, carbon taxes, encouraging the use of renewable energy or alternative

low-carbon fuels, or imposing new climate-related reporting requirements. For example, cap and trade initiatives to limit GHG emissions have been introduced in the European Union and certain U.S. states. To the extent that these regulations may apply, we could be responsible for costs associated with complying with such regulations. Future treaty obligations, statutory or regulatory changes or new climate change legislation in the jurisdictions in which we operate could affect our costs associated with compliance. In addition, we may see indirect impacts from climate-related legislation and regulations applicable to our customers, even when not directly applicable to us. We may face costs associated with adapting to customer requirements (e.g., for emissions information, renewable fuels and technologies, engine or other equipment upgrades, or other emissions reduction measures) as our customers respond to their own climate-related compliance obligations.

Additionally, in March 2024, the SEC adopted the SEC Climate Rules. The SEC Climate Rules are currently stayed pending completion of judicial review and are widely expected to face additional legal challenges going forward. We cannot currently predict with certainty the timing and costs of implementation or any potential adverse impacts resulting from the SEC Climate Rules. However, assuming they take effect, we could incur additional operational and compliance burdens and increased costs relating to the assessment and disclosure of climate-related matters, including costs relating to establishment of additional internal controls and collecting, measuring and analyzing information related to such matters. Further, we cannot predict how any information disclosed pursuant to the rules may be used by financial institutions or investors. We may face increased litigation and enforcement risks, or limits or restrictions on our access to capital, related to disclosures made pursuant to the SEC Climate Rules.

More broadly, restrictions on GHG emissions or other climate-related international, federal, state or local legislative or regulatory enactments could have an effect in those industries that use significant amounts of petroleum products, which could potentially result in a reduction in demand for petroleum products and, consequently and indirectly, our offshore transportation and support services. While the Supreme Court's decision in *Loper Bright Enterprises v. Raimondo* to overrule *Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc.* and end the concept of general deference to regulatory agency interpretations of laws introduces new complexity for federal agencies and administration of climate change policy and regulatory programs, many of these initiatives are expected to continue. Although we are currently unable to accurately predict the manner or extent of the effects of any such initiatives, legislation and regulatory programs enacted to address climate change or reduce emissions of GHGs could have an adverse effect on our business, financial condition and results of operations.

Furthermore, 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 our insurance costs or risk retention, limit insurance availability or reduce the areas in which, or the number of days during which, our customers would contract for our vessels in general and in the U.S. GoM in particular. Such conditions could also cause damage to our assets. Any of these impacts, individually or in the aggregate, could materially and adversely affect our business, financial conditions and results of operations. We are currently unable to predict the manner or extent of any such effect. Our ability to mitigate the adverse physical impacts of climate change depends in part upon our disaster preparedness and response and business continuity planning. See further discussion in "Risk Factors—Our 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, fuel conservation measures, 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 our financial results."

Employees

On July 31, 2024, we had 1,766 employees, including 1,461 vessel personnel and 305 corporate, administrative and management personnel. Excluded from these personnel totals are 53 third-country nationals that we contracted to serve on our vessels as of July 31, 2024. These non-U.S. mariners are typically provided by international crewing agencies. With the exception of 511 employees located in Mexico and Brazil as of July 31, 2024, none of our employees are represented by a union or employed pursuant to a collective bargaining agreement or similar arrangement. We have not experienced any strikes or work stoppages, and our management believes that we continue to experience good relations with our employees.

Geographic Areas

The table below presents revenues by geographic region[1] for the six months ended June 30, 2024 and 2023 and the years ended December 31, 2023 and 2022 (in thousands):

	Six Months Ended June 30,				Year Ended December 31,			
	2024	% of Total	2023	% of Total	2023	% of Total	2022	% of Total
United States	$227,170	74.1%	$214,895	77.2%	$432,621	75.4%	$362,830	80.4%
International[2][3]	79,606	25.9%	63,494	22.8%	140,828	24.6%	88,396	19.6%
	$306,776	100.0%	$278,389	100.0%	$573,449	100.0%	$451,226	100.0%

(1) The Company attributes revenues to individual geographic regions based on the location where services are performed.
(2) International revenues of $12.8 million and $44.6 million were attributed to services performed in Mexico for the six months ended June 30, 2024 and 2023, respectively. International revenues of $44.5 million and $17.7 million were attributed to services performed in Brazil for the six months ended June 30, 2024 and 2023, respectively. Revenues attributed to other countries were not individually material for the periods presented.
(3) International revenues of $62.1 million and $41.3 million were attributed to services performed in Mexico for the years ended December 31, 2023 and 2022, respectively. Revenues attributed to other countries were not individually material for the periods presented.

The table below presents net book value of property, plant and equipment by geographic region[1] as of June 30, 2024 and December 31, 2023 and 2022 (in thousands):

	As of June 30, 2024	% of Total	As of December 31, 2023	% of Total	As of December 31, 2022	% of Total
United States	$ 548,080	87.7%	$ 522,347	86.7%	$ 365,769	81.4%
International[2][3]	77,190	12.3%	80,075	13.3%	83,480	18.6%
	$ 625,270	100.0%	$ 602,422	100.0%	$ 449,249	100.0%

(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 $68.8 million was owned by certain Mexican subsidiaries of the Company as of June 30, 2024. Property, plant and equipment attributed to other countries were not individually material as of any of the dates presented. No other individual foreign location accounted for a material portion of property, plant and equipment as of any of the dates presented.
(3) International property, plant and equipment of $70.6 million and $74.5 million were owned by certain Mexican subsidiaries of the Company as of December 31, 2023 and 2022, respectively. Property, plant and equipment attributed to other countries were not individually material as of any of the dates presented.

Foreign Operations

Operating in foreign markets presents many political, social and economic challenges. Although we take measures to mitigate these risks, they cannot be completely eliminated. See “Risk Factors” for a further discussion of the risks of operating in foreign markets.

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 Adjusted EBITDA and Adjusted Free Cash Flow and generating the highest possible rate of return on invested capital without a permanent commitment to geographic region or customer market.

Ongoing Acquisition/Investment Activities

We regularly evaluate additional acquisition opportunities and frequently engage in discussions with potential sellers. We are currently focused on pursuing acquisition opportunities that will further diversify our vessel holdings and the specialty services we offer. The timeline required to negotiate and close on any one or more acquisition opportunities is at times unpredictable and can vary greatly.

Our acquisitions may require material investments and could result in significant modifications to our capital plans, both in the aggregate amount of capital expenditures to be made and a reallocation of capital. Our acquisitions (including the ECO Acquisitions) are typically made for a purchase price which historically we have funded with a combination of borrowings, cash generated from operations and debt and/or equity issuances.

We typically do not announce a transaction until after we have executed a definitive agreement. In certain cases, in order to protect our business interests or for other reasons, we may defer public announcement of a transaction until closing or a later date. Past experience has demonstrated that discussions and negotiations regarding a potential transaction can advance or terminate in a short period of time. Moreover, the closing of any transaction for which we have entered into a definitive agreement may be subject to customary and other closing conditions, which may not ultimately be satisfied or waived. Accordingly, we can give no assurance that our current or future acquisition or investment efforts will be successful.

Seasonality

Demand for our oilfield-related offshore support services is directly affected by the levels of offshore drilling and production activity. Budgets of many of our customers are based upon a calendar year, and demand for our services has historically been stronger in the second and third calendar quarters when allocated budgets are expended by our customers and seasonal weather conditions are more favorable for offshore activities. Many other factors, such as the expiration of drilling leases and the supply of and demand for oil and natural gas, may affect this general trend in any particular year. In addition, we typically have an increase in demand for our vessels to survey and repair offshore infrastructure immediately following major hurricanes or other named storms in the U.S. GoM. Offshore wind construction projects on the U.S. East Coast are seasonal, typically occurring between April and September of each year. Servicing of existing offshore wind facilities with C/SOVs is expected to occur year-round. Our government business is unaffected by seasonality. Humanitarian assistance and disaster relief efforts have typically been more pervasive during the hurricane season.

Legal Matters

We may be party to various legal proceedings and claims from time to time in the ordinary course of our business.

Mexico Litigation

In the fourth quarter of 2023, maritime regulators in Mexico implemented new approaches in their oversight of Navieras that have historically had permissible levels of non-Mexican ownership, such as ours. As a result, we took legal action in Mexico to preserve our cabotage privileges there and a Mexican court ordered that our cabotage privileges be reinstated. Despite favorable court rulings, Mexican maritime regulators have continued to limit our enjoyment of all privileges of a Mexican Naviera, including the ability to perform Mexican cabotage activities. Since the fourth quarter of 2023, we have moved all but one of our Mexican-flagged vessels into various non-Mexican international markets, while continuing to utilize our highly-skilled Mexican mariners and shore-based employees as part of our international services.

MANAGEMENT

Directors and Executive Officers

The following table sets forth certain information with respect to our directors and executive officers as of the date of this prospectus:

Name	Age	Position(s)
Directors:		
Todd M. Hornbeck	56	Chairman of the Board, President and Chief Executive Officer
Kurt M. Cellar	54	Lead Independent Director
Evan Behrens	54	Director
Bobby Jindal	53	Director
Sylvia Jo Sydow Kerrigan	59	Director
James McConeghy	30	Director
Jacob Mercer	49	Director
L. Don Miller	62	Director
Aaron Rosen	43	Director
Admiral John Richardson, (USN Ret)	64	Advisory Director
Chairman Emeritus:		
Larry D. Hornbeck	84	Chairman Emeritus
Other Executive Officers:		
Carl G. Annessa	67	Executive Vice President—Military, Engineering, Repair & Maintenance
James O. Harp, Jr.	63	Executive Vice President and Chief Financial Officer
Samuel A. Giberga	62	Executive Vice President, General Counsel and Chief Compliance Officer & Corporate Secretary
John S. Cook	55	Executive Vice President and Chief Commercial Officer

Directors

Todd M. Hornbeck is currently serving as our Chairman of the Board, President and Chief Executive Officer and founded Hornbeck in June 1997. Mr. Todd Hornbeck has served as the President and director of Hornbeck since founding the Company. Mr. Todd Hornbeck also served as Chief Operating Officer until February 2002, at which time he was appointed Chief Executive Officer. Additionally, in May 2005 he was appointed Chairman of the Board of Directors. Prior to founding Hornbeck, Mr. Todd Hornbeck was employed by the original Hornbeck Offshore Services, Inc., a NASDAQ-listed publicly traded offshore service vessel company founded by his father, Mr. Larry Hornbeck, our Chairman Emeritus, with over 105 offshore supply vessels operating worldwide, from 1991 to 1996, serving in various positions relating to business strategy and development. Following the Company's merger with Tidewater Inc. ("Tidewater") in March 1996, Mr. Todd Hornbeck accepted a position as Marketing Director-Gulf of Mexico with Tidewater, where his responsibilities included managing relationships and overall business development in the U.S. GoM region. He remained with Tidewater until the Company's formation. Mr. Todd Hornbeck has served on the board of directors of the International Support Vessel Owners Association ("ISOA"), the Offshore Marine Service Association ("OMSA") and the National Ocean Industries Association ("NOIA"). Mr. Todd Hornbeck's extensive experience in the offshore service vessel industry, and over 25 years leading our company, positions him well to serve as our Chairman, President and Chief Executive Officer. As our founder, Mr. Todd Hornbeck brings his vision and goals for the Company to our Board of Directors. Under his leadership, we have expanded from a small private company to a large, global provider of technologically advanced offshore supply and multipurpose service vessels. The current Company carries the Hornbeck family name, uses the same horsehead logo and trademarks as the prior company and is able to benefit from long-standing working relationships with customers, vendors and Wall Street analysts, many of whom also had relationships with Messrs. Todd and Larry Hornbeck at the prior public company. Unlike other companies that are led by non-founding managers, the Company benefits from the history, entrepreneurial spirit, industry expertise and leadership of its founder.

Kurt M. Cellar has served as our Lead Independent Director since September 2020. Mr. Cellar currently serves as Lead Independent Director for American Banknote Corporation, where he serves as Chairman of both the Strategic Committee and Audit Committees. Mr. Cellar has served on the boards of more than twenty corporations over his career. In the past five years he has served as a corporate director for Six Flags Entertainment Corp (NYSE: SIX), U.S. Concrete, Inc. (NASDAQ: USCR), Guitar Center, Inc., Hawaiian Telecom, Inc. (NASDAQ: HCOM), and Home Buyers Warranty, Inc. From July 1999 until his retirement in January 2008, Mr. Cellar served as analyst, Director of Research and for the last five years as Partner and Portfolio Manager for Bay Harbour Management, LP. The firm received numerous awards including Absolute Returns Hedge Fund of the Year award in 2006. Prior to joining Bay Harbour, Mr. Cellar worked for the investment firm Remy Investors and Consultants and for the strategic consulting firm, LEK. Mr. Cellar received a B.A. in Economics/Business from the University of California, Los Angeles and a Masters of Business Administration in Finance from the Wharton School of Business at the University of Pennsylvania. Mr. Cellar is a retired Chartered Financial Analyst. We believe that Mr. Cellar is qualified to serve on our Board of Directors based on his significant financial and accounting experience as well as his public company board experience.

Evan Behrens has served as a director of Hornbeck since September 2020. Mr. Behrens currently serves as Managing Member of B Capital Advisors LLC, an investment firm. Previously, Mr. Behrens served as Senior Vice President of Business Development at SEACOR Holdings from May 2009 to May 2017. Mr. Behrens initially joined SEACOR Holdings in 2008 and managed its involvement in numerous significant investments and transactions. Prior to joining SEACOR Holdings, Mr. Behrens served as a partner at Level Global Investors and prior to that, founded and managed Infinity Point (formerly Behrens Rubinoff Capital Partners). Mr. Behrens previously served in various positions at Paribas Corporation, Odyssey Partners/Ulysses Management and SAC Capital Management. Mr. Behrens currently serves on the board of directors of Oppenheimer Holdings Inc., a multinational independent investment bank and financial services company. Previously, Mr. Behrens served as a board member of SEACOR Marine Holdings, Harte-Hanks, Inc., Continental Insurance Group, Ltd, Penford Corporation, Global Marin Systems Limited, Trailer Bridge, Inc., Sidewinder Drilling LLC and Stemline Therapeutics. Mr. Behrens obtained an A.B. degree in political science from the University of Chicago. We believe that Mr. Behrens is qualified to serve as a director based on his broad experience regarding business valuations, mergers and acquisitions and investment management.

Bobby Jindal has served as a director of Hornbeck since September 2020. Since 2017, Mr. Jindal has served as an operating advisor to the Ares Private Equity Group. Mr. Jindal served as the governor of the State of Louisiana from January 2008 to January 2016. Prior to that, Mr. Jindal served as a member of the United States House of Representatives for the state of Louisiana from 2005 to 2008, as assistant Secretary for Health and Human Services for Planning and Evaluation from 2001 to 2003, as President of the University of Louisiana system from 1999 to 2001, and as Secretary of the Louisiana Department of Health and Hospitals from 1996 to 1997. Mr. Jindal currently serves as a director for U.S. Heart and Vascular and LifeMD, a public telehealth company which engages in offering a portfolio of direct-to-patient products and services. He has previously served as director of WellCare Health Plans Inc. Mr. Jindal obtained a B.S. from Brown University and a Masters of Letters in Politics from Oxford University at New College. We believe that Mr. Jindal is qualified to serve as a director because his broad financial and diplomatic experience makes him an invaluable asset as the Company delves into further diversification efforts, and the achievement of our strategic objectives.

Sylvia Jo Sydow Kerrigan has served as a director of Hornbeck since August 2022. Ms. Kerrigan currently serves as the Senior Vice President and Chief Legal Officer of Occidental Petroleum Company. She also serves on the board of directors of Diversified Energy, LLC and on the Board of Trustees for Southwestern University. She previously held various positions at Marathon Oil Corporation from 1995 to 2017, including serving as the Executive Vice President, General Counsel and Secretary and as the Chief Public Policy Officer and Chief Compliance Officer. Ms. Kerrigan worked at the United Nations Security Council's Commission d'Indemnisation in Geneva, Switzerland from 2000 to 2002, serving as the senior legal officer responsible for arbitrating losses sustained by international oil companies following the 1990 Iraqi invasion of Kuwait. Ms. Kerrigan is past chairman of the State Bar of Texas International Law Section and a Life Fellow of the Texas Bar

Foundation. She also previously served as Executive Director of the Kay Bailey Hutchinson Energy Center for Business Law and Policy at the University of Texas in Austin. Ms. Kerrigan previously served on the boards of directors of Team, Inc., Nine Point Energy and Alta Mesa Resources. We believe that Ms. Kerrigan is qualified to serve as a director because she brings to our Board of Directors significant major oil company executive experience and critical insights into the issues facing the oil and gas industry.

James McConeghy has served as a director of Hornbeck since February 2024. Mr. McConeghy is a Vice President in the Ares Credit Group, where he focuses on opportunistic credit investing. Prior to joining Ares in 2019, Mr. McConeghy was an Investment Banking Analyst at Moelis & Company from July 2017 to June 2019. Previously, Mr. McConeghy was an Associate in PricewaterhouseCoopers's Transaction Services Group from September 2015 to June 2017. He currently serves on the boards for the parent entities of Virgin Voyages, TriMark USA and Convene. Mr. McConeghy holds a B.S. from Villanova University in Accountancy. He holds a CPA license (inactive) in the Commonwealth of Pennsylvania. Mr. McConeghy is qualified to serve as a director based on his investment and financial expertise. In addition, Mr. McConeghy provides the perspective of a significant stockholder.

Jacob Mercer has served as a director of Hornbeck since July 2023. Mr. Mercer is a Partner, Head of Special Situations and Restructuring at Whitebox. Prior to joining Whitebox in 2007, Mr. Mercer worked for Xcel Energy Inc. (NASDAQ: XEL) ("Xcel Energy") as Assistant Treasurer and Managing Director. Before joining Xcel Energy, he was a Senior Credit Analyst and Principal at Piper Jaffray and a Research Analyst at Voyageur Asset Management. Mr. Mercer also served as a logistics officer in the United States Army. Mr. Mercer has served as a director on numerous private and public company board of directors including current roles at HC Minerals since March 2024, Malamute Energy, Inc. since 2016, and Currax Pharmaceuticals LLC since 2018. Past director roles include A.M. Castle & Co. (formerly OTC: CTAM) from 2017 to 2020, GT Advanced Technologies Inc. (formerly NASDAQ: GTAT) from 2019 to 2021, Hycroft Mining Holding Corporation (NASDAQ: HYMC), formerly Hycroft Mining Corporation, from 2015 to 2020, Hi-Crush Inc. (formerly NYSE: HCR) from October 2020 to March 2024, Par Pacific Holdings (NYSE: PARR), formerly Par Petroleum Corporation, from 2012 to 2015, Platinum Energy Solutions, Inc. (formerly NYSE: FRAC) from 2013 to 2017, Piceance Energy, LLC (d/b/a Laramie Energy) from 2012 to 2015, and SAExploration Holdings, Inc. (Formerly NASDAQ: SAEX) from July 2016 to June 2019 and from February 2020 to December 2020. Mr. Mercer holds a B.A. with a double major in economics and business management from St. John's University. He also holds the Chartered Financial Analyst (CFA) and the Certified Turnaround Professional (CTP) designations. We believe that Mr. Mercer is qualified to serve as a director based on his investment and financial expertise. In addition, Mr. Mercer provides the perspective of a significant stockholder.

L. Don Miller has served as a director of Hornbeck since February 2021. Mr. Miller is currently the Chief Financial Officer of Lake Resources NL. Prior to joining Lake Resources NL in December 2023, Mr. Miller served as President and Chief Executive Officer of Bristow Group Inc. ("Bristow") from February 2019 to June 2020. He previously served as Senior Vice President and Chief Financial Officer of Bristow from August 2015 to February 2019. Before that he served as Bristow's Senior Vice President, Mergers, Acquisitions and Integration from June 2015 to August 2015, its Vice President, Mergers, Acquisitions and Integration from November 2014 to June 2015 and its Vice President, Strategy and Structured Transactions from 2010 to 2014. Prior to joining Bristow, Mr. Miller worked as an independent consultant from 2008 to 2010 assisting companies in capital markets and in a financial advisory capacity. He was previously the post-petition President and Chief Executive Officer for Enron North America Corp. and Enron Power Marketing, Inc. from 2001 to 2007 and also served in senior financial positions with Enron, including Director – Finance and Vice President, Asset Marketing Group from 1998 to 2001. Mr. Miller served as a supervisory director for Franks International N.V., an energy services provider, from 2020 to 2021. His career also includes seven years in senior financial positions with Citicorp Securities, Inc. and four years as an account executive with Dean Witter Reynolds, Inc. Mr. Miller is a CFA Charterholder. We believe that Mr. Miller is qualified to serve as a director because of his extensive financial, industry and management experience.

Aaron Rosen has served as a director of Hornbeck since December 2022. Mr. Rosen is a Partner, Co-Head of Opportunistic Credit and Co-Portfolio Manager of Special Opportunities in the Ares Credit Group, where he focuses on investing across the various Ares fund platforms. Mr. Rosen serves as a member of the Ares Credit Group's Opportunistic Credit Investment Committee and the Ares Private Equity Group's Corporate Opportunities Investment Committee. Mr. Rosen currently serves as a director, member of the audit committee and member of the nominating, governance and sustainability committee of the board of directors of Savers Value Village, Inc., positions he has held since April 2021. He also currently serves on the boards of the parent entities of Consolidated Precision Products, TriMark USA, Virgin Voyages and WHP Global. Prior to joining Ares in 2018, Mr. Rosen was a Partner and Director of Research at Archview Investment Group, where he focused on credit and equity investments in both the U.S. and internationally. Prior to Archview, Mr. Rosen was a Vice President at Citigroup, where he was a founding member of the Citibank Global Special Situations Group focused on U.S. credit and value equity investment strategies. In addition, Mr. Rosen was a member of Citigroup's Asset-Based Finance group, where he focused on structuring senior secured debt financings for non-investment grade corporate borrowers. Mr. Rosen holds a B.S., summa cum laude, from New York University's Stern School of Business in Finance and Information Systems, where he received the Valedictorian Award. We believe that Mr. Rosen is qualified to serve as a director because of his extensive financial and accounting expertise. In addition, Mr. Rosen provides the perspective of a significant stockholder.

Admiral John Richardson, (USN Ret) has served as an advisory director of Hornbeck since February 2023, and previously served as a director of Hornbeck from September 2020 to December 2022. Admiral Richardson (USN Ret) served 37 years in the U.S. Navy, completing his service as the Chief of Naval Operations (CNO), the top officer in the Navy. While in the Navy, Admiral Richardson (USN Ret) served in the submarine force. He commanded the attack submarine USS HONOLULU in Pearl Harbor, Hawaii, for which he was awarded the Vice Admiral James Bond Stockdale Inspirational Leadership Award. He went on to command at every level of the Navy. Admiral Richardson (USN Ret) served as the Director of Naval Reactors from 2012 until 2015, with responsibility for the full life-cycle, including regulatory responsibilities of more than 90 reactors operating around the world on nuclear-powered warships. After serving in this role, Admiral Richardson (USN Ret) served as the 31st Chief of Naval Operations from 2015 until 2019. Admiral Richardson (USN Ret) retired from the Navy in August 2019. Admiral Richardson (USN Ret) currently serves on the board of directors and as Chair of the Nuclear Oversight Committee of Constellation Energy Corporation. He also serves as director, Chair of the Special Programs Committee and a member of the Aerospace Safety and Finance Committees of the board of The Boeing Company, an aerospace company; and as director and member of the Audit and Finance and Compensation Committees of BWX Technologies, Inc., a supplier of nuclear components and fuel. Admiral Richardson (USN Ret) served as a member of the board of Exelon Corporation from 2019 through 2022. He also serves on the boards of the Center for New American Security and the Navy League of the United States. He is a senior advisor to the Johns Hopkins University Applied Physics Laboratory. Admiral Richardson (USN Ret) obtained a B.S. in physics from the U.S. Naval Academy, a master's degree in electrical engineering from the Massachusetts Institute of Technology and Woods Hole Oceanographic Institution, and a master's degree in national security strategy from the National War College. We believe that Admiral Richardson (USN Ret) is qualified to serve as an advisory director because he is uniquely qualified to understand the Company's operations, especially those in support of the United States government, and is well positioned to assist the Company in its diversification efforts.

Chairman Emeritus

Larry D. Hornbeck serves as Hornbeck's Chairman Emeritus, a role he assumed in September 2020. An executive with over 50 years of experience in the offshore supply vessel business worldwide, Mr. Larry Hornbeck was the sole founder of the original Hornbeck Offshore Services, Inc., and from its inception in 1981 until its merger with Tidewater in March 1996, Mr. Larry Hornbeck served as the Chairman of the Board, President and Chief Executive Officer of Hornbeck Offshore Services, Inc. Following the merger, Mr. Larry Hornbeck served as a director and a member of the audit committee of Tidewater from March 1996 until October

2000. From 1969 to 1980, Mr. Larry Hornbeck served as an officer in various capacities, culminating as Chairman, President and Chief Executive Officer of Sealcraft Operators, Inc., a former NASDAQ-listed publicly traded offshore service vessel company operating 29 geophysical and specialty service vessels worldwide. He served on the board of directors and as chairman of the compensation committee of Costal Towing, an inland marine tug and barge company. Mr. Larry Hornbeck assisted in orchestrating the founding of the current Company and is the father of Mr. Todd M. Hornbeck, our Chairman of the Board, President and Chief Executive Officer. In addition to the leadership roles in which Mr. Larry Hornbeck has served or currently serves, he has extensive involvement in international and domestic marine industry associations. Mr. Larry Hornbeck helped form and served on the boards of several marine industry associations, including the OMSA, and the NOIA. He also served on the board of directors of the American Bureau of Shipping and the ISOA. We believe that Mr. Hornbeck is qualified to serve as Chairman Emeritus because Mr. Larry Hornbeck brings to our Board of Directors a deep understanding of the operations of a public company in the offshore service vessel industry. With his many years of experience as both Chief Executive Officer and Chairman of the board of directors of the original Hornbeck Offshore Services, Inc. and of Sealcraft Operators, Inc., Mr. Larry Hornbeck brings not only management expertise, and unique technical knowledge of offshore service vessels and their application, construction and operation, but also has longstanding relationships with customers and vendors. This, combined with his years of experience as Chairman Emeritus and his continued active involvement in the Company, make him an invaluable contributor to the Company.

Other Executive Officers

Carl G. Annessa joined Hornbeck in September 1997 and is currently serving as our Executive Vice President—Military, Engineering, Repair & Maintenance. Mr. Annessa previously served as our Chief Operating Officer from February 2002 to September 2020. Prior to February 2002, Mr. Annessa served as our Vice President of Operations beginning in September 1997. Mr. Annessa is responsible for executive oversight of the Company's fleet operations and for oversight of design and implementation of our vessel construction and modification programs. Prior to joining Hornbeck, Mr. Annessa was employed for 17 years by Tidewater in various technical and operational management positions, including management of large fleets of offshore supply vessels in the Arabian Gulf, Caribbean and West African markets, and was responsible for the design of several of Tidewater's vessels. Mr. Annessa was employed for two years by Avondale Shipyards, Inc. as a mechanical engineer before joining Tidewater. Mr. Annessa received a degree in naval architecture and marine engineering from the University of Michigan in 1979.

James O. Harp, Jr. joined Hornbeck in 2001 and is currently serving as our Executive Vice President and Chief Financial Officer. Mr. Harp has served as the Chief Financial Officer for Hornbeck since joining the Company. He was appointed Executive Vice President in February 2005. Prior to that time, he served as our Vice President beginning in January 2001. Before joining the Company, Mr. Harp served as Vice President in the Energy Groups of investment banking firms RBC Dominion Securities Corporation, from August 1999 to January 2001, and Jefferies & Company, Inc. from June 1997 to August 1999. During his investment banking career, Mr. Harp worked extensively with marine-related oil service companies, including Hornbeck as an investment banker in connection with the Company's private placement of common stock in November of 2000. From July 1982 to June 1997, he held roles of increasing responsibility in the tax section of Arthur Andersen LLP, ultimately serving as a Tax Principal, and had a significant concentration of international clients in the oil service and maritime industries. Since April 1992, he has also served as Treasurer and Director of SEISCO, Inc., a privately-held seismic brokerage company that he co-founded. In June 2023, Mr. Harp was appointed President of SEISCO, Inc. Mr. Harp is an inactive certified public accountant in Louisiana.

Samuel A. Giberga joined Hornbeck in January 2004 and is currently serving as our Executive Vice President, General Counsel and Chief Compliance Officer & Corporate Secretary. Mr. Giberga has served as the General Counsel of Hornbeck since joining the Company. He was appointed Corporate Secretary in January 2021, 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.

John S. Cook is currently serving as our Executive Vice President and Chief Commercial Officer. Mr. Cook joined Hornbeck in May 2002 as our Chief Information Officer and served in that role until August 2024. He was appointed Executive Vice President and Chief Commercial Officer in February 2013, and served as a Senior Vice President beginning in May 2008. Mr. Cook was initially designated an executive officer and appointed a Vice President of the Company in February 2006. Before joining Hornbeck, Mr. Cook held roles of increasing responsibility in the business consulting section of Arthur Andersen LLP from January 1992 to May 2002, ultimately serving as a Senior Manager. During his consulting career, he assisted numerous marine and energy service companies in various business process and information technology initiatives, including strategic planning and enterprise software implementations. Mr. Cook is an inactive certified public accountant in Louisiana and is a member of the American Institute of Certified Public Accountants and the Society of Louisiana Certified Public Accountants.

Family Relationships

Mr. Todd M. Hornbeck, the Chairman of the Board, President and Chief Executive Officer of the Company, is the son of Mr. Larry Hornbeck, who serves as Hornbeck's Chairman Emeritus and assisted in orchestrating the founding of the current Company.

Composition of the Board of Directors

Our business and affairs are managed under the direction of our Board of Directors. Upon completion of this offering, our Board of Directors will initially consist of directors. Thereafter, our Board of Directors will have discretion to determine the size of the Board of Directors, subject to the terms of our amended and restated certificate of incorporation. Subject to certain exceptions, newly created director positions resulting from an increase in size of the Board of Directors and vacancies may be filled by our Board of Directors. See "Description of Capital Stock and Warrants—Size of the Board of Directors and Vacancies."

Our amended and restated certificate of incorporation will provide that following the completion of this offering, the principal stockholders managed or advised by Ares or its affiliates (the "Ares principal stockholders") will have the right to nominate to our Board of Directors (i) two nominees for so long as the Ares principal stockholders beneficially own % or greater of our Fully Diluted Securities and (ii) one nominee for so long as the Ares principal stockholders beneficially own % or greater, but less than %, of our Fully Diluted Securities. and will be the initial director nominees of the Ares principal stockholders. The principal stockholders managed or advised by Highbridge or its affiliates (the "Highbridge principal stockholders") will have the right to nominate to our Board of Directors one nominee for so long as the Highbridge principal stockholders beneficially own % or greater of our Fully Diluted Securities. will be the initial director nominee of the Highbridge principal stockholders. The principal stockholders managed or advised by Whitebox or its affiliates (the "Whitebox principal stockholders") will have the right to nominate to our board of directors one nominee for so long as the Whitebox principal stockholders beneficially own % or greater of our Fully Diluted Securities. will be the initial director nominee of the Whitebox principal stockholders. See "Description of Capital Stock and Warrants—Director Nomination Rights."

At all times, the composition of our Board of Directors will remain compliant with NYSE rules and the Jones Act. Such compliance includes, among other things, a requirement that no more than a minority of the number of directors necessary to constitute a quorum of the Board of Directors (or any committee thereof) be non-U.S. citizens.

Director Independence

Pursuant to the corporate governance standards of the NYSE, a director employed by us cannot be deemed an "independent director," and each other director will qualify as "independent" only if our Board of Directors affirmatively determines that he has no material relationship with us, either directly or as a partner, stockholder or officer of an organization that has a relationship with us. The fact that a director may own our capital stock is not, by itself, considered a material relationship. Based on information provided by each director concerning his or her background, employment and affiliations, our Board of Directors has affirmatively determined that each of are independent in accordance with the NYSE rules.

Securityholders Agreement

In connection with the closing of this offering, we will amend and restate our existing securityholders agreement (the "A&R Securityholders Agreement"). Pursuant to the A&R Securityholders Agreement, the Company will agree to take all necessary action (subject to applicable law) to cause the election of each director designated by Ares, Highbridge or Whitebox in their capacities as Appointing Persons in accordance with the terms of our amended and restated certificate of incorporation. The A&R Securityholders' Agreement will also provide that the Company will agree to take all necessary action (subject to applicable law) to cause any vacancies created by death, resignation, removal, retirement or disqualification of a director designated by an Appointing Person to be filled by such Appointing Person in accordance with the terms of our amended and restated certificate of incorporation.

Board Committees

Upon the completion of this offering, our Board of Directors will have three standing committees: an audit committee, a compensation committee and a nominating, corporate governance and sustainability committee. The composition and responsibilities of each committee following this offering are described below. Members serve on these committees until their resignation or until otherwise determined by our board.

For each committee below, the rules of the SEC and the exchange upon which we list our shares require us to have one independent committee member upon the listing of our common stock, a majority of independent committee members within 90 days of the effective date of the registration statement and all independent audit committee members within one year of the effective date of the registration statement.

Additionally, for so long as any of the principal stockholders own at least % of our Fully Diluted Securities, each such principal stockholder will have the right to designate one member of each of the compensation committee and the nominating, corporate governance and sustainability committees of the Board of Directors. The chairperson and any additional committee members shall be determined by the Board of Directors and comply with the independence requirements of the NYSE and the SEC, as applicable, as well as the citizenship requirements of the Jones Act.

Audit Committee

Upon the completion of this offering, our audit committee will consist of , and , with serving as chair. Our Board of Directors has determined that and each satisfy the independence requirements for audit committee members under the listing standards of the NYSE and Rule 10A-3 of the Exchange Act. has been determined to be an audit committee "financial expert" as defined under SEC rules. All members of the audit committee are able to read and understand fundamental financial statements, are familiar with finance and accounting practices and principles and are financially literate. Our audit committee will be responsible for, among other things:

- selecting and hiring our independent auditors, and approving the audit and non-audit services to be performed by our independent auditors;

- assisting the Board of Directors in evaluating the qualifications, performance and independence of our independent auditors;
- assisting the Board of Directors in monitoring the quality and integrity of our financial statements and our accounting and financial reporting;
- reviewing the adequacy and effectiveness of our internal control over financial reporting processes;
- reviewing with management and our independent auditors our annual and quarterly financial statements;
- establishing procedures for the receipt, retention and treatment of complaints received by us regarding accounting, internal accounting controls or auditing matters and the confidential, anonymous submission by our employees of concerns regarding questionable accounting or auditing matters;
- preparing the audit committee report that the SEC requires in our annual proxy statement; and
- reviewing related-party transactions.

Upon the completion of this offering, our Board of Directors will have adopted a written charter for the audit committee which will take effect upon the completion of this offering and which satisfies the applicable rules of the SEC and the listing standards of the NYSE, including with respect to the review of related party transactions. This charter will be posted on our website upon the completion of this offering.

Compensation Committee

Upon completion of this offering, our compensation committee will consist of , and , with serving as chair. The compensation committee will be responsible for, among other things:

- reviewing and approving corporate goals and objectives relevant to the compensation of our chief executive officer, evaluating our chief executive officer's performance in light of those goals and objectives, and, either as a committee or together with the other independent directors (as directed by the Board of Directors), determining and approving our chief executive officer's compensation level based on such evaluation;
- reviewing and approving, or making recommendations to the Board of Directors with respect to, the compensation of our other executive officers, including annual base salary, bonus, equity-based incentives and other benefits;
- reviewing and recommending to our Board of Directors with respect to the compensation of our directors; and
- reviewing and making recommendations with respect to our equity compensation plans.

Upon the completion of this offering, our Board of Directors will have adopted a written charter for the compensation committee which will take effect upon the completion of this offering and which satisfies the applicable rules of the SEC and the listing standards of the NYSE. This charter will be posted on our website upon the completion of this offering.

Nominating, Corporate Governance and Sustainability Committee

Upon completion of this offering, we expect our nominating, corporate governance and sustainability committee will consist of , and , with serving as chair. The nominating, corporate governance and sustainability committee is responsible for, among other things:

- assisting our Board of Directors in identifying prospective director nominees and recommending nominees to the Board of Directors;
- overseeing the evaluation of the Board of Directors and management;

- reviewing developments in corporate governance practices and developing and recommending a set of corporate governance guidelines;
- overseeing the Company's sustainability plan; and
- recommending members for each committee of our Board of Directors.

Upon the completion of this offering, our Board of Directors will have adopted a written charter for the nominating, corporate governance and sustainability committee which will take effect upon the completion of this offering and which satisfies the applicable rules of the SEC and the listing standards of the NYSE. This charter will be posted on our website upon the completion of this offering.

Compensation Committee Interlocks and Insider Participation

None of our executive officers serve on the Board of Directors or compensation committee of a company that has an executive officer that serves on our Board of Directors or compensation committee. No member of our Board of Directors is an executive officer of a company in which one of our executive officers serves as a member of the board of directors or compensation committee of that company.

Codes of Conduct

We have a Code of Conduct that applies to all of our officers and employees, including our principal executive officer, principal financial officer and principal accounting officer, and a Code of Business Conduct and Ethics for members of our Board of Directors, which are posted on our Internet website on the "Governance Highlights" page accessible through the "Investors" tab. Our Code of Conduct is a "code of ethics," as defined in Item 406(b) of Regulation S-K. The information contained on, or accessible from, our website is not part of this prospectus by reference or otherwise. We will make any legally required disclosures regarding amendments to, or waivers of, provisions of our code of ethics on our website.

Corporate Governance Guidelines

Upon the completion of this offering, our Board of Directors will have established corporate governance guidelines in accordance with the corporate governance rules of the NYSE, which will be posted on our Internet website on the "Governance Highlights" page accessible through the "Investors" tab. The information contained on, or accessible from, our website is not part of this prospectus by reference or otherwise.

These corporate governance guidelines will include the definition of independence used by the Company to determine whether our directors and nominees for directors are independent, which are the same qualifications prescribed under the NYSE Listing Standards. Pursuant to these corporate governance guidelines, our non-management directors will be required to meet in separate sessions without management on a regularly scheduled basis, but no less than four times a year. Generally, these meetings may occur as an executive session without the management director in attendance in conjunction with regularly scheduled meetings of our Board of Directors throughout the year. If the non-management directors include directors that are not independent directors (as determined by our Board of Directors), the independent directors will be required to meet in at least one separate session annually that includes only the independent directors. Because the Chairman of the Board is also a member of management, the non-management directors' and independent directors' separate sessions will be presided over by the Lead Independent Director or, in his absence, by an independent director designated by the Lead Independent Director or elected by a majority of the independent directors.

EXECUTIVE COMPENSATION

Compensation Discussion and Analysis

The purpose of this compensation discussion and analysis section is to provide information about the material elements of compensation that are paid, awarded to or earned by our "named executive officers," who consist of our principal executive officer, principal financial officer and three other most highly compensated executive officers. For our fiscal year ended December 31, 2023 ("Fiscal 2023"), our named executive officers ("NEOs") were:

- Todd M. Hornbeck, Chairman of the Board, President and Chief Executive Officer;
- James O. Harp, Jr., Executive Vice President and Chief Financial Officer;
- Samuel A. Giberga, Executive Vice President, General Counsel and Chief Compliance Officer and Corporate Secretary;
- John S. Cook, Executive Vice President and Chief Commercial Officer; and
- Carl G. Annessa, Executive Vice President—Military, Engineering, Repair & Maintenance.

Compensation Philosophy and Objectives

Upon completion of this offering, our compensation committee and our Board of Directors will review and approve the compensation of our NEOs and oversee and administer our executive compensation programs and initiatives. As we return to being a public company, we expect that the components and underlying driving factors of our executive compensation programs will continue to evolve. Accordingly, the compensation paid to our NEOs for Fiscal 2023 is not necessarily indicative of how we will compensate our NEOs after this offering.

Our executive compensation programs reflect our entrepreneurial and innovative culture and philosophy. Executives, including our NEOs, (i) are hired to devise and execute strategies that create long-term stockholder value consistent with our mission statement and core values and (ii) are appropriately rewarded for doing so.

The objectives of our executive compensation programs are to (i) attract and retain executives who possess abilities essential to the Company'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. Our compensation program for executive officers rewards the following attributes:

- *Financial Performance*. We reward 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 our peers.
- *Excellence*. We expect our 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 the Company are expected to demonstrate leadership.
- *Teamwork*. Executives are evaluated as members of a team, not merely as individuals.
- *Forward-Looking Focus*. We believe executives need to focus not only on our short-term performance, but also on our long-term future. Accordingly, we compensate our executives in a manner that incentivizes them to manage our business in a way that enables us to meet our long-range objectives, as well as our short-term goals.

- *Loyalty*. We promote a culture of ownership throughout the Company and reward employees, including our NEOs, who remain dedicated to the Company over the long-term with equity ownership opportunities, as well as other forms of long-term compensation.
- *Prudent Operating Practices*. The Company expects executive decision-making that promotes safe, effective, compliant and prudent work practices.

In addition to the factors above, we consider other factors in establishing compensation, such as our financial condition and available resources and the competition for the services of our executives, each as of the time of the applicable compensation decision. We consider the competitive market for corresponding positions within comparable geographic areas and companies of similar size and stage of development operating in our industry or in other industries that are relevant to us.

Compensation Committee Procedures

The compensation committee considers Company 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. Our compensation committee is comprised solely of directors who (i) meet the independence requirements of Section 303A of the NYSE Listed Company Manual and 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 our executive officers and approving all compensation for our executive officers, (ii) establishing and administering the Company's policies governing annual cash compensation and equity incentive awards for employees other than our executive officers and (iii) ensuring that the administration of the Company'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 the Company'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 the Company'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 our executive officers, including the establishment of base salaries, determination of any potential cash incentive compensation targets and participation levels of each NEO and approval of long-term incentive awards under the Company's 2020 Management Incentive Plan. The compensation awards approved by the compensation committee are part of the annual budget approved by the Board of Directors, 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 our executive officers to the full Board of Directors. 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 has the authority to directly engage independent consultants. In late 2021, the compensation committee evaluated several independent consultants and engaged Lyons Benenson & Co. ("LB&Co.") to perform a full compensation review and analysis for the fiscal year ended December 31, 2022 ("Fiscal 2022"). As part of their review, LB&Co. provided advice on the compensation strategy and program design, compared the Company's compensation programs with those of other companies

and reviewed and recommended an updated peer group. LB&Co. was again retained to review and make recommendations concerning compensation for Fiscal 2023. As discussed below in the section titled "*Go-Forward Compensation Arrangements—Compensation Consultant and Peer Group*," the compensation committee more recently retained Frederic W. Cook & Co., Inc. ("FW Cook") to advise the Company on compensation as the Company prepared for a public offering.

Benchmarks. We compete with other companies for executive talent. In doing so, we consider prevailing executive compensation trends in order to establish whether our compensation is appropriate, competitive and in-line with our 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 the Company so as to provide a source of meaningful comparison, or our "Industry Peer Group"; (ii) public filings of publicly traded marine service companies that are our direct competitors; and (iii) published survey information for the energy industry, as well as the broader commercial industry, when appropriate. Our competitive market is not comprised strictly of vessel owners, because the competition we face for certain executive talent is not limited to marine companies, and we believe 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 our executives compares with the individual elements of, as well as the total direct compensation of, the NEOs of the groups described above.

In November of 2021, at the compensation committee's request, LB&Co. 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 again reviewed in November of 2022, and no changes were recommended. The companies that are included in the Company's public company Industry Peer Group consist of the following:

Industry Peer Group Used to Benchmark 2021 - 2023 Executive Compensation

Bristow Group Inc. (VTOL)
Dril-Quip, Inc. (DRQ)
Forum Energy Technologies, Inc. (FET)
Great Lakes Dredge & Dock Corporation (GLDD)
Helix Energy Solutions Group, Inc. (HLX)
Kirby Corporation (KEX)
Newpark Resources, Inc. (NR)
Oceaneering International, Inc. (OII)
Oil States International, Inc. (OIS)
SEACOR Marine Holdings Inc. (SMHI)
TETRA Technologies, Inc. (TTI)
Tidewater Inc. (TDW)

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 our executive compensation programs. Because our executive officers' cash compensation is derived, in part, from the Company'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 NEOs.

Incentive Cash Compensation Metrics. The Company's performance measures for incentive cash compensation generally consist of Adjusted EBITDA, relative safety performance and a discretionary component tied to the Company's achievement of certain strategic objectives set by management and the Board of Directors. Adjusted EBITDA has historically been our most heavily weighted objective component because of the prominence that Adjusted EBITDA has in several facets of the Company's operations. For instance, we disclose and discuss Adjusted EBITDA as a non-GAAP financial measure in our quarterly reports and conference calls with our 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 our Adjusted EBITDA to that of the potential acquisition target; and (iii) to assess our 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 our compensation analysis and/or are unpredictable for budgeting purposes. In setting the Adjusted EBITDA target used as a component of our 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 Board of Directors. This approach historically resulted in Adjusted EBITDA targets that were designed to incentivize management to perform at demanding levels. The Company 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 our own prior safety performance. When selecting service providers, we know that our customers make decisions based on the safety performance of the provider. Therefore, we believe that by using a safety component in our objective performance measures, we will not only reinforce the culture of safety within our Company, which benefits our employees, but also should optimize revenue and improve our long-term performance sustainability.

We believe that these metrics incentivize management to strive for operating results that increase stockholder value, while reaffirming our commitment to operating our business at the highest levels of safety and with the utmost care and protection of the environment.

Elements of Compensation

Our current executive compensation program, which was set by our compensation committee, consists of the following components:

- base salary;
- annual cash incentive awards linked to our overall performance;
- periodic grants of long-term equity-based compensation, such as time- or performance-based restricted stock units or options;
- other executive benefits and perquisites; and
- employment agreements, which contain termination and change of control benefits.

We combine 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 our executive officers and other senior personnel with those of our stockholders.

Pay Mix

The various components of our 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 our long-term and short-term financial and strategic goals. Our 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 our 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, we have focused on structuring overall compensation packages that serve the goals described above.

Base Salary

We pay a base salary to each of our executive officers in order to compensate them for their day-to-day services rendered to us over the course of each year. Each NEO's base salary was contractually established pursuant to his Amended and Restated Employment Agreement, dated September 4, 2020 (each, an "EA"). Our compensation committee reviews base salaries annually, and each NEO's may be increased, but not decreased (given the terms of each NEO's EA), from the contracted amount. In performing its annual review, the compensation committee considers the scope of the NEO's job responsibilities, the NEO's unique skill sets and experience and individual contributions, market conditions, the NEO's current compensation as compared to that provided by peer and competitor companies, including the Industry Peer Group, and the Company's annual financial budget. In addition, the compensation committee considers the overall performance of the Company and the recommendations of the Chief Executive Officer concerning the compensation of the NEOs other than himself. For the Fiscal 2022 compensation season, the compensation committee engaged LB&Co. as its compensation consultant, and consistent with the recommendation of LB&Co., the compensation committee approved an increase in the base salary of each of the NEOs for Fiscal 2022, which remained unchanged for Fiscal 2023.

With respect to all of our NEOs (other than our Chief Executive Officer), our compensation committee determined to establish base salaries that are equal for each, given their shared level of seniority and experience, as well as the multiple roles each has played in the management of our business. This approach could change in the future. The equalized pay for our most senior executives also enhances our core values of teamwork. The base salaries paid to our NEOs in Fiscal 2023, Fiscal 2022 and the fiscal year ended December 31, 2021 ("Fiscal 2021") are set forth in the Summary Compensation Table below.

Bonus

We utilize 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 our peers for the applicable measurement period. Each NEO's EA provides for the payment of cash 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 NEO's EA also provides for a target cash incentive compensation opportunity for each fiscal year equal to 100% of the NEO's annualized base salary for the fiscal year (the "Target Bonus"). Each NEO'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 as described below, if achieved performance for the fiscal year is in between threshold, target and maximum levels of performance.

In Fiscal 2021, the Company's compensation program called for the award of cash incentive compensation based on relative achievement of two components: (i) Adjusted EBITDA (weighted 90%) and (ii) TRIR (weighted 10%). In Fiscal 2022 and Fiscal 2023, in an effort to motivate management to continue to make decisions that advance the Company's strategic objectives, the compensation committee reduced the Adjusted EBITDA weighting to 80%, maintained the TRIR weighting at 10% and introduced a 10% weighted Strategic Plan component based upon the Board of Directors' year-end assessment of various qualitative and quantitative factors that it deems relevant, in its sole discretion, to determine progress made by the Company toward achieving objectives set forth in the Company's 2021-2023 Strategic Plan. 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. We refer 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 IADC, ISOA and IMCA. Previously, we included the safety benchmark of OMSA; however, OMSA has discontinued publicizing its benchmark, so we no longer use OMSA as one of our safety benchmarks. Because the Company has usually outperformed these industry safety benchmarks and in an effort to place an even greater emphasis on the preservation of our 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 the Company 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 2023, 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.

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	80%	50% of the Adjusted EBITDA Target	40% of Base Salary	100% of the Adjusted EBITDA Target	80% of Base Salary	200% of the Adjusted EBITDA Target	160% 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 the Company's three best annual TRIRs achieved in the last ten years	20% of Base Salary

A discussion concerning our use of TRIR in connection with compensation-related matters is found in the section captioned "Compensation Committee Procedures."

For Fiscal 2023, the compensation committee decided that the Company's Adjusted EBITDA for purposes of the cash incentive compensation calculations would exclude incremental EBITDA from growth capital, asset

sales and any mergers and acquisitions that increased gross debt or resulted in more equity being issued, which would be addressed through alternative compensatory measures, including, but not limited to, special, event-driven bonuses and/or the Strategic Plan component. With these adjustments, for Fiscal 2023, the Company's Adjusted EBITDA was $222.8 million, which would have entitled each of the NEOs to receive a cash incentive compensation payout (in respect of the Adjusted EBITDA vesting criteria and based on the Applicable Percentage) equal to 58% of base salary (i.e., 73% of Base Salary x the Applicable Percentage of 80%). At the end of Fiscal 2023, in determining the final payout under the Adjusted EBITDA component, the compensation committee exercised its discretion to make additional adjustments to the Company's Adjusted EBITDA for purpose of the cash incentive compensation, consistent with the compensation committee's historical approach of making adjustments only in certain limited situations, including adjustments related to items that were unanticipated at the time when the Adjusted EBITDA target was originally set. These adjustments were primarily in respect of certain beneficial, un-budgeted vessel activity in Fiscal 2023. Specifically, in Fiscal 2023, as a result of a change in external market conditions, management accelerated the un-budgeted regulatory drydocking of six vessels to Fiscal 2023 from Fiscal 2024 and effected the un-budgeted reactivation of a vessel, in each case, for the benefit of the Company despite such action having an adverse effect on each NEO's cash incentive compensation due to not being anticipated or budgeted for Fiscal 2023 when the Adjusted EBITDA target was originally set. As such, the compensation committee recalculated the Adjusted EBITDA target as though such expenditures had been budgeted for Fiscal 2023. In addition, the compensation committee considered the effect of certain unforeseen challenges that the Company faced in Mexico at the end of Fiscal 2023, which materially impacted contracted revenue, as being beyond management's control, thus justifying an additional adjustment to the Adjusted EBITDA target. Following these adjustments, each of the NEOs was entitled to receive a cash incentive compensation payout (in respect of the Adjusted EBITDA vesting criteria and based on the Applicable Percentage) equal to 79% of base salary (i.e., 99% of Base Salary x the Applicable Percentage of 80%).

The TRIR was 0.09, which entitled each of the NEOs to receive cash incentive compensation (in respect of the TRIR vesting criteria and based on the Applicable Percentage) equal to 19% of base salary (i.e., 190% of Base Salary x the Applicable Percentage of 10%).

The Strategic Plan component of cash incentive compensation, comprising 10% of the aggregate potential cash incentive compensation that can be earned, is awarded based upon the Board of Directors' year-end assessment of various qualitative and quantitative factors that it deems relevant, in its sole discretion, to determine progress made by the Company toward achieving objectives set forth in the Company's Fiscal 2021-2023 Strategic Plan. For Fiscal 2023 performance, the compensation committee considered the continued progress toward the Company's goals of right-sizing the fleet, the Company's continued successful capitalization on oilfield recovery, the Company's continued progress toward diversification of its core revenue stream, the successful activation of the ECO fleet and the significant time, effort and resources devoted to various projects aimed at increasing the Company's scale and asset base necessary to position the Company for a public offering. Based on these factors, the compensation committee elected to award each NEO cash incentive compensation (in respect of the Strategic Plan component and based on the Applicable Percentage) equal to 20% of base salary (i.e., 200% of Base Salary x the Applicable Percentage of 10%), resulting in a combined weighted-average cash incentive compensation payout equal to 118% of base salary to each NEO for Fiscal 2023.

In extraordinary circumstances, the compensation committee can award event-driven or accomplishment-specific bonuses to the NEOs, which would be independent of the cash incentive compensation derived under the formulaic approach. In Fiscal 2023, the Company successfully resolved our litigation with Gulf Island (the "GIFI litigation"), which was a key accomplishment of management in Fiscal 2023 that benefited the Company. The compensation committee awarded a one-time accomplishment-specific bonus of $500,000 that was shared among the NEOs for the successful resolution of the GIFI litigation (the "One-Time GIFI Litigation Bonus").

Combined, the formulaic and accomplishment-specific bonuses resulted in an aggregate bonus payout equal to 139% of the collective NEO base salaries.

Long-Term Equity-Based Compensation

We believe that the interests of our stockholders are best served when a meaningful portion of executive and management compensation is tied to equity ownership. On September 4, 2020, upon emergence from restructuring, we adopted the 2020 Management Incentive Plan (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. The Company 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. The Company uses equity incentive compensation, with vesting based on time, performance or both, as a means of encouraging a "culture of ownership" among employees, including our NEOs. The compensation committee believes that by using equity-based forms of incentive compensation, the interests of the Company's stockholders and the Company'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 our executive officers, including our 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 Board of Directors, 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.

In March of 2023, we granted RSUs to each of our NEOs. We did not grant any PSUs to any of our NEOs in Fiscal 2023. The RSUs are subject to time-based vesting conditions only. One-half of the RSU award vested and was settled immediately on the grant date, and the remainder 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 NEO's continued service through the applicable vesting date (except in the case of an 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 NEO will be entitled to vest in the next tranche of his RSUs). Notwithstanding the foregoing, all of an NEO's unvested RSUs will vest upon the consummation of a Change of Control, subject to his continued service through the date of such Change of Control.

Each RSU granted to our NEOs has a right to be credited with dividends paid in respect of one share of our common stock ("Dividend Equivalents"). Dividend Equivalents credited to an NEO's respective account and attributable to any particular RSU (and earnings thereon, if applicable) will be distributed to such NEO upon settlement of such RSU, as applicable, and if such RSU is forfeited, such 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 our common stock, shares of our common stock. No dividends have been declared by the Company.

In Fiscal 2023, we granted time-based RSUs to our NEOs as set forth below.

Executive	Fiscal 2023 RSUs
Todd M. Hornbeck	112,826
James O. Harp, Jr.	47,012
Samuel A. Giberga	47,011
John S. Cook	47,011
Carl G. Annessa	47,012

Other Executive Benefits and Perquisites

We provide our NEOs and our other employees with certain perquisites and other personal benefits as part of providing a competitive executive compensation program and for employee retention. We do not gross-up our NEOs or our other employees for taxes payable in respect of their perquisites received. The following table generally identifies the Company's benefit plans and identifies those employees who may be eligible to participate. The NEOs participate in the following benefit plans in the same manner that our employees do, except where noted below:

Benefit Plan	Executive Officers (including 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 2023, each of our NEOs had a supplemental medical insurance policy that pays for all of the NEO's eligible out-of-pocket medical, dental and vision expenses.

(2) The NEOs, the Company's Vice Presidents and certain other officers have Company-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 Company-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 NEOs, the Company'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.

The Company believes it should provide limited perquisites for its executive officers. As a result, the Company has historically provided nominal perquisites. The following table generally illustrates the perquisites we do (and do not) provide and identifies those employees who may be eligible to receive them:

Type of Perquisite	Executive Officers (including NEOs)	Certain Managers	Certain Full-Time Employees
Company Vehicle	X	Not offered	X
Vehicle Allowance	Not offered	X	X
Use of Company Aircraft	X[1]	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) The Company intends to adopt a corporate aircraft use policy establishing parameters for executive use of corporate aircraft and related tax and SEC perquisite disclosure implications. Among other things, the Company intends that, under the policy, personal use of private aircraft by the Company's Chief Executive Officer will be limited to a certain dollar value or number of hours and any excess personal use must be approved by the Company's Lead Independent Director. Under the policy, any use of corporate aircraft for purposes that are not integrally and directly related to the performance of an executive's job duties

(including but not limited to personal use), will be appropriately disclosed as a perquisite in accordance with SEC regulations and guidance. Additional information with respect to the Chief Executive Officer's corporate aircraft use is provided in the footnotes to the Summary Compensation Table.

(2) A Deferred Compensation Plan was adopted by the Board of Directors in 2007. However, no matching provision has been authorized under the Deferred Compensation Plan, and, to date, no NEO has availed himself of participation therein.

Employment Agreements and Severance Benefits

We believe that a strong, experienced management team is essential to the best interests of the Company and our shareholders. As noted above, we have entered into EAs with the NEOs 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 the NEO is terminated by the Company without "cause" or the NEO 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 "Potential Payments Upon Termination or Change of Control."

Section 162(m)

Section 162(m) of the Internal Revenue Code limits us to a deduction for federal income tax purposes of no more than $1 million of compensation paid to certain executive officers in a taxable year. Although we are mindful of the benefits of tax deductibility when determining executive compensation, we may approve compensation that will not be fully-deductible in order to ensure competitive levels of total compensation for our executive officers.

Section 409A Considerations

Another section of the Code, Section 409A, affects the manner in which deferred compensation opportunities are offered to our 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. We intend to operate our existing compensation arrangements that are covered by Section 409A in accordance with the applicable rules thereunder, and we will continue to review and amend our compensation arrangements where necessary to comply with Section 409A.

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 our 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 "Narrative Description to the Summary Compensation Table" and the "Grants of Plan-Based Awards Table for the 2023 Fiscal Year," each NEO's EA provides for a "best-net" cutback.

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 NEOs for services provided during the previous fiscal year. The compensation committee also determines equity incentive compensation awards for the 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 NEOs, are addressed by the Board of Directors in its final approval of the Company's annual budget.

Compensation Risk Assessment

Once a publicly traded company, we will be subject to SEC rules regarding risk assessment. Those rules require a publicly traded company to determine whether any of its existing incentive compensation plans, programs or arrangements create risks that are reasonably likely to have a material adverse effect on the Company. We do not believe that any of our incentive compensation plans, programs or arrangements create risks that are reasonably likely to have a material adverse effect on the Company.

Summary Compensation Table

The table below sets forth the annual compensation awarded to or earned by our NEOs for Fiscal 2023, Fiscal 2022 and Fiscal 2021.

Name and Principal Position	Year	Salary ($)[1]	Bonus ($)[2]	Stock Awards ($)[3]	Non-Equity Incentive Plan Compensation ($)[4]	All Other Compensation ($)[5]	Total ($)
Todd M. Hornbeck	2023	750,000	100,000	6,054,243	885,000	66,242	7,855,485
Chairman, President & Chief Executive Officer	2022	750,000	—	3,868,245	1,455,000	69,916	6,143,162
	2021	637,500	—	—	1,275,000	40,007	1,952,507
James O. Harp, Jr.	2023	400,000	100,000	2,522,664	472,000	52,173	3,546,837
EVP & Chief Financial Officer	2022	400,000	—	1,611,762	776,000	46,445	2,834,207
	2021	360,000	—	—	720,000	30,786	1,110,786
Samuel A. Giberga	2023	400,000	100,000	2,522,610	472,000	50,518	3,545,128
EVP, General Counsel, Chief Compliance Officer & Corporate Secretary	2022	400,000	—	1,611,762	776,000	44,751	2,832,513
	2021	305,000	—	—	610,000	34,065	949,065
John S. Cook	2023	400,000	100,000	2,522,610	472,000	53,935	3,548,545
EVP & Chief Commercial Officer[6]	2022	400,000	—	1,611,762	776,000	44,106	2,831,868
	2021	320,000	—	—	640,000	32,694	992,694
Carl G. Annessa	2023	400,000	100,000	2,522,664	472,000	52,073	3,546,737
EVP—Military, Engineering, Repair & Maintenance	2022	400,000	—	1,611,762	776,000	44,623	2,832,385
	2021	320,000	—	—	640,000	32,029	992,029

(1) The amounts in this column reflect the actual base salaries earned by our NEOs for Fiscal 2023, Fiscal 2022 and Fiscal 2021.

(2) The amounts in this column reflect the One-Time GIFI Litigation Bonus, which is described above in the section titled "Pay Mix—Bonus."

(3) The amounts in this column reflect the grant date fair values (computed in accordance with FASB ASC Topic 718) of the RSU and PSU awards granted to the NEOs in Fiscal 2023 and Fiscal 2022. See Note 13 to our Annual Financial Statements included elsewhere in this 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.

(4) The amounts in this column reflect bonuses paid to our NEOs for Fiscal 2023, Fiscal 2022 and Fiscal 2021 performance, pursuant to the terms of the annual cash incentive compensation opportunities set forth in their respective employment agreements and the Company's cash incentive compensation program in effect for Fiscal 2023, Fiscal 2022 and Fiscal 2021, respectively. The Company's cash incentive compensation program is described above in the section titled "Pay Mix—Bonus."

(5) The amounts in this column reflect the following amounts paid to our NEOs for Fiscal 2023: (i) employer-paid automobile lease, fuel and insurance expenses, which total $9,716, $19,447, $17,792, $21,208 and $18,939 for each of Messrs. Hornbeck, Harp, Giberga, Cook and Annessa, respectively, (ii) employer-paid term life insurance policy expenses for each NEO, (iii) employer-paid supplemental health insurance policy expenses in the amount of $17,904 for Mr. Annessa and $17,496 for each of the other NEOs, (iv) 401(k) matching contributions, which total $14,850 for each of our NEOs and (v) use of the Company's aircraft for Mr. Hornbeck of $23,800. For the aircraft use, the value shown is the incremental cost to the Company for such use, which is calculated based on a contracted hourly rate billed to the Company per hour of operation. Fixed costs that do not change based on usage are not included. We do not provide tax gross-ups related to the use of the Company's aircraft.

(6) In August 2024, Mr. Cook's title was changed from EVP, Chief Commercial Officer & Chief Information Officer to EVP & Chief Commercial Officer.

Grants of Plan-Based Awards for the 2023 Fiscal Year

The following table summarizes the non-equity incentive plan awards and equity incentive plan awards granted to our NEOs during Fiscal 2023. All numbers have been rounded to the nearest whole dollar or unit.

		Estimated Future Payouts Under Non-Equity Incentive Plan Awards[1]			All Other Stock Awards[2]	Grant Date Fair Value of Stock and Option Awards[3]
Name	Grant Date	Threshold ($)	Target ($)	Maximum ($)	(#)	($)
Todd M. Hornbeck	3/20/2023	375,000	750,000	1,500,000		
	3/23/2023				112,826	6,054,243
James O. Harp, Jr.	3/20/2023	200,000	400,000	800,000		
	3/23/2023				47,012	2,522,664
Samuel A. Giberga	3/20/2023	200,000	400,000	800,000		
	3/23/2023				47,011	2,522,610
John S. Cook	3/20/2023	200,000	400,000	800,000		
	3/23/2023				47,011	2,522,610
Carl G. Annessa	3/20/2023	200,000	400,000	800,000		
	3/23/2023				47,012	2,522,664

(1) For Fiscal 2023, each NEO 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). The amount actually paid to each NEO in respect of Fiscal 2023 pursuant to these criteria is reflected in the "Summary Compensation Table" under the heading "Non-Equity Incentive Plan Compensation."

(2) The amounts in this column reflect the RSUs granted to our NEOs pursuant to the 2020 Management Incentive Plan in Fiscal 2023. All RSUs granted in Fiscal 2023 were subject to time-vesting conditions only.

(3) For the RSUs granted in Fiscal 2023, the total dollar amounts in this column equal the product of (i) the number of RSUs indicated in the "All Other Stock Awards" column, multiplied by (ii) the fair value of our common stock as of the grant date ($53.66 per share), determined in accordance with FASB ASC Topic 718.

Narrative Description to the Summary Compensation Table and the Grants of Plan-Based Awards Table for the 2023 Fiscal Year

Amended and Restated Employment Agreements

As noted above, each of our NEOs is a party to an EA that provides for such NEO's initial annual base salary, target annual cash incentive compensation opportunity, certain severance benefits (as described in detail in the section titled "Potential Payments upon Termination or Change of Control"), entitlement to reimbursement of reasonable business expenses and eligibility to participate in our benefit plans generally.

At the end of Fiscal 2023, Mr. Hornbeck's annualized base salary was $750,000, and each of the other NEOs had an annualized base salary of $400,000, and each of the NEOs (including Mr. Hornbeck) had a target annual cash incentive compensation opportunity equal to 100% of his annualized base salary. As previously noted, the various components of our 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 our long-term and short-term financial and strategic goals. For Fiscal 2023, each NEO's annual base salary represents approximately 11.3% or less of the NEO's total compensation, and each NEO's annual cash incentive compensation represents approximately 16.1% or less of the NEO's total compensation.

The EAs subject the NEOs 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 the NEO receiving a greater amount (on an after-tax basis) than the NEO would receive absent such reduction.

Grant of Equity Incentive Awards

In Fiscal 2023 and under the 2020 Management Incentive Plan (as described above), Mr. Hornbeck was granted 112,826 RSUs. Each of Messrs. Harp and Annessa were granted 47,012 RSUs and each of Messrs. Giberga and Cook were granted 47,011 RSUs. These equity incentive awards are described in more detail above in the section titled "Long-Term Equity-Based Compensation."

Outstanding Equity Awards at 2023 Fiscal Year-End

The following table provides information on the stock option and stock award holdings of our NEOs as of the end of Fiscal 2023. 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 $67.23, which is the fair market value of a share of our common stock as of December 31, 2023, as determined based on the independent valuation report prepared on our behalf, dated January 31, 2024.

				Stock Awards			
Name	Equity Incentive Plan Awards: Number of Securities Underlying Unexercised Unearned Options (#)[1]	Option Exercise Price ($)	Option Expiration Date	Number of Unearned Shares, Units or Other Rights That Have Not Vested (#)	Market or Payout Value of Unearned Shares, Units or Other Rights That Have Not Vested ($)[5]	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 ($)[5]
Todd M. Hornbeck	125,388	10.00	9/4/2030				
				37,510[2]	2,521,797		
				56,413[3]	3,792,646		
						33,758[4]	2,269,550
James O. Harp, Jr.	52,245	10.00	9/4/2030				
				15,629[2]	1,050,738		
				23,506[3]	1,580,308		
						14,066[4]	945,657
Samuel A. Giberga	52,245	10.00	9/4/2030				
				15,629[2]	1,050,738		
				23,506[3]	1,580,308		
						14,066[4]	945,657
John S. Cook	52,245	10.00	9/4/2030				
				15,629[2]	1,050,738		
				23,505[3]	1,580,241		
						14,066[4]	945,657
Carl G. Annessa	52,245	10.00	9/4/2030				
				15,629[2]	1,050,738		
				23,506[3]	1,580,308		
						14,066[4]	945,657

(1) On September 4, 2020, each of our 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 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 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 our NEOs received an award of RSUs, all of which are subject to time-based vesting conditions. The first one-third tranche vested and was settled on February 15, 2023. The remainder of the award vested and became settleable (or will vest and become settleable, as applicable) in equal tranches on February 15th of 2024 and 2025, subject to the NEO's continued service through the applicable vesting date (except in the case of the NEO's "qualifying termination" occurring prior to the end of the vesting period, in which case the 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 an NEO's unvested RSUs will fully vest upon the consummation of a "change of control," subject to the NEO's continued service through the date of such "change of control."

(3) As previously described in greater detail in the sections titled "Grants of Plan-Based Awards for the 2023 Fiscal Year" and "Long-Term Equity Based Compensation," on March 23, 2023, each of our 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 was settled 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 NEO's continued service through the applicable vesting date except in the case of the NEO's "qualifying termination" occurring prior to the end of the vesting period, in which case the 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 an NEO's unvested RSUs will fully vest upon the consummation of a "change of control," subject to the NEO's continued service through the date of such "change of control."

(4) On June 9, 2022, each of our NEOs received an award of PSUs subject to both time-based and performance-based vesting conditions and the amounts reported assume the maximum number of PSUs would vest.

(5) Calculated by multiplying (i) the number of shares of our common stock underlying the unvested portion of the RSU or PSU award, as applicable, by (ii) the fair market value of our common stock as of December 31, 2023, which was $67.23.

Option Exercises and Stock Vested in the 2023 Fiscal Year

The following table provides information, on an aggregate basis, about our NEOs' stock awards that vested during Fiscal 2023. None of our NEOs exercised stock options in Fiscal 2023.

	Stock Awards	
Name	Number of Shares Acquired on Vesting (#)[1]	Value Realized on Vesting ($)[2]
Todd M. Hornbeck	145,899	8,246,966
James O. Harp, Jr.	60,792	3,436,278
Samuel A. Giberga	60,791	3,436,225
John S. Cook	60,792	3,436,278
Carl G. Annessa	60,792	3,436,278

(1) The amounts reported in this column represent (i) the RSUs that were granted to each NEO on March 23, 2023, of which 50% vested and was settled on the grant date, (ii) the RSUs that were granted to each NEO on June 9, 2022, of which 33.33% vested and was settled on February 15, 2023 and (iii) the RSUs that were granted to each NEO on September 4, 2020, of which 33.33% vested on June 19, 2023. For further information regarding such RSUs that vested during Fiscal 2023 for each of the NEOs, see the below section titled "Non-Qualified Deferred Compensation."

(2) The value realized on vesting was calculated by multiplying (i) the number of RSUs that vested in February 2023 and March 2023 by the fair market value of a share of our common stock as of March 23, 2023 (i.e., $53.66) and (ii) the number of RSUs that vested in June of 2023 by the fair market value of a share of our common stock as of June 30, 2023 (i.e., $59.57). None of the RSUs granted on September 4, 2020 will settle until the earlier to occur of a "change of control" and September 4, 2027.

Non-Qualified Deferred Compensation

The following table provides information, on an aggregate basis, about our NEOs' vested RSUs for which settlement was deferred during Fiscal 2023, Fiscal 2022 and Fiscal 2021.

Name	Registrant Contributions in Last FY[1] ($)	Aggregate Balance at Last FYE[2] ($)
Todd M. Hornbeck	$ 4,755,312	$ 14,265,870
James O. Harp, Jr.	$ 1,981,403	$ 5,944,140
Samuel A. Giberga	$ 1,981,403	$ 5,944,140
John S. Cook	$ 1,981,403	$ 5,944,140
Carl G. Annessa	$ 1,981,403	$ 5,944,140

(1) The amounts reported in this column represent the aggregate dollar value of the vested RSUs for which the settlement during Fiscal 2023 was deferred pursuant to the terms of the 2020 Management Incentive Plan. In the case of each NEO, these RSUs were granted on September 4, 2020 and vested on June 19, 2023, but settlement was subsequently deferred (i.e., 70,732 RSUs of Mr. Hornbeck were deferred, and 29,472 RSUs of each other NEO were deferred). For each NEO, the reported amount was calculated by multiplying (i) the number of RSUs that vested and were deferred during Fiscal 2023, by (ii) the fair market value of a share of our common stock as of December 31, 2023 (i.e., $67.23).

(2) 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) the fair market value of a share of our common stock as of December 31, 2023 (i.e., $67.23). None of these RSUs will be settled until the earlier to occur of a "change of control" 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.

Potential Payments Upon Termination or a Change of Control

In this section, we describe payments and benefits that may be made to our 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 2023. We note that this offering would not result in any payments or benefits to our NEOs or acceleration of equity awards to our NEOs, but upon this offering, the performance vesting of the outstanding performance-based stock options and PSUs held by our NEOs will be measured based on our achievement of specified TEV levels.

Payments upon Termination of Employment due to Death or Disability

The EAs provide that upon a termination of the NEO's employment due to the NEO's death or "disability" (as defined therein), the NEO 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 NEO's COBRA premiums for 12 months.

Each NEO's outstanding stock options that have time-vested as of such 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.

Payments upon a Termination of Employment without Cause or for Good Reason

The EAs provide that upon a termination of the NEO's employment by the Company without "cause" (including due to the Company's non-renewal of the employment term) or by the NEO for "good reason" (each as defined therein and summarized below, and each such termination, a "Qualifying Termination"), subject to the NEO's execution and non-revocation of a release of claims in favor of the Company, the NEO will receive the following severance benefits (the "Severance Benefits"): (i) 2 times (or, for Mr. Hornbeck only, 2.5 times) the sum of the NEO's 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 to the NEO 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, each NEO will (i) vest in the tranche of RSUs next scheduled to vest following such Qualifying Termination, if any; (ii) time-vest in the tranche of stock options next scheduled to time-vest following such Qualifying Termination, if any; and (iii) 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 (ii)), 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 define "cause" as any of the NEO's: (i) conviction of either (A) a felony involving moral turpitude or (B) any crime in connection with the NEO's employment that causes the Company and each of its subsidiaries and affiliates (collectively, the "Company Group") a substantial detriment (in each case, excluding traffic offenses); (ii) actions or inactions that clearly are contrary to the best interests of the Company Group and the express directives of our Board of Directors; provided, that, such actions or inactions by the NEO cause the Company Group a substantial detriment or could reasonably be expected to cause a substantial detriment to the Company Group as determined by our Board of Directors in good faith; (iii) willful failure to take actions permitted by law and necessary to implement policies of our Board of Directors that our Board of Directors has communicated to the NEO in writing; provided, that, such policies that are reflected in minutes of our Board of Directors meeting attended in its entirety by the NEO shall be deemed communicated to the NEO to the extent the NEO received a copy of such minutes from the secretary or the general counsel of the Company promptly following approval by our Board of Directors; (iv) continued failure to attend to the NEO's material duties as an executive officer of the Company Group following the NEO's receipt of written notice from our Board of Directors of such failure; provided, that, such failure by the NEO causes the Company Group a substantial detriment or could reasonably be expected to cause a substantial detriment to the Company Group as determined by our Board of Directors in good faith; (v) commission of an act of fraud or material act of dishonesty or misappropriation involving the Company Group; (vi) willful violation of law or gross negligence that is substantially detrimental to the Company; (vii) material breach or material violation of the EA or any other written agreement with a member of the Company Group, or any material violation of any written policy of the Company Group; provided, that, such material breach or material violation by the NEO causes the Company Group a substantial detriment or could reasonably be expected to cause a substantial detriment to the Company Group as determined by our Board of Directors in good faith; or (viii) habitual use of illicit drugs or habitual abuse of alcohol that, in the reasonable good faith opinion of our Board of Directors, renders the NEO unfit to serve as an officer of the Company Group. If any determination of habitual use or substantial dependence under clause (viii) is disputed by the NEO, the Company and the 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 NEO had a reasonable, good faith belief that such action or inaction was in the best interests of the Company Group. Anything in the EA to the contrary notwithstanding, the NEO shall not be terminated for "cause" under the EA, unless (A) written notice

stating the basis for the termination is provided to the NEO, and (B) with the exception of the NEO's conviction of either a felony involving moral turpitude or any crime in connection with the NEO's employment that causes the Company Group a substantial detriment (in each case, excluding traffic offenses), the 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 define "good reason" as, unless otherwise agreed to in writing by the NEO, (i) any material diminution in the NEO's titles, duties, responsibilities, status or authorities with the Company or any of its material operating subsidiaries; (ii) a material reduction in the NEO's base salary or target bonus; (iii) a relocation of the NEO's primary place of employment to a location more than 35 miles farther from the NEO's primary residence than the current location of the Company's offices in Louisiana as of June 19, 2020; or (iv) a material breach by the Company of the EA or any other agreement between the Company and the NEO. In order to invoke a termination for "good reason," (A) the NEO must provide written notice within 45 days of the NEO becoming aware of the occurrence of any event of "good reason"; (B) the Company must fail to cure such event within 30 days of the giving of such notice; and (C) the NEO must terminate employment within 45 days following the expiration of the Company's cure period.

Payments upon a Change of Control

Upon a "change of control," (i) 100% of the NEO's then-unvested RSUs will accelerate and vest; (ii) the time-vesting condition of the NEO's then-unvested stock options will be deemed fully satisfied; and (iii) the 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 NEO shall be entitled to the Severance Benefits described above in the section titled "—Payments upon a Termination of Employment without Cause or for Good Reason," except that the 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.

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 NEO's employment was terminated and/or a "change of control" occurred, in each case on December 31, 2023; (ii) each NEO's compensation rates were the same as in effect on December 31, 2023; and (iii) the market value of the stock awards is based on the closing market price of our common stock as of December 31, 2023, which was $67.23.

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]	2,525,092	—	—	13,413,977
	Pro-Rata Annual Bonus[1]	750,000	750,000	750,000	
	Health and Welfare Benefits	187,143	350,508	75,961	
	Total	7,212,234	1,100,508	825,961	13,413,977
James O. Harp, Jr.	**Cash Severance**	1,600,000	—	—	—
	Stock Award Vesting[2]	1,052,082	—	—	6,566,685
	Pro-Rata Annual Bonus[1]	400,000	400,000	400,000	—
	Health and Welfare Benefits	159,053	338,724	80,631	—
	Total	3,211,135	738,724	480,631	6,566,685
Samuel A. Giberga	**Cash Severance**	1,600,000	—	—	—
	Stock Award Vesting[2]	1,052,082	—	—	6,566,685
	Pro-Rata Annual Bonus[1]	400,000	400,000	400,000	—
	Health and Welfare Benefits	155,470	338,881	78,839	—
	Total	3,207,553	738,881	478,839	6,566,685
John S. Cook	**Cash Severance**	1,600,000	—	—	—
	Stock Award Vesting[2]	1,052,082	—	—	6,566,617
	Pro-Rata Annual Bonus[1]	400,000	400,000	400,000	—
	Health and Welfare Benefits	147,355	338,811	74,782	—
	Total	3,199,438	738,811	474,782	6,566,617
Carl G. Annessa	**Cash Severance**	1,600,000	—	—	—
	Stock Award Vesting[2]	1,052,082	—	—	6,566,685
	Pro-Rata Annual Bonus[1]	400,000	400,000	400,000	—
	Health and Welfare Benefits	146,931	329,913	74,569	—
	Total	3,199,013	729,913	474,569	6,566,685

(1) The Pro-Rata Annual Bonus amounts set forth above are based on deemed achievement of all performance criteria at target levels. Given that we assume 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 RSUs that had previously vested, but such vested RSUs would be settled upon a change of control. The value of RSUs previously vested are as follows: $16,088,625 for Mr. Hornbeck and $6,703,625 for each of the other NEOs. All equity awards, including RSUs, were granted from the reserve under the 2020 Management Incentive Plan ("MIP Reserve"), which initially allocated 2,198,044 shares of common stock of the Company for issuance thereunder, of which 2,063,111 and 135,033 of such total shares were reserved for MIP participants and non-employee directors, respectively, and would have been paid to the MIP participants upon a change of control. The Stock Award Vesting amounts assume none of the remaining MIP Reserve would be granted to any of our NEOs at the time of a change of control.

Director Compensation

The table below sets forth the annual compensation awarded to or earned by certain of our non-employee directors for Fiscal 2023. Todd M. Hornbeck (our Chairman, President and Chief Executive Officer), Scott Graves, Jacob Mercer, Aaron Rosen and Larry Hornbeck (our Chairman Emeritus) did not receive any compensation for serving on our Board of Directors.

Name	Fees Earned or Paid in Cash ($)	Stock Awards ($)	Total ($)[1]
Kurt M. Cellar	103,635	192,264	295,899[2]
Evan B. Behrens	66,125	158,619	224,744[3]
Piyush “Bobby” Jindal	83,000	158,619	241,619[4]
John Richardson	65,500	158,619	224,119[5]
Lloyd Donelson Miller	66,135	158,619	224,754[6]
Sylvia Jo Sydow Kerrigan	63,625	158,619	222,244[7]

(1) As of December 31, 2023, all equity awards issued to our directors in our fiscal year ending December 31, 2020 and in Fiscal 2021 had vested in full, and such equity awards will settle upon the earlier of September 4, 2027 and a “change of control.” No equity awards were issued to our directors in Fiscal 2022. On March 23, 2023, equity awards were issued to our directors. One-half of these awards vested and was settled on the grant date. The remaining one-half vested and became settleable on February 15, 2024. For the RSUs granted in Fiscal 2023, the total dollar amounts in this column equal the product of (i) the number of RSUs granted multiplied by (ii) the fair value of our common stock as of the grant date ($53.66 per share), determined in accordance with FASB ASC Topic 718.

(2) For Mr. Cellar, this amount represents the sum of the annual cash retainers due for his service as: (i) a non-employee director ($50,500), (ii) the chairperson of the audit committee ($20,000), (iii) co-chairperson of the M&A/Finance committee ($8,135), (iv) the lead independent director ($25,000) and (v) the value of 3,583 RSUs granted in Fiscal 2023 ($192,264).

(3) For Mr. Behrens, this amount represents the sum of the annual cash retainers due for his service as: (i) a non-employee director ($50,500), (ii) a member of the audit committee ($10,000), (iii) a member of the M&A/Finance committee ($5,625) and (iv) the value of 2,956 RSUs granted in Fiscal 2023 ($158,619), 35% of which Mr. Behrens elected to have settled in cash.

(4) For Mr. Jindal, this amount represents the sum of the annual cash retainers due for his service as: (i) a non-employee director ($50,500), (ii) the chairperson of the compensation committee ($15,000), (iii) a member of the audit committee ($10,000), (iv) a member of the business diversification/government contracting committee ($7,500) and (v) the value of 2,956 RSUs granted in Fiscal 2023 ($158,619).

(5) For Mr. Richardson, this amount represents the sum of the annual cash retainers due for his service as: (i) a non-employee director ($50,500), (ii) the chairperson of the business diversification/government contracting committee ($15,000) and (iii) the value of 2,956 RSUs granted in Fiscal 2023 ($158,619), 35% of which Mr. Richardson elected to have settled in cash.

(6) For Mr. Miller, this amount represents the sum of the annual cash retainers due for his service as: (i) a non-employee director ($50,500), (ii) a member of the compensation committee ($7,500), (iii) co-chairperson of the M&A/Finance committee ($8,135) and (iv) the value of 2,956 RSUs granted in Fiscal 2023 ($158,619).

(7) For Ms. Kerrigan, this amount represents the sum of the annual cash retainers due for her service as: (i) a non-employee director ($50,500), (ii) a member of the compensation committee ($5,625), (iii) a member of the business diversification/government contracting committee ($7,500) and (iv) the value of 2,956 RSUs granted in Fiscal 2023 ($158,619).

Go-Forward Compensation Arrangements

In connection with this offering, we expect to (1) adopt a new omnibus incentive plan (the "Omnibus Plan"), (2) grant non-qualified stock options ("NQSOs") and RSUs under the Omnibus Plan to certain of our employees, including our NEOs, (3) amend and restate the EAs with our NEOs, and (4) adopt a new non-employee director compensation policy. Each of these expected actions, as well as our compensation committee's retention of a compensation consultant to advise with respect to this offering and these actions, are described below.

Compensation Consultant and Peer Group

In anticipation of a public offering, in late 2023, the compensation committee retained an outside compensation consultant, FW Cook, to review and make recommendations concerning compensation in connection with a public offering and for the fiscal year ending 2024. In December 2023, at the compensation committee's request, FW Cook reviewed our public company Industry Peer Group and recommended removing Forum Energy Technologies, Inc. and Oil States International, Inc. and adding Cactus, Inc., Diamond Offshore Drilling, Inc. and Valaris Limited. The compensation committee approved this new peer group, which was used to benchmark executive compensation for the fiscal year ending 2024 and in connection with this offering, and consists of the following:

Industry Peer Group Used to Benchmark Executive Compensation for Fiscal Year 2024 and in Connection with this Offering

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)

2024 Omnibus Incentive Plan

In order to incentivize our employees, consultants and non-employee directors following the completion of this offering, we anticipate that our Board of Directors will adopt the Omnibus Plan for employees, consultants and non-employee directors prior to the completion of this offering. Our NEOs will be eligible to participate in the Omnibus Plan, which we expect will become effective upon the consummation of this offering. We anticipate that the Omnibus Plan will provide for the grant of stock options (in the form of either NQSOs or incentive stock options ("ISOs")), stock appreciation rights ("SARs"), restricted stock, RSUs, performance awards, other stock-based awards, cash awards and substitute awards intended to align the interests of participants with those of our stockholders.

Securities Offered. Subject to adjustment in the event of certain transactions or changes of capitalization in accordance with the Omnibus Plan, a total of shares of common stock have been initially reserved for issuance pursuant to awards under the Omnibus Plan. The total number of shares of common stock reserved for issuance under the Omnibus Plan will be increased on January 1 of each calendar year beginning in 2025, and ending and including January 1, 2034, by the lesser of (i) 2.5% of the total number of shares of common stock outstanding on each December 31 of the immediately preceding calendar year or (ii) such smaller number of

shares of common stock determined by our Board of Directors. No more than shares of common stock under the Omnibus Plan may be issued pursuant to ISOs. Shares of common stock subject to an award under the Omnibus Plan will again be made available for issuance or delivery if such shares of common stock are (i) delivered, withheld or surrendered in payment of the exercise or purchase price of an award, (ii) delivered, withheld, or surrendered to satisfy any tax withholding obligation or (iii) subject to an award that expires or is canceled, forfeited, or terminated without issuance of the full number of shares of common stock to which the award related.

Administration. The Omnibus Plan will be administered by the compensation committee of our Board of Directors. The compensation committee will have broad discretion to administer the Omnibus Plan, including the power to determine the eligible individuals to whom awards will be granted, the number and type of awards to be granted and the terms and conditions of awards. The compensation committee may also accelerate the vesting or exercise of any award and make all other determinations and take all other actions necessary or advisable for the administration of the Omnibus Plan.

Eligibility. Employees and consultants of the Company and its affiliates, and non-employee directors of the Company are eligible to receive awards under the Omnibus Plan.

Non-Employee Director Compensation Limits. Under the Omnibus Plan, in a calendar year, a non-employee director may not be granted awards for such individual's service on our Board of Directors that, taken together with any cash fees paid to such non-employee director during such calendar year for such individual's service on our Board of Directors, have a value in excess of $750,000 (calculating the value of any such awards based on the grant date fair value of such awards for financial reporting purposes); provided, that (i) the compensation committee may make exceptions to this limit, except that the non-employee director receiving such additional compensation may not participate in the decision to award such compensation or in other contemporaneous decisions involving compensation for non-employee directors and (ii) for any calendar year in which a non-employee director (a) first commences service on our Board of Directors, (b) serves on a special committee of our Board of Directors, or (c) serves as lead director or non-executive chair of our Board of Directors, such limit shall be increased to $1,000,000. This limit does not apply to awards or other compensation, if any, provided to a non-employee director during any period in which the individual was an employee or otherwise providing services to the Company or its affiliates in another capacity.

Types of Awards.

Options. We may grant options to eligible persons, except that ISOs may only be granted to persons who are our employees or employees of one of our subsidiaries, in accordance with Section 422 of the Code. The exercise price of an option cannot be less than 100% of the fair market value of a share of common stock on the date on which the option is granted and the option must not be exercisable for longer than 10 years following the date of grant. However, in the case of an ISO granted to an individual who owns (or is deemed to own) at least 10% of the total combined voting power of all classes of our equity securities, the exercise price of the option must be at least 110% of the fair market value of a share of common stock on the date of grant and the option must not be exercisable more than five years from the date of grant.

SARs. A SAR is the right to receive an amount equal to the excess of the fair market value of one share of common stock on the date of exercise over the grant price of the SAR. The grant price of a SAR cannot be less than 100% of the fair market value of a share of common stock on the date on which the SAR is granted. The term of a SAR may not exceed 10 years. SARs may be granted in connection with, or independent of, other awards. The compensation committee will have the discretion to determine other terms and conditions of a SAR award.

Restricted Stock Awards. A restricted stock award is a grant of shares of common stock subject to restrictions on transferability and risk of forfeiture imposed by the compensation committee. Unless otherwise determined by the compensation committee and specified in the applicable award agreement, the holder of a restricted stock award will have rights

as a stockholder, including the right to vote the shares of common stock subject to the restricted stock award or to receive dividends on the shares of common stock subject to the restricted stock award during the restriction period. The compensation committee may determine on what terms and conditions the participant will be entitled to dividends payable on the shares of restricted stock.

Restricted Stock Units. An RSU is a right to receive cash, shares of common stock or a combination of cash and shares of common stock at the end of a specified period equal to the fair market value of one share of common stock on the date of vesting. RSUs may be subject to restrictions, including a risk of forfeiture, imposed by the compensation committee. The compensation committee may determine that a grant of RSUs will provide a participant a right to receive dividend equivalents, which entitles the participant to receive the equivalent value (in cash or shares of common stock) of dividends paid on the underlying shares of common stock. Dividend equivalents may be paid currently or credited to an account, settled in cash or shares, and may be subject to the same restrictions as the RSUs with respect to which the dividend equivalents are granted.

Performance Awards. A performance award is an award that vests and/or becomes exercisable or distributable subject to the achievement of certain performance goals during a specified performance period, as established by the compensation committee. Performance awards may be granted alone or in addition to other awards under the Omnibus Plan, and may be paid in cash, shares of common stock, other property or any combination thereof, in the sole discretion of the compensation committee.

Other Share-Based Awards. Other share-based awards are awards denominated or payable in, valued in whole or in part by reference to, or otherwise based on or related to, the value of shares of common stock.

Cash Awards. Cash awards may be granted on a free-standing basis or as an element of, a supplement to, or in lieu of any other award and will be subject to such terms and conditions, including vesting conditions as determined by the compensation committee.

Substitute Awards. Awards may be granted under the Omnibus Plan in substitution for similar awards held for individuals who become participants as a result of a merger, consolidation or acquisition of another entity by or with the Company or one of our affiliates.

Certain Transactions. If any change is made to our capitalization, such as a stock split, stock combination, stock dividend, exchange of stock or other recapitalization, merger or otherwise, which results in an increase or decrease in the number of our outstanding shares of common stock, appropriate adjustments will be made by the compensation committee to (i) the shares of common stock subject to an outstanding award under the Omnibus Plan and (ii) the respective exercise price of such award. The compensation committee will also have the discretion to make certain adjustments to awards in the event of a change in control of the Company, such as the assumption or substitution of outstanding awards, the purchase of any outstanding awards in cash based on the applicable change in control price, the ability for participants to exercise any outstanding stock options, SARs or other stock-based awards upon the change in control (and if not exercised such awards will be terminated), and the acceleration of vesting or exercisability of any outstanding awards.

Clawback. All awards, amounts, or benefits received or outstanding under the Omnibus Plan will be subject to clawback, cancellation, recoupment, rescission, payback, reduction, or other similar action in accordance with any Company clawback or similar policy or any applicable law related to such actions.

Plan Amendment and Termination. Our Board of Directors or the compensation committee may amend, in whole or in part, any or all of the provisions of the Omnibus Plan, or suspend or terminate it entirely, retroactively or otherwise, provided that the rights of a participant with respect to awards granted prior to such amendment, suspension, or termination may not be materially impaired without the consent of such participant. Without stockholder approval, no amendment may be made that would (i) increase the aggregate number of shares of common stock that may be issued under the Omnibus Plan or (ii) change the classification of individuals eligible to receive

awards under the Omnibus Plan. The Omnibus Plan will remain in effect for a period of ten years (unless earlier terminated by our Board of Directors).

IPO Equity Grants

In connection with this offering, we expect to grant NQSOs and RSUs under the Omnibus Plan to certain of our employees, including our NEOs, with respect to a total of approximately shares of our common stock (calculated using the midpoint of the estimated offering price range shown on the cover page of this prospectus).

It is anticipated that the awards granted to our employees, including our NEOs, will be comprised (i) 50% of NQSOs and (ii) 50% of RSUs, each of which will vest ratably over a five-year period, in each case, subject to the employee's continued employment through the applicable vesting date.

Amended & Restated Employment Agreements

We expect to enter into amended and restated employment agreements (each, an "A&R EA") with each of our NEOs that will become effective upon the consummation of this offering. We expect that the terms of each A&R EA will be materially the same as the NEOs' current EAs, except for the amended terms described below.

Initial Term. The initial term will end on December 31, 2027.

CEO Board Service. For Mr. Hornbeck only, so long as he serves as our Chief Executive Officer, he will continue to serve as a member of our Board of Directors until his seat is first scheduled for election, following which we will nominate him for election as a member of our Board of Directors at each shareholders' meeting occurring during the term of his employment and use best efforts to have him elected. Mr. Hornbeck will also serve as Chairman of our Board of Directors through the second anniversary of the consummation of this offering (or, if earlier, his resignation or removal as either our Chief Executive Officer or a member of our Board of Directors).

Pro-Rata Bonus Upon Qualifying Termination. Each NEO will receive a pro-rata bonus upon a Qualifying Termination regardless of when in the applicable fiscal year the Qualifying Termination occurs.

Severance Multiplier for CIC Qualifying Termination. The severance multiplier for a Qualifying Termination in connection with a change of control will be fixed at 2.5x for Mr. Hornbeck and 2.0x for each of our other NEOs.

Automobile Benefits for CIC Qualifying Termination. For Mr. Hornbeck only, upon a Qualifying Termination in connection with a change of control, he will be eligible to continue to receive automobile benefits until the earlier of (i) his death and (ii) the 30-month anniversary of such termination.

Lapse of Transfer Restrictions on MIP Options and PSUs. Notwithstanding the terms of the 2020 Management Incentive Plan or the award agreements or transfer restriction agreements thereunder (the "MIP Documents"), any transfer restrictions in the MIP Documents with respect to shares of our common stock issued in respect of options or PSUs granted under the 2020 Management Incentive Plan will terminate in accordance with the following schedule (to the extent not earlier terminated in accordance with their terms): (i) upon the consummation of this offering, the transfer restrictions will terminate with respect to 50% of each NEOs' outstanding stock options and PSUs that, in each case, are or become vested as of such time, (ii) upon the one-year anniversary of the consummation of this offering, the transfer restrictions will terminate with respect to 100% of each NEOs' outstanding stock options and PSUs that, in each case, are or become vested as of such time, and (iii) upon the applicable vesting date for each NEO's outstanding stock options and PSUs that vest following the one-year anniversary of the consummation of this offering, the transfer restrictions will terminate immediately upon such applicable vesting date. For clarity, the lapse of the transfer restrictions in the MIP

Documents will not affect the transfer restrictions that the NEOs will become subject to pursuant to any lock-up agreements that they enter into with the underwriters.

Non-Employee Director Compensation Policy

In connection with this offering, we expect to adopt a non-employee director compensation policy to govern compensation paid to our non-employee directors. The non-employee director compensation policy will be designed to provide competitive compensation necessary to attract and retain high quality non-employee directors. We expect to continue to pay a combination of cash retainers and equity awards to each of our non-employee directors (other than those designated, nominated or appointed by or on behalf of our principal stockholders or those serving in an emeritus position, in each case, unless otherwise determined by our Board of Directors) for his or her services on our Board of Directors. We also expect to provide each non-employee director with reimbursement for reasonable travel and miscellaneous expenses incurred in attending meetings and activities of our Board of Directors and its committees.

PRINCIPAL AND SELLING STOCKHOLDERS

The following table sets forth the beneficial ownership of our common stock as of July 31, 2024, after giving effect to the stock split, that, upon the consummation of this offering, and assuming the underwriters do not exercise their option to purchase additional common stock, will be owned by:

- each person known to us to beneficially own more than 5% of any class of our outstanding voting securities;
- each director and named executive officer;
- all of our directors and executive officers as a group; and
- each selling stockholder.

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 our 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 the options, but are not deemed outstanding for calculating the percentage ownership of any other person.

The table below excludes any purchases that may be made in this offering through our directed share program or otherwise in this offering. See "Underwriting (Conflicts of Interest) — Directed Share Program."

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.

	Shares Beneficially Owned			
	Prior to the Offering		After the Offering	
Name of Beneficial Owner	Amount of Beneficial Ownership	Percentage of Total[1]	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]		41.85%		%
Entities affiliated with Whitebox[3]		22.39%		%
Entities affiliated with Highbridge[4]		10.61%		%
Entities affiliated with Merced[5]		7.03%		%
Named Executive Officers, Directors and Director Nominees[6]:				
Todd M. Hornbeck[7]		3.04%		%
Carl G. Annessa[8]		*		%
James O. Harp, Jr.[9]		*		%
Samuel A. Giberga[10]		*		%
John S. Cook[11]		*		%
Kurt M. Cellar[12]		*		%
Evan Behrens[13]		*		%
Bobby Jindal[14]		*		%
Sylvia Jo Sydow Kerrigan		*		%
Jacob Mercer	—	*		%
L. Don Miller[15]		*		%
Aaron Rosen	—	*		%
James McConeghy	—	*		%
All directors and executive officers as a group (13 persons)[16]		7.84%		%

* Less than one percent.

(1) Includes shares of common stock underlying all Jones Act Warrants and Creditor Warrants owned by such person. 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) shares of common stock held of record by ASSF IV HOS AIV 1, L.P., (ii) shares of common stock and shares of common stock issuable upon the exercise of Jones Act Warrants held of record by ASSF IV HOS AIV 2, L.P., (iii) shares of common stock and shares of common stock issuable upon the exercise of Jones Act Warrants held of record by ASSF IV AIV B, L.P. and (iv) shares of common stock, shares of common stock issuable upon the exercise of Jones Act Warrants and 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) shares of common stock held of record by ASOF HOS AIV 1, L.P., (ii) shares of common stock and shares of common stock issuable upon the exercise of Jones Act Warrants held of record by ASOF HOS AIV 2, L.P., (iii) shares of common stock, shares of common stock issuable upon the exercise of Jones Act Warrants and shares of common stock issuable upon the exercise of Creditor Warrants held of record by ASOF Holdings I, L.P., (iv) shares of common stock and 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) shares of common stock and 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) shares of common stock, shares of common stock issuable upon the exercise of Jones Act Warrants and 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 "Managed Accounts" and, such shares, the "Managed Shares"). The Ares SSF Holders, the Ares SOF Holders and the Managed Accounts are collectively referred to as the "Holders"). The Ares Entities disclaim beneficial ownership of the 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 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 Managed Accounts.

Accordingly, each of the Ares Entities may be deemed to share beneficial ownership of the securities held of record by the 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, Ryan Berry, 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 shares of common stock, shares issuable upon the exercise of Jones Act Warrants and 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 our 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, Simon Waxley and Blue Owl GP Stakes II (A), LP, a non-voting member, and such individuals and entity disclaim beneficial ownership of the securities described in the table above held by the Whitebox Entities, except to the extent of his or its direct or indirect economic interest in Whitebox Advisors LLC or the selling shareholders. The address of the business office of each Whitebox Entity and Whitebox Advisors LLC is 3033 Excelsior Blvd., Suite 500, Minneapolis, MN 55416.

(4) Included in the total number of shares shown as beneficially owned are shares of common stock and 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 277 Park Avenue, 23rd Floor, New York, NY 10172, 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 shares of common stock and 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 our 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 shares of common stock, shares of common stock under vested but unsettled RSUs and shares of common stock under stock options or PSUs that may vest in the event of a "change of control" (as defined in the 2020 Management Incentive Plan) or an initial public offering if certain performance criteria are met.

(8) Included in the total number of shares shown as beneficially owned are shares of common stock, shares of common stock under vested but unsettled RSUs and shares of common stock under stock options or PSUs that may vest in the event of a change of control or an initial public offering if certain performance criteria are met.

(9) Included in the total number of shares shown as beneficially owned are shares of common stock, shares of common stock under vested but unsettled RSUs and shares of common stock under stock options or PSUs that may vest in the event of a change of control or an initial public offering if certain performance criteria are met.

(10) Included in the total number of shares shown as beneficially owned are shares of common stock, shares of common stock under vested but unsettled RSUs and shares of common stock under stock options or PSUs that may vest in the event of a change of control or an initial public offering if certain performance criteria are met.

(11) Included in the total number of shares shown as beneficially owned are shares of common stock, shares of common stock under vested but unsettled RSUs and shares of common stock under stock options or PSUs that may vest in the event of a change of control or an initial public offering if certain performance criteria are met.

(12) Included in the total number of shares shown as beneficially owned are shares of common stock and shares of common stock under vested but unsettled RSUs.

(13) Included in the total number of shares shown as beneficially owned are shares of common stock and shares of common stock under vested but unsettled RSUs.

(14) Included in the total number of shares shown as beneficially owned are shares of common stock and shares of common stock under vested but unsettled RSUs.

(15) Included in the total number of shares shown as beneficially owned are shares of common stock and shares of common stock under vested but unsettled RSUs.

(16) Included in the total number of shares shown as beneficially owned are shares of common stock, shares of common stock under vested but unsettled RSUs and shares of common stock under stock options or PSUs that may vest in the event of a change of control or an initial public offering if certain performance criteria are met.

CERTAIN RELATIONSHIPS AND RELATED PARTY TRANSACTIONS

The following is a discussion of transactions between the Company and its executive officers, directors and stockholders beneficially owning more than 5% of our common stock. We believe 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.

The Company has entered into a separate indemnity agreement with each of its officers and directors that provides, among other things, that the Company 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 the Company, and otherwise to the fullest extent permitted under Delaware law and the Company's amended and restated bylaws. These agreements are in addition to the indemnification provided to the Company's officers and directors under its amended and restated bylaws and in accordance with Delaware law.

For the past 27 years, Larry D. Hornbeck's family has personally supported the development of the Company 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, Board meetings and special Company promotional events. The Ranch also plays a vital role in the Company's business continuity plan in the event our corporate headquarters is impacted by a natural disaster. Until December 31, 2005, these facilities were used by the Company without charge. The Company has determined that the use of the Ranch in the past and going forward has been and is beneficial to the Company's business. On September 4, 2020, the Company 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 the Company of Larry D. Hornbeck, as well as certain other indemnitees, including the Company's Chairman, President and Chief Executive Officer, Todd M. Hornbeck, for any claims, demands, causes of action and damages that may arise out of the Company's use of the Ranch and related facilities and premises. The Indemnification Agreement also provides that the Company 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 Board of Directors on September 9, 2020.

The agreements govern the Company's use of the Ranch and related facilities. The Facilities Use Agreement will remain in effect until December 31, 2024 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 written notice of termination. The Facilities Use Agreement also provides that the Company will pay Mr. Larry Hornbeck an annual use fee for the Company's use of the facilities and provides for an operating budget to reimburse Mr. Larry Hornbeck for certain variable costs related to the Company's use of the Ranch facilities and to replenish expendable goods used by Company invitees to the facilities. For 2022, the operating budget set by the 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, the Company fully reopened the lodge facilities, and the audit committee and the 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.

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 the Company's use of the Ranch and related facilities under the Facilities Use Agreement and the Indemnification Agreement.

The Company 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 the Company 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 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 the Company, the Chief Executive Officer of the Company, the Board of Directors or any committee of the Board of Directors to assist in the assessment of potential targets for acquisitions, to travel for Company 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 written notice of termination.

On October 1, 2022, Ms. Kerrigan assumed an officer role with an existing Hornbeck customer. For the six months ended June 30, 2024 and the year ended December 31, 2023, the Company generated $45.8 and $111.9 million of revenues from contracts with such customer, respectively, which accounted for approximately 14.9% and 20% of the Company's total revenues, respectively. The Company had outstanding accounts receivable from this customer totaling $10.7 million and $8.0 million as of June 30, 2024 and December 31, 2023, respectively.

Third and Fourth Amended and Restated License Agreement

Pursuant to the Third A&R License Agreement, the Company is required to make an annual payment to HFR of $1.0 million for use of the Hornbeck Brands. An additional fee is due upon the Company achieving certain EBITDA thresholds. The Company made payments of $2.0 million and $1.0 million to HFR in 2023 and 2022, respectively, for licensing fees associated with the use of the Hornbeck Brands. Upon closing of this offering, the Company will have entered into a Fourth Amended and Restated Trade Name and Trademark License Agreement (the "Fourth A&R License Agreement") that eliminates the ongoing annual $1 million fee and EBITDA bonus in exchange for a single one-time payment of $10 million paid to HFR. The license will be for ten years and renewable for an additional ten years for a payment of $10 million (adjusted for inflation over the first ten-year term). 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."

Amended and Restated Securityholders' Agreement

Pursuant to the A&R Securityholders Agreement, we will agree to take all necessary action (subject to applicable law) to cause the election of each director designated by Ares, Highbridge or Whitebox in their capacities as Appointing Persons in accordance with the terms of our amended and restated certificate of incorporation. The A&R Securityholders' Agreement also provides that we will agree to take all necessary action (subject to applicable law) to cause any vacancies created by death, resignation, removal, retirement or disqualification of a director designated by an Appointing Person to be filled by such Appointing Person in accordance with the terms of our amended and restated certificate of incorporation. The A&R Securityholders Agreement will also provide our principal stockholders with certain information rights, including certain limited

access to our books, records and accounts and the ability to share such information with our principal stockholders, for so long as such holder owns at least % of our Fully Diluted Securities.

Registration Rights Agreement

In connection with the closing of this offering, we will enter into a registration rights agreement (the "Registration Rights Agreement") with our principal stockholders granting them certain registration rights. Specifically, we will agree to register the sale of shares of our common stock owned by, or issuable upon
exercise of the Jones Act Warrants and Creditor Warrants owned by, such principal stockholders under certain circumstances, and to provide such principal stockholders with certain customary demand and "piggyback" rights. These registration rights will be subject to certain conditions and limitations. We will generally be obligated to pay all registration expenses in connection with these registration obligations, regardless of whether a registration statement is filed or becomes effective.

Directed Share Program

At our request, the underwriters have reserved up to % of the shares of common stock offered by this prospectus for sale, at the initial public offering price to certain individuals through a directed share program, including our directors, officers, employees and other persons identified by the Company. The number of shares of our common stock available for sale to the general public will be reduced to the extent these individuals purchase such reserved shares. Any reserved shares that are not so purchased will be offered by the underwriters to the general public on the same basis as the other shares offered by this prospectus. Participants in the directed share program will not be subject to the terms of any lock-up agreement with respect to any shares purchased through the directed share program, except in the case of shares purchased by any of our directors or officers, and our existing significant stockholders. will administer our directed share program. We have agreed to indemnify in connection with the directed share program, including for the failure of any participant to pay for its shares. Other than the underwriting discount set forth on the cover page of this prospectus, the underwriters will not be entitled to any commission with respect to shares of our common stock sold pursuant to the directed share program. See "Underwriting (Conflicts of Interest)—Directed Share Program."

Review, Approval or Ratification of Transactions with Related Persons.

We review any transaction in which the Company, a subsidiary of the Company, or our directors, executive officers or their immediate family members or any nominee for director or a holder of more than 5% of any class of our voting security are a participant and the amount of the transaction exceeds $120,000. Our General Counsel and Secretary is primarily responsible for the development and implementation of processes and controls to obtain information from directors and officers with respect to a related party transaction, including information provided to management in the annual director and officer questionnaires. The Company's practice when such matters have been disclosed has been to refer the matter for consideration and final determination by the audit committee or the independent directors of the Board of Directors, or both, which have considered the fairness of the transaction to the Company, as well as other factors bearing upon its appropriateness. In all such matters, any director having a conflicting interest abstains from voting on the matters.

DESCRIPTION OF CAPITAL STOCK AND WARRANTS

The following is a description of the material terms of, and is qualified in its entirety by, our amended and restated certificate of incorporation, our amended and restated bylaws, the A&R Securityholders Agreement, each of which will be in effect upon the consummation of this offering, the Jones Act Warrant Agreement (as defined below) and the Creditor Warrant Agreement (as defined below), all of which are filed as exhibits to the registration statement of which this prospectus is a part.

General

Upon completion of this offering and after giving effect to the stock split, our authorized capital stock of will consist of shares of common stock, par value $0.00001 per share, of which shares will be issued and outstanding, and shares of preferred stock, par value $0.00001 per share, of which no shares will be issued and outstanding.

Common Stock

Voting Rights. Following this offering, we will have one outstanding class of stock, our common stock, and all voting rights will be vested in the holders of our common stock. On all matters subject to a vote of stockholders, stockholders will be entitled to one vote for each share of common stock owned. Stockholders will not have cumulative voting rights with respect to the election of directors.

Dividend Rights. Holders of common stock will be entitled to receive dividends, if any, in the amounts and at the times declared by the Board of Directors.

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 common stock that will be outstanding at the time of the completion of the offering will be validly issued, fully paid and nonassessable. There will be no provision for any voluntary redemption of common stock.

Preemptive Rights. Upon the completion of this offering, holders of our common stock will not have any preemptive right to subscribe to an additional issue of its common stock or to any security convertible into such stock.

Limitations on Ownership by Non-U.S. Citizens. We own and operate U.S.-flag vessels in the U.S. coastwise trade. Accordingly, we are subject to the Jones Act, 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 amended and restated certificate of incorporation restricts ownership of the shares of our outstanding common stock by non-U.S. citizens in the aggregate to not more than 24%. Our amended and restated certificate of incorporation 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 24% 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 amended and restated certificate of

incorporation further provides the Board of Directors 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 24% of our issued and outstanding common stock. Our amended and restated certificate of incorporation further provides that we 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 Board of Directors, 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.

Warrants

In addition, following this offering, we will have two series of outstanding warrants: (i) warrants issued to certain creditors of the Company in settlement of certain prepetition liabilities in connection with the consummation of the Chapter 11 Cases (the "Creditor Warrants") and (ii) warrants issued to certain non-U.S. citizens in settlement of certain prepetition liabilities in connection with the consummation of the Chapter 11 Cases (the "Jones Act Warrants" and together with the Creditor Warrants, the "Warrants").

The Creditor Warrants have seven-year terms and are exercisable through September 4, 2027. Each Creditor Warrant represents the right to purchase one share of common stock, par value $0.00001 per share, at an exercise price of $27.83 per share ($ per share after giving effect to the stock split), subject to certain adjustments as provided in the Creditor Warrant Agreement, dated as of September 4, 2020 (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.

Following this offering and after giving effect to the stock split, there will be outstanding Creditor Warrants to purchase up to shares of common stock.

The Jones Act Warrants 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 common stock, par value $0.00001 per share, for an exercise price of $0.00001 per share, subject to certain adjustments as provided in, and all other terms and conditions of, the Jones Act Warrant Agreement, dated as of September 4, 2020 (the "Jones Act Warrant Agreement"), pursuant to which such warrants were issued, including the limitations on foreign ownership as set forth in our amended and restated certificate of incorporation that are intended to assist us in complying with the Jones Act.

Following this offering and after giving effect to the stock split, assuming no issuance or exercise of additional Jones Act Warrants, there will be outstanding Jones Act Warrants to purchase up to shares of common stock.

Preferred Stock

Our Board of Directors is authorized to issue up to 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 of Directors will also be 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 of Directors 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.

Indemnification and Limitations on Liability of Directors and Officers

As permitted by the DGCL, our amended and restated certificate of incorporation contains provisions that eliminate the personal liability of our directors and officers to us and our stockholders to the fullest extent permitted by the DGCL. However, these provisions do not limit or eliminate the rights of us or any 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 the federal securities laws.

In addition, our amended and restated certificate of incorporation provides that we will indemnify and advance expenses to, and hold harmless, each of our directors and officers, to the fullest extent permitted by applicable law, who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that he or she, or a person for whom he or she is the legal representative, is or was a director or officer of Hornbeck or, while holding such office or serving in such position, is or was serving at the request of us as a director, officer or agent of another entity or enterprise, including service with respect to employee benefit plans, against all liability and loss suffered and expenses (including attorney's fees), judgments, fines and amounts paid in settlement (except for judgments, fines and amounts paid in settlement in any action or suit by or in the right of us to procure a judgment in its favor) actually and reasonably incurred by such person. Our amended and restated certificate of incorporation further provides that we 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 Board of Directors.

The DGCL permits us to purchase and maintain insurance on behalf of any person who is such a director or officer for acts committed or omissions in their capacities as such directors or officers. We currently hold and intend to maintain such liability insurance.

Anti-Takeover Provisions

Certain provisions of the DGCL, and our amended and restated certificate of incorporation and bylaws may have an anti-takeover effect and may delay, defer or prevent a merger, acquisition, tender offer, takeover attempt or other change of control transaction or other attempts to influence or replace our incumbent directors and officers. These provisions are summarized below.

Section 203 of the DGCL. We have opted out of Section 203 of the DGCL. This statute prevents certain Delaware corporations, under certain circumstances, from engaging in a "business combination" with any interested shareholder for a period of three years following the date that the shareholder became an interested shareholder, with certain exceptions. We have opted out of the provisions of Section 203 of the DGCL because we believe this statute could prohibit or delay mergers or other change in control attempts, and thus may discourage attempts to acquire us.

Authorized but Unissued Shares of Common Stock

Our amended and restated certificate of incorporation authorizes the Board of Directors to issue authorized but unissued shares of common stock.

Undesignated Preferred Stock

Our amended and restated certificate of incorporation provides the Board of Directors with the authority to determine and fix the powers, preferences, rights, qualifications, limitations and restrictions of shares of preferred stock issued by the Board of Directors.

Director Nomination Rights

Our amended and restated certificate of incorporation will provide that following the completion of this offering, the Ares principal stockholders will have the right to nominate to our Board of Directors (i) two nominees for so long as the Ares principal stockholders beneficially own % or greater of our Fully Diluted Securities and (ii) one nominee for so long as the Ares principal stockholders beneficially own % or greater, but less than %, of our Fully Diluted Securities. and will be the initial director nominees of the Ares principal stockholders. The Highbridge principal stockholders will have the right to nominate to our Board of Directors one nominee for so long as the Highbridge principal stockholders beneficially own % or greater of our Fully Diluted Securities. will be the initial director nominee of the Highbridge principal stockholders. The Whitebox principal stockholders will have the right to nominate to our Board of Directors one nominee for so long as the Whitebox principal stockholders beneficially own % or greater of our Fully Diluted Securities. will be the initial director nominee of the Whitebox principal stockholders. Further, for so long as any Appointing Person beneficially owns % or greater of our Fully Diluted Securities, subject to applicable law and NYSE rules, such Appointing Person shall have the right to designate one director to serve on each of the compensation and the nominating, corporate governance and sustainability committees of our Board of Directors.

Consent Rights

Subject to certain exceptions, for so long as the principal stockholders who retain director nomination rights collectively own at least % of the Fully Diluted Securities, the following actions will require the prior written consent of Ares and at least one of Highbridge or Whitebox:

- Merging or consolidating with or into any other entity, or transferring all or substantially all of our assets, taken as a whole, to another entity, or undertaking any transaction that would constitute a "Change of Control" as defined in the Company's debt agreements;
- Acquiring or disposing of assets, in a single transaction or a series of related transactions, or entering into joint ventures, investments into an unrelated party or contracts, in each case with a value in excess of the greater of (i) thirty percent of the total assets of the Company and its subsidiaries consolidated as of the end of the most recently completed fiscal year and (ii) $300 million;
- Incurring indebtedness in a single transaction or a series of related transactions in an aggregate principal amount that both (i) causes the Company's ratio of debt to EBITDA to exceed 3:1 and (ii) exceeds $ million;
- Issuing the equity of the Company or any of its subsidiaries other than pursuant to an equity compensation plan approved by the stockholders or a majority of the directors nominated by the Appointing Persons;
- Entering into any transactions, agreements, arrangements or payments with any Appointing Person or any other person who, together with its affiliates, owns greater than or equal to 10% of the common stock then outstanding that are material or involve aggregate payments or receipts in excess of $250,000;
- Commencing any liquidation, dissolution or voluntary bankruptcy, administration, recapitalization or reorganization;
- Increasing or decreasing the size of the Board of Directors; and
- Entering into any agreement to do any of the foregoing.

For so long as any of the principal stockholders own any Fully Diluted Securities, each of the following actions shall require the prior written consent of such principal stockholder: (i) any amendment, waiver or other modification of the A&R Securityholders Agreement or any other stockholders' agreement with respect to the shares of common stock to which such principal stockholder is a party; and (ii) any amendment of our amended and restated certificate of incorporation or amended and restated certificate bylaws that adversely affects any

personal right of such principal stockholder thereunder in any material respect or disproportionately and adversely affects such principal stockholder thereunder in any material respect.

Requirements for Advance Notification of Stockholder Nominations and Proposals

Our amended and restated bylaws provide advance notice procedures for stockholders to nominate candidates for election as directors at our annual and special meetings of stockholders and for stockholders seeking to bring business before its annual meeting of stockholders. Our amended and restated bylaws also specify certain requirements regarding the form and content of a stockholder's notice.

Amendments of the Amended and Restated Certificate of Incorporation or Bylaws

At any time after the date that the Appointing Persons cease to collectively own at least 35% of our outstanding common stock (the "Trigger Date"), the amendment of certain customary provisions of our amended and restated certificate of incorporation will require the approval of at least two-thirds of the voting power of our outstanding common stock. Subject to the consent rights described above, the Board of Directors may amend our amended and restated bylaws without stockholder approval, and the stockholders may amend our amended and restated bylaws by the affirmative vote of a majority of the voting power of our outstanding common stock; provided, however, that after the Trigger Date, the stockholders may amend our amended and restated bylaws only upon the affirmative vote of two-thirds of the voting power of our outstanding common stock.

Size of the Board of Directors and Vacancies

Our amended and restated certificate of incorporation provides that the Board of Directors consist of not less than members and not more than members, and shall initially consist of members upon completion of this offering. Subject to the foregoing, the number of members may be fixed a resolution adopted by a majority of the Board of Directors from time to time.

Subject to the rights granted to the holders of any one or more series of preferred stock then outstanding, and unless otherwise required by law, any vacancies on the Board of Directors, and any newly created directorships resulting from any increase in the authorized number of directors, will be filled only by the affirmative vote of a majority of the directors then in office, even if less than a quorum, or by a sole remaining director, in each case, in the manner permitted by the A&R Securityholders Agreement and our amended and restated certificate of incorporation and subject to the rights of the Appointing Persons set forth in the A&R Securityholders Agreement and our amended and restated certificate of incorporation. Notwithstanding the foregoing, our amended and restated certificate of incorporation provides that if at any time the Chief Executive Officer of the Company is removed, resigns or is otherwise replaced, then such person shall automatically, and without any action by the Board of Directors or the stockholders of the Company, cease to be a director, and such vacancy shall be reserved for and filled by the successor Chief Executive Officer.

Removal of Directors

Directors may be removed with or without cause by the affirmative vote of at least a majority of the voting power of our outstanding common stock. Each Appointing Person will have the right to remove without cause any director that is an employee of such Appointing Person and that was designated by such Appointing Person.

Limitations on Ownership by Non-U.S. Citizens

Because we own and operate U.S.-flag vessels in the U.S. coastwise trade, we are subject to the Jones Act, 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 amended and restated certificate of incorporation restricts ownership of the shares of its outstanding common stock by non-U.S. citizens in the aggregate to not more than 24%. Our amended and restated certificate of incorporation 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 24% 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 amended and restated certificate of incorporation further provides the Board of Directors 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 24% of our issued and outstanding common stock. Our amended and restated certificate of incorporation also 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 of Directors, 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.

Registration Rights

For a description of registration rights relating to our common stock (or shares of our common stock issuable upon the exercise of our Jones Act Warrants or Creditor Warrants), see “Certain Relationships and Related Party Transactions—Registration Rights Agreement.”

Transfer Agent and Registrar

The transfer agent and registrar for our common stock is .

Listing

We have applied to have our common stock approved for listing on the NYSE under the symbol “HOS.”

SHARES ELIGIBLE FOR FUTURE SALE

Upon completion of this offering and after giving effect to the stock split, we will have a total of shares of our common stock outstanding (shares if the underwriters exercise in full their option to purchase additional shares). Additionally, shares of our common stock will be issuable upon the exercise of Jones Act Warrants and shares of our common stock will be issuable upon the exercise of Creditor Warrants, with an exercise price of $0.00001 per share and $ per share, respectively, and options to purchase an aggregate of approximately shares of our common stock will be outstanding as of the consummation of this offering and shares of our common stock will be reserved for issuance upon settlement of restricted stock units outstanding as of the consummation of this offering. In addition, shares of our common stock will be authorized and reserved for issuance in relation to potential future awards under our 2020 Management Incentive Plan and our 2024 Omnibus Incentive Plan to be adopted in connection with this offering. Of the outstanding shares of common stock, the shares sold in this offering (or shares if the underwriters exercise in full their option to purchase additional shares) will be freely tradable, other than certain shares sold pursuant to our directed share program that are subject to "lock up" restrictions as described under "Underwriting (Conflicts of Interest)," without restriction or further registration under the Securities Act, except that any shares held by our affiliates, as that term is defined under Rule 144 of the Securities Act, or Rule 144, including our directors, executive officers and other affiliates (including our principal stockholders), may be sold only in compliance with the limitations described below. of the remaining shares of common stock that we will have outstanding upon completion of this offering that were not sold in this offering, as well as the Jones Act Warrants and the Creditor Warrants, were issued under Section 1145 of the U.S. Bankruptcy Code in connection with our emergence from Chapter 11 bankruptcy protection. Such shares of common stock (along with the shares of common stock issuable upon exercise of the Jones Act Warrants and the Creditor Warrants) were deemed (or will be deemed, in the case of shares underlying warrants) to have been issued in a public offering and may be resold as freely tradeable securities under the Securities Act, except for such shares held by our affiliates, or holders deemed to be "underwriters" as that term is defined in Section 1145(b) of the U.S. Bankruptcy Code, and except as subject to the limitations described below.

The shares of common stock (after giving effect to the stock split) held by our principal stockholders and certain of our directors and executive officers after this offering, representing % of the total outstanding shares of our common stock following this offering, will be "restricted securities" within the meaning of Rule 144 and 701 under the Securities Act, which are subject to certain restrictions on resale. Restricted securities may be sold in the public market only if they are registered under the Securities Act or are sold pursuant to an exemption from registration such as Rule 144 and Rule 701, as described below.

Prior to this offering, there has not been a public market for our common stock, and we cannot predict what effect, if any, market sales of shares of common stock or the availability of shares of common stock for sale will have on the market price of our common stock prevailing from time to time. Nevertheless, sales of substantial amounts of common stock, including shares issued upon the exercise of outstanding options and warrants or settlement of restricted stock units, in the public market, or the perception that such sales could occur, could materially and adversely affect the market price of our common stock and could impair our future ability to raise capital through the sale of our equity or equity-related securities at a time and price that we deem appropriate. See "Risk Factors—Risks Related to this Offering and Ownership of Our Common Stock—Future sales, or the perception of future sales, by us or our existing stockholders in the public market following this offering could cause the market price for our common stock to decline."

Rule 144

In general, under Rule 144, as currently in effect, once we have been subject to public company reporting requirements for at least 90 days, a person (or persons whose shares are aggregated) who is not deemed to be or have been one of our affiliates for purposes of the Securities Act at any time during 90 days preceding a sale and who has beneficially owned the shares proposed to be sold for at least six months, including the holding period of

any prior owner other than an affiliate, is entitled to sell such shares without complying with the manner of sale, volume limitation or notice provisions of Rule 144, subject to compliance with the public information requirements of Rule 144. If such a person has beneficially owned the shares proposed to be sold for at least one year, including the holding period of a prior owner other than an affiliate, then such person is entitled to sell such shares without complying with any of the requirements of Rule 144.

In general, under Rule 144, as currently in effect, our affiliates or persons selling shares of our common stock on behalf of our affiliates, who have met the six month holding period for beneficial ownership of "restricted shares" of our common stock, are entitled to sell upon the expiration of the lock-up agreements described below, within any three-month period beginning 90 days after the date of this prospectus, a number of shares that does not exceed the greater of:

- 1% of the number of shares of our common stock then outstanding, which will equal approximately shares immediately after this offering (or shares if the underwriters exercise in full their option to purchase additional shares); or
- the average reported weekly trading volume of our common stock on the NYSE during the four calendar weeks preceding the filing of a notice on Form 144 with respect to such sale.

Sales under Rule 144 by our affiliates or persons selling shares on behalf of our affiliates are also subject to certain manner of sale provisions and notice requirements and to the availability of current public information about us. The sale of these shares, or the perception that sales will be made, could adversely affect the price of our common stock after this offering because a great supply of shares would be, or would be perceived to be, available for sale in the public market.

Rule 701

In general, under Rule 701 as currently in effect, any of our employees, directors, officers, consultants or advisors who received shares from us in connection with a compensatory stock or option plan or other written agreement, including our 2020 Management Incentive Plan and our 2024 Omnibus Incentive Plan to be adopted in connection with this offering, before the effective date of this offering are entitled to sell such shares 90 days after the effective date of this offering in reliance on Rule 144, in the case of affiliates, without having to comply with the holding period requirements of Rule 144 and, in the case of non-affiliates, without having to comply with the public information, holding period, volume limitation or notice filing requirements of Rule 144.

Lock-Up Agreements

In connection with this offering, we, our directors and executive officers and certain holders of our outstanding common stock, including our principal stockholders, prior to this offering, including the selling stockholders, will sign lock-up agreements with the underwriters that will, subject to certain exceptions, restrict the disposition of, or hedging with respect to, the shares of our common stock or securities convertible into or exchangeable for shares of our common stock, each held by them (including any shares purchased by them pursuant to the directed share program), during the period ending 180 days after the date of this prospectus, except with the prior written consent of J.P. Morgan Securities LLC and Barclays Capital Inc. See "Underwriting (Conflicts of Interest)" for a description of these lock-up agreements.

Registration Rights

For a description of registration rights relating to our common stock (or shares of our common stock issuable upon the exercise of our Jones Act Warrants or Creditor Warrants), see "Certain Relationships and Related Party Transactions—Registration Rights Agreement."

Registration Statement on Form S-8

We intend to file one or more registration statements on Form S-8 under the Securities Act to register all of the shares of common stock subject to outstanding stock options and the shares of common stock subject to issuance under our 2020 Management Incentive Plan and our 2024 Omnibus Incentive Plan to be adopted in connection with this offering. We expect to file these registration statements as promptly as possible after the completion of this offering. Any such Form S-8 registration statements will automatically become effective upon filing. Accordingly, shares registered under such registration statements will be available for sale in the open market. We expect that the initial registration statement on Form S-8 relating to the outstanding options, restricted stock, restricted stock units and performance stock units issued under our 2020 Management Incentive Plan and our 2024 Omnibus Incentive Plan will cover shares.

MATERIAL U.S. FEDERAL INCOME TAX CONSIDERATIONS FOR NON-U.S. HOLDERS

The following is a summary of the material U.S. federal income tax considerations related to the purchase, ownership and disposition of our common stock by a non-U.S. holder (as defined below) that acquired such common stock pursuant to this offering and holds our common stock as a "capital asset" within the meaning of Section 1221 of the Code (generally property held for investment). This summary is based on the provisions of the Code, U.S. Department of Treasury regulations promulgated thereunder ("Treasury Regulations"), administrative rulings and pronouncements and judicial decisions, all as in effect on the date hereof, and all of which are subject to change and differing interpretations, possibly with retroactive effect. A change in law may alter the tax considerations that we describe in this summary. We have not sought and do not intend to seek any ruling from the Internal Revenue Service ("IRS") with respect to the statements made and the conclusions reached in the following summary, and there can be no assurance that the IRS or a court will agree with such statements and conclusions.

This summary does not address all aspects of U.S. federal income taxation that may be relevant to non-U.S. holders in light of their personal circumstances. In addition, this summary does not address the Medicare tax on certain investment income, U.S. federal estate or gift tax laws, any state, local or non-U.S. tax laws or any tax treaties. This summary also does not address tax considerations applicable to investors that may be subject to special treatment under the U.S. federal income tax laws, such as:

- banks, insurance companies or other financial institutions;
- tax-exempt or governmental organizations;
- "qualified foreign pension funds" as defined in Section 897(l)(2) of the Code (or any entities all of the interests of which are held by a qualified foreign pension fund);
- dealers in securities or foreign currencies;
- persons whose functional currency is not the U.S. dollar;
- "controlled foreign corporations," "passive foreign investment companies" and corporations that accumulate earnings to avoid U.S. federal income tax;
- traders in securities that use the mark-to-market method of accounting for U.S. federal income tax purposes;
- persons subject to the alternative minimum tax;
- entities or other arrangements treated as a partnership or pass-through entity for U.S. federal income tax purposes or holders of interests therein;
- persons deemed to sell our common stock under the constructive sale provisions of the Code;
- persons that acquired our common stock through the exercise of employee stock options or otherwise as compensation or through a tax-qualified retirement plan;
- certain former citizens or long-term residents of the United States; and
- persons that hold our common stock as part of a straddle, appreciated financial position, synthetic security, hedge, conversion transaction or other integrated investment or risk reduction transaction.

PROSPECTIVE INVESTORS ARE ENCOURAGED TO CONSULT THEIR TAX ADVISORS WITH RESPECT TO THE APPLICATION OF THE U.S. FEDERAL INCOME TAX LAWS (INCLUDING ANY POTENTIAL CHANGES THERETO) TO THEIR PARTICULAR SITUATION, AS WELL AS ANY TAX CONSEQUENCES OF THE PURCHASE, OWNERSHIP AND DISPOSITION OF OUR COMMON STOCK ARISING UNDER ANY OTHER TAX LAWS, INCLUDING THE U.S. FEDERAL ESTATE OR GIFT TAX

LAWS OR UNDER THE LAWS OF ANY U.S. STATE OR LOCAL, NON-U.S. OR OTHER TAXING JURISDICTION OR UNDER ANY APPLICABLE INCOME TAX TREATY.

Non-U.S. Holder Defined

For purposes of this discussion, a "non-U.S. holder" is a beneficial owner of our common stock that is not for U.S. federal income tax purposes a partnership (or a partner therein) or any of the following:

- 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 (i) the administration of which 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, a "United States person") who have the authority to control all substantial decisions of the trust or (ii) which has made a valid election under applicable 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 our common stock, the tax treatment of a partner in the partnership generally will depend upon the status of the partner, upon the activities of the partnership and upon certain determinations made at the partner level. Accordingly, we urge partners in partnerships (including entities or arrangements treated as partnerships for U.S. federal income tax purposes) considering the purchase of our common stock to consult their tax advisors regarding the U.S. federal income tax considerations of the purchase, ownership and disposition of our common stock by such partnership.

Distributions

As described in the section entitled "Dividend Policy," while we do not currently anticipate paying dividends, depending on factors deemed relevant by our Board of Directors, following completion of this offering, our Board of Directors may elect to declare dividends on our common stock. If we do make distributions of cash or other property (other than certain stock distributions) on our common stock, those distributions will constitute dividends for U.S. federal income tax purposes to the extent paid from our current or accumulated earnings and profits, as determined under U.S. federal income tax principles. To the extent those distributions exceed our current and accumulated earnings and profits, the distributions will instead be treated as a non-taxable return of capital to the extent of the non-U.S. holder's tax basis in our common stock (and will reduce such tax basis, until such basis equals zero) and thereafter as capital gain from the sale or exchange of such common stock. See "—Gain on Disposition of Common Stock."

Subject to the withholding requirements under FATCA (as defined below) and with respect to effectively connected dividends, each of which is discussed below, any distribution made to a non-U.S. holder on our common stock generally will be subject to U.S. federal withholding tax at a rate of 30% of the gross amount of the distribution unless an applicable income tax treaty provides for a lower rate. To receive the benefit of a reduced treaty rate, a non-U.S. holder must timely provide the applicable withholding agent with a properly executed IRS Form W-8BEN or IRS Form W-8BEN-E (or other applicable or successor form) certifying qualification for the reduced rate. A non-U.S. holder that does not timely furnish the required documentation, but that qualifies for a reduced treaty rate, may obtain a refund of any excess amounts withheld by timely filing an appropriate claim for refund with the IRS. Non-U.S. holders are urged to consult their tax advisors regarding their entitlement to benefits under any applicable income tax treaty.

Dividends paid to a non-U.S. holder that are effectively connected with a trade or business conducted by the non-U.S. holder in the United States (and, if required by an applicable income tax treaty, are treated as

attributable to a permanent establishment maintained by the non-U.S. holder in the United States) generally will be taxed on a net income basis at the rates and in the manner generally applicable to United States persons. Such effectively connected dividends will not be subject to U.S. federal withholding tax (including backup withholding discussed below) if the non-U.S. holder satisfies certain certification requirements by providing the applicable withholding agent with a properly executed IRS Form W-8ECI certifying eligibility for exemption. If the non-U.S. holder is a corporation for U.S. federal income tax purposes, it may also be subject to a branch profits tax (at a 30% rate or such lower rate as specified by an applicable income tax treaty) on its effectively connected earnings and profits (as adjusted for certain items), which will include effectively connected dividends.

Gain on Disposition of Common Stock

Subject to the discussions below under "—Backup Withholding and Information Reporting" and "—Additional Withholding Requirements under FATCA," a non-U.S. holder generally will not be subject to U.S. federal income or withholding tax on any gain realized upon the sale or other taxable disposition of our common stock unless:

- the non-U.S. holder is an individual who is present in the United States for a period or periods aggregating 183 days or more during the calendar year in which the sale or disposition occurs and certain other conditions are met;
- the gain is effectively connected with a trade or business conducted by the non-U.S. holder in the United States (and, if required by an applicable income tax treaty, is attributable to a permanent establishment maintained by the non-U.S. holder in the United States); or
- our common stock constitutes a United States real property interest by reason of our status as a United States real property holding corporation ("USRPHC") for U.S. federal income tax purposes and as a result such gain is treated as effectively connected with a trade or business conducted by the non-U.S. holder in the United States.

A non-U.S. holder described in the first bullet point above will be subject to U.S. federal income tax at a rate of 30% (or such lower rate as specified by an applicable income tax treaty) on the amount of such gain, which generally may be offset by U.S. source capital losses, provided the non-U.S. holder has timely filed U.S. federal income tax returns with respect to such losses.

A non-U.S. holder whose gain is described in the second bullet point above or, subject to the exceptions described in the next paragraph, the third bullet point above, generally will be taxed on a net income basis at the rates and in the manner generally applicable to United States persons unless an applicable income tax treaty provides otherwise. If the non-U.S. holder is a corporation for U.S. federal income tax purposes whose gain is described in the second bullet point above, then such gain would also be included in its effectively connected earnings and profits (as adjusted for certain items), which may be subject to a branch profits tax (at a 30% rate or such lower rate as specified by an applicable income tax treaty).

With regard to the third bullet point above, generally, a corporation is a USRPHC if the fair market value of its United States real property interests equals or exceeds 50% of the sum of the fair market value of its worldwide real property interests and its other assets used or held for use in a trade or business. We believe that we currently are not, and do not expect to become, a USRPHC for U.S. federal income tax purposes. However, if we are classified as a USRPHC or become a USRPHC in the future, as long as our common stock is and continues to be "regularly traded on an established securities market" (within the meaning of the Treasury Regulations), only a non-U.S. holder that actually or constructively owns, or owned at any time during the shorter of the five-year period ending on the date of the disposition or the non-U.S. holder's holding period for the common stock, more than 5% of our common stock will be treated as disposing of a U.S. real property interest and will be taxable on gain realized on the disposition of our common stock as a result of our status as a USRPHC. If we are classified as a USRPHC or become a USRPHC in the future, and our common stock were

not considered to be regularly traded on an established securities market, such non-U.S. holder (regardless of the percentage of stock owned) would be treated as disposing of a U.S. real property interest and would be subject to U.S. federal income tax on a taxable disposition of our common stock (as described in the preceding paragraph), and a 15% withholding tax would apply to the gross proceeds from such disposition (and to any distributions treated as a non-taxable return of capital or capital gain from the sale or exchange of such common stock as described above under "—Distributions").

NON-U.S. HOLDERS SHOULD CONSULT THEIR TAX ADVISORS WITH RESPECT TO THE APPLICATION OF THE FOREGOING RULES TO THEIR PURCHASE, OWNERSHIP AND DISPOSITION OF OUR COMMON STOCK.

Backup Withholding and Information Reporting

Any dividends paid to a non-U.S. holder must be reported annually to the IRS and to the non-U.S. holder. Copies of these information returns may be made available to the tax authorities in the country in which the non-U.S. holder resides or is established. Payments of dividends to a non-U.S. holder generally will not be subject to backup withholding if the non-U.S. holder establishes an exemption by properly certifying its non-U.S. status on an IRS Form W-8BEN or IRS Form W-8BEN-E (or other applicable or successor form).

Payments of the proceeds from a sale or other disposition by a non-U.S. holder of our common stock effected by or through a U.S. office of a broker generally will be subject to information reporting and backup withholding (at the applicable rate, which is currently 24%) unless the non-U.S. holder establishes an exemption by properly certifying its non-U.S. status on an IRS Form W-8BEN or IRS Form W-8BEN-E (or other applicable or successor form) and certain other conditions are met. Information reporting and backup withholding generally will not apply to any payment of the proceeds from a sale or other disposition of our common stock effected outside the United States by a non-U.S. office of a broker. However, unless such broker has documentary evidence in its records that the non-U.S. holder is not a United States person and certain other conditions are met, or the non-U.S. holder otherwise establishes an exemption, information reporting will apply to a payment of the proceeds of the disposition of our common stock effected outside the United States by such a broker if it has certain relationships within the United States.

Backup withholding is not an additional tax. Rather, the U.S. federal income tax liability (if any) of persons subject to backup withholding will be reduced by the amount of tax withheld. If backup withholding results in an overpayment of taxes, a refund may be obtained, provided that the required information is timely furnished to the IRS.

Additional Withholding Requirements under FATCA

Sections 1471 through 1474 of the Code, and the Treasury Regulations and administrative guidance issued thereunder ("FATCA"), impose a 30% withholding tax on any dividends paid on our common stock if paid to a "foreign financial institution" or a "non-financial foreign entity" (each as defined in the Code) (including, in some cases, when such foreign financial institution or non-financial foreign entity is acting as an intermediary), unless (i) in the case of a foreign financial institution, such institution enters into an agreement with the U.S. government to withhold on certain payments, and to collect and provide to the U.S. tax authorities substantial information regarding U.S. account holders of such institution (which includes certain equity and debt holders of such institution, as well as certain account holders that are non-U.S. entities with U.S. owners), (ii) in the case of a non-financial foreign entity, such entity certifies that it does not have any "substantial United States owners" (as defined in the Code) or timely provides the applicable withholding agent with a certification identifying the direct and indirect substantial United States owners of the entity (in either case, generally on an IRS Form W-8BEN-E), or (iii) the foreign financial institution or non-financial foreign entity otherwise qualifies for an exemption from these rules and provides appropriate documentation (such as an IRS Form W-8BEN-E). Foreign financial institutions located in jurisdictions that have an intergovernmental agreement with the United States

governing these rules may be subject to different rules. Under certain circumstances, a non-U.S. holder might be eligible for refunds or credits of such taxes. Non-U.S. holders are encouraged to consult their own tax advisors regarding the effects of FATCA on an investment in our common stock.

Although FATCA withholding could apply to gross proceeds on the disposition of our common stock, the U.S. Treasury released proposed Treasury Regulations (the "Proposed Regulations") the preamble to which specifies that taxpayers may rely on them pending finalization. The Proposed Regulations eliminate FATCA withholding on the gross proceeds from a sale or other disposition of our common stock. There can be no assurance that the Proposed Regulations will be finalized in their present form.

INVESTORS CONSIDERING THE PURCHASE OF OUR COMMON STOCK ARE URGED TO CONSULT THEIR OWN TAX ADVISORS REGARDING THE APPLICATION OF THE U.S. FEDERAL INCOME TAX LAWS (INCLUDING ANY POTENTIAL CHANGES THERETO) TO THEIR PARTICULAR SITUATIONS AND THE APPLICABILITY AND EFFECT OF ANY OTHER TAX LAWS, INCLUDING U.S. FEDERAL ESTATE AND GIFT TAX LAWS AND ANY U.S. STATE OR LOCAL OR NON-U.S. TAX LAWS AND TAX TREATIES.

UNDERWRITING (CONFLICTS OF INTEREST)

We and the selling stockholders are offering the shares of common stock described in this prospectus through a number of underwriters. J.P. Morgan Securities LLC and Barclays Capital Inc. are acting as joint book-running managers of the offering and as representatives of the underwriters. We and the selling stockholders have entered into an underwriting agreement with the underwriters. Subject to the terms and conditions of the underwriting agreement, we and the selling stockholders have agreed to sell to the underwriters, and each underwriter has severally agreed to purchase, at the public offering price less the underwriting discounts and commissions set forth on the cover page of this prospectus, the number of shares of common stock listed next to its name in the following table:

Name	Number of Shares
J.P. Morgan Securities LLC	
Barclays Capital Inc.	
DNB Markets, Inc.	
Piper Sandler & Co.	
Guggenheim Securities, LLC	
Raymond James & Associates, Inc.	
BTIG, LLC	
Johnson Rice & Company L.L.C.	
PEP Advisory LLC	
Seaport Global Securities LLC	
Academy Securities, Inc.	
Drexel Hamilton, LLC	
Total	

The underwriters are committed to purchase all the shares of common stock offered by us and the selling stockholders if they purchase any shares. The underwriting agreement also provides that if an underwriter defaults, the purchase commitments of non-defaulting underwriters may also be increased or the offering may be terminated.

The underwriters propose to offer the shares of common stock directly to the public at the initial public offering price set forth on the cover page of this prospectus and to certain dealers at that price less a concession not in excess of $ per share. Any such dealers may resell shares to certain other brokers or dealers at a discount of up to $ per share from the initial public offering price. After the initial offering of the shares to the public, if all of the shares of common stock are not sold at the initial public offering price, the underwriters may change the offering price and the other selling terms.

The underwriters have options to buy up to additional shares of common stock from us and up to additional shares of common stock from the selling stockholders to cover sales of shares by the underwriters which exceed the number of shares specified in the table above. The underwriters have 30 days from the date of this prospectus to exercise these options to purchase additional shares. If any shares are purchased with these options to purchase additional shares, the underwriters will purchase shares in approximately the same proportion as shown in the table above. If any additional shares of common stock are purchased, the underwriters will offer the additional shares on the same terms as those on which the shares are being offered.

The underwriting fee is equal to the public offering price per share of common stock less the amount paid by the underwriters to us and the selling stockholders per share of common stock. The underwriting fee is $ per share. The following table shows the per share and total underwriting discounts and commissions

to be paid to the underwriters assuming both no exercise and full exercise of the underwriters' option to purchase additional shares.

	Without option to purchase additional shares exercise	With full option to purchase additional shares exercise
Per Share	$	$
Total	$	$

We and the selling stockholders estimate that the total expenses of this offering, including registration, filing and listing fees, printing fees and legal and accounting expenses, but excluding the underwriting discounts and commissions, will be approximately $. We have also agreed to reimburse the underwriters for certain of their expenses in connection with this offering in an amount up to $.

A prospectus in electronic format may be made available on the web sites maintained by one or more underwriters, or selling group members, if any, participating in the offering. The underwriters may agree to allocate a number of shares to underwriters and selling group members for sale to their online brokerage account holders. Internet distributions will be allocated by the representatives to underwriters and selling group members that may make Internet distributions on the same basis as other allocations.

Other than the prospectus in electronic format, the information on any underwriter's or selling group member's web site and any information contained in any other web site maintained by an underwriter or selling group member is not part of the prospectus or the registration statement of which this prospectus forms a part, has not been approved and/or endorsed by us or any underwriter or selling group member in its capacity as underwriter or selling group member and should not be relied upon by investors.

We have agreed that we will not (i) offer, pledge, sell, contract to sell, sell any option or contract to purchase, purchase any option or contract to sell, grant any option, right or warrant to purchase, lend or otherwise transfer or dispose of, directly or indirectly, or submit to, or file with, the SEC a registration statement under the Securities Act relating to, any shares of our common stock or securities convertible into or exercisable or exchangeable for any shares of our common stock, or publicly disclose the intention to make any of the foregoing, or (ii) enter into any swap or other arrangement that transfers, in whole or in part, any of the economic consequences associated with the ownership of any shares of common stock or any such other securities (regardless of whether any of these transactions are to be settled by the delivery of shares of common stock or such other securities, in cash or otherwise), in each case without the prior written consent of J.P. Morgan Securities LLC and Barclays Capital Inc. for a period of one hundred eighty (180) days after the date of this prospectus, other than the shares of our common stock to be sold in this offering.

The restrictions on our actions, as described above, do not apply to certain transactions, including (i) the offer, issuance, sale and disposition of the shares of our common stock under the underwriting agreement, (ii) the issuance of shares of common stock or securities convertible into or exercisable for shares of our common stock pursuant to the conversion or exchange of convertible or exchangeable securities, warrants or options (including net exercise) or the settlement of RSUs or PSUs (including net settlement), in each case outstanding on the date of the underwriting agreement and described in this prospectus; (iii) grants of stock options, stock awards, restricted stock, RSUs, PSUs or other equity awards and the issuance of shares of our common stock or securities convertible into or exercisable or exchangeable for shares of our common stock (whether upon the exercise of stock options or otherwise) to our employees, officers, directors, advisors, or consultants pursuant to the terms of an equity compensation plan in effect as of the closing of this offering and described in this prospectus, provided that any such recipient who is an executive officer or director of ours enters into a lock-up agreement with the underwriters; (iv) the issuance of up to 10% of the outstanding shares of our common stock, or securities convertible into, exercisable for, or which are otherwise exchangeable for, our common stock, immediately following the closing of this offering, in acquisitions or other similar strategic transactions, provided that such

recipients enter into a lock-up agreement with the underwriters; (v) the facilitation of the establishment of a trading plan pursuant to Rule 10b5-1 under the Exchange Act, provided that such plan does not provide for the transfer of Common Stock during the one hundred eighty (180)-day restricted period; (vi) our filing of any registration statement on Form S-8 relating to securities granted or to be granted pursuant to any plan in effect on the date of the underwriting agreement and described in this prospectus or any assumed benefit plan pursuant to an acquisition or similar strategic transaction; or (vii) submission to the SEC of a draft registration statement under the Securities Act on a confidential basis pursuant to the rules of the SEC, provided that with respect to this clause (viii), (a) no public filing with the SEC or any other public announcement may be made during the one hundred eighty (180)-day restricted period in relation to such registration, (b) J.P. Morgan Securities LLC and Barclays Capital Inc. must have received prior written consent from the Company of such submission with the SEC during the one hundred eighty (180)-day restricted period at least seven (7) business days prior to such submission, and (c) no securities of the Company may be sold, distributed or exchanged prior to the expiration of the one hundred eighty (180)-day restricted period.

Our directors and executive officers, the selling stockholders and substantially all of our stockholders holding in the aggregate approximately % of the outstanding shares of our common stock (such persons, the "lock-up parties") have entered into lock-up agreements with the underwriters prior to the commencement of this offering pursuant to which each lock-up party, with limited exceptions, for a period of 180 days after the date of this prospectus (such period, the "restricted period"), may not (and may not cause any of their direct or indirect affiliates to), without the prior written consent of J.P. Morgan Securities LLC and Barclays Capital Inc., (1) offer, pledge, sell, contract to sell, sell any option or contract to purchase, purchase any option or contract to sell, grant any option, right or warrant to purchase, lend or otherwise transfer or dispose of, directly or indirectly, any shares of our common stock or any securities convertible into or exercisable or exchangeable for our common stock (including, without limitation, common stock or such other securities which may be deemed to be beneficially owned by such lock-up parties in accordance with the rules and regulations of the SEC and securities which may be issued upon exercise of a stock option or warrant (collectively with the common stock, the "lock-up securities")), (2) enter into any hedging, swap or other agreement or transaction that transfers, in whole or in part, any of the economic consequences of ownership of the lock-up securities, whether any such transaction described in clause (1) or (2) above is to be settled by delivery of lock-up securities, in cash or otherwise, (3) make any demand for, or exercise any right with respect to, the registration of any lock-up securities, or (4) publicly disclose the intention to do any of the foregoing. Such persons or entities have further acknowledged that these undertakings preclude them from engaging in any hedging or other transactions or arrangements (including, without limitation, any short sale or the purchase or sale of, or entry into, any put or call option, or combination thereof, forward, swap or any other derivative transaction or instrument, however described or defined) designed or intended, or which could reasonably be expected to lead to or result in, a sale or disposition or transfer (by any person or entity, whether or not a signatory to such agreement) of any economic consequences of ownership, in whole or in part, directly or indirectly, of any lock-up securities, whether any such transaction or arrangement (or instrument provided for thereunder) would be settled by delivery of lock-up securities, in cash or otherwise.

The restrictions described in the immediately preceding paragraph and contained in the lock-up agreements between the underwriters and the lock-up parties do not apply, subject in certain cases to various conditions, to certain transactions, including (a) transfers of lock-up securities: (i) as bona fide gifts, charitable contributions or for bona fide estate planning purposes, (ii) by will or intestacy, (iii) to any trust for the direct or indirect benefit of the lock-up party or any immediate family member or, if the lock-up party is a trust, to a trustor or beneficiary of the trust or to the estate of a beneficiary of such trust, (iv) to a partnership, limited liability company or other entity of which the lock-up party and its immediate family members are the legal and beneficial owner of all of the outstanding equity securities or similar interests, (v) to a nominee or custodian of a person or entity to whom a disposition or transfer would be permissible under clauses (i) through (iv), (vi) in the case of a corporation, partnership, limited liability company, trust or other business entity, (A) to another corporation, partnership, limited liability company, trust or other business entity that is an affiliate of the lock-up party, or to any investment fund, vehicle, account, portion of a fund, vehicle or account or other entity controlling, controlled by, managing or managed by or under common control with the lock-up party or its affiliates (including, for the avoidance of doubt, where the lock-up party is a partnership, to its general partner or a successor partnership or

fund, vehicle, accounts or portions of funds, vehicles or accounts or any other funds, managed by such partnership) or (B) as part of a distribution to partners, members. stockholders or other equityholders of the lock-up party; (vii) by operation of law, (viii) to us from an employee upon death, disability or termination of employment of such employee, (ix) as part of a sale of lock-up securities acquired in open market transactions after the completion of this offering, (x) to us in connection with the vesting, settlement or exercise of RSUs, PSUs, options, warrants or other rights to purchase shares of our common stock (including "net" or "cashless" exercise), including for the payment of exercise price and tax and remittance payments, or (xi) pursuant to a bona fide third-party tender offer, merger, consolidation or other similar transaction approved by our Board of Directors and made to all shareholders involving a change in control, provided that if such transaction is not completed, all such lock-up securities would remain subject to the restrictions in the immediately preceding paragraph; (b) exercise of the outstanding options, settlement of RSUs or other equity awards granted pursuant to plans described in this prospectus or the exercise of warrants, provided that any lock-up securities received upon such exercise, vesting or settlement would be subject to restrictions similar to those in the immediately preceding paragraph; (c) the conversion of outstanding preferred stock, warrants to acquire preferred stock, or convertible securities into shares of our common stock or warrants to acquire shares of our common stock, provided that any common stock or warrant received upon such conversion would be subject to restrictions similar to those in the immediately preceding paragraph; (d) the establishment by lock-up parties of trading plans under Rule 10b5-1 under the Exchange Act, provided that such plan does not provide for the transfer of lock-up securities during the restricted period (other than for the payment of exercise price and tax remittance payments due as a result of the vesting, settlement, or exercise of restricted stock units, performance stock units, options, warrants or rights); and (e) the sale of our common stock pursuant to the terms of the underwriting agreement.

J.P. Morgan Securities LLC and Barclays Capital Inc., in their sole discretion, may release the securities subject to any of the lock-up agreements with the underwriters described above, in whole or in part at any time.

We and the selling stockholders have agreed to indemnify the underwriters against certain liabilities, including liabilities under the Securities Act.

We have applied to have our common stock approved for listing on the NYSE under the symbol "HOS".

In connection with this offering, the underwriters may engage in stabilizing transactions, which involves making bids for, purchasing and selling shares of common stock in the open market for the purpose of preventing or retarding a decline in the market price of the common stock while this offering is in progress. These stabilizing transactions may include making short sales of common stock, which involves the sale by the underwriters of a greater number of shares of common stock than they are required to purchase in this offering, and purchasing shares of common stock on the open market to cover positions created by short sales. Short sales may be "covered" shorts, which are short positions in an amount not greater than the underwriters' option to purchase additional shares referred to above, or may be "naked" shorts, which are short positions in excess of that amount. The underwriters may close out any covered short position either by exercising their option to purchase additional shares, in whole or in part, or by purchasing shares in the open market. In making this determination, the underwriters will consider, among other things, the price of shares available for purchase in the open market compared to the price at which the underwriters may purchase shares through the option to purchase additional shares. A naked short position is more likely to be created if the underwriters are concerned that there may be downward pressure on the price of the common stock in the open market that could adversely affect investors who purchase in this offering. To the extent that the underwriters create a naked short position, they will purchase shares in the open market to cover the position.

The underwriters have advised us that, pursuant to Regulation M of the Securities Act, they may also engage in other activities that stabilize, maintain or otherwise affect the price of the common stock, including the imposition of penalty bids. This means that if the representatives of the underwriters purchase common stock in the open market in stabilizing transactions or to cover short sales, the representatives can require the underwriters that sold those shares as part of this offering to repay the underwriting discount received by them.

These activities may have the effect of raising or maintaining the market price of the common stock or preventing or retarding a decline in the market price of the common stock, and, as a result, the price of the common stock may be higher than the price that otherwise might exist in the open market. If the underwriters commence these activities, they may discontinue them at any time. The underwriters may carry out these transactions on the NYSE, in the over-the-counter market or otherwise.

Our prior class of common stock was delisted in July 2020, and 4,366,348 shares of our new common stock were issued in connection with the consummation of the Chapter 11 Cases on September 4, 2020. As a result, since July 2020, there has been no public market for our common stock. The initial public offering price will be determined by negotiations between us and the representatives of the underwriters. In determining the initial public offering price, we and the representatives of the underwriters expect to consider a number of factors including:

- the information set forth in this prospectus and otherwise available to the representatives;
- our prospects and the history and prospects for the industry in which we compete;
- an assessment of our management;
- our prospects for future earnings;
- the general condition of the securities markets at the time of this offering;
- the recent market prices of, and demand for, publicly traded common stock of generally comparable companies; and
- other factors deemed relevant by the underwriters and us.

Neither we nor the underwriters can assure investors that an active trading market will develop for our shares of common stock, or that the shares will trade in the public market at or above the initial public offering price.

Certain of the underwriters and their affiliates have provided in the past to us and our affiliates and may provide from time to time in the future certain commercial banking, financial advisory, consulting, investment banking and other services for us and such affiliates in the ordinary course of their business, for which they have received and may continue to receive customary fees and commissions. In addition, certain of the underwriters and their affiliates are, or may become, lenders under the First Lien Revolving Credit Facility, for which such underwriters and their affiliates have received customary fees. In addition, from time to time, certain of the underwriters and their affiliates may effect transactions for their own account or the account of customers, and hold on behalf of themselves or their customers, long or short positions in our debt or equity securities or loans, and may do so in the future.

Conflict of Interest

Highbridge is an indirect subsidiary of J.P. Morgan Chase & Co. and, prior to this offering, beneficially owns more than 10% of our common stock on a fully diluted basis (including both shares of common stock and shares issuable upon the exercise of Jones Act Warrants and Creditor Warrants). Highbridge is a selling stockholder in this offering and, as such, may receive more than 5% of the net proceeds of this offering.

Because of this relationship, J.P. Morgan Securities LLC is deemed to have a “conflict of interest” under FINRA Rule 5121. Accordingly, this offering is being conducted in accordance with the applicable provisions of FINRA Rule 5121, including the requirement that a “qualified independent underwriter” participate in the preparation of the prospectus and exercise the usual standards of due diligence in connection with such participation. Barclays Capital Inc. has agreed to serve as the qualified independent underwriter for this offering and will not receive any additional fees for serving in that capacity. We have agreed to indemnify Barclays Capital Inc. against any liabilities arising in connection with its role as a qualified independent underwriter, including liabilities under the Securities Act. Additionally, in accordance with FINRA Rule 5121(c), no sales of

the shares in this offering will be made to any discretionary account over which J.P. Morgan Securities LLC exercises discretion without the prior specific written approval of the account holder.

Directed Share Program

At our request, the underwriters have reserved up to % of the shares offered by this prospectus for sale, at the initial public offering price, to certain individuals through a directed share program, including our directors, officers, employees and certain other individuals identified by us. The sales will be made at our direction by J.P. Morgan Securities LLC and its affiliates. The number of shares of our common stock available for sale to the general public in this offering will be reduced to the extent that such persons purchase such reserved shares. Any reserved shares not so purchased will be offered by the underwriters to the general public on the same terms as the other shares of common stock offered by this prospectus. We have agreed to indemnify the underwriters against certain liabilities and expenses, including liabilities under the Securities Act, in connection with the sales of the shares reserved for the directed share program.

Shares purchased through the directed share program will not be subject to a lock-up restriction, except in the case of shares purchased by any of our directors and officers, which shares will be subject to a 180-day lock-up restriction (as described above).

Jones Act

Because we own and operate 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 the capital stock of the Company must be owned and controlled by U.S. citizens. If we do not continue to comply with such requirements, we would be prohibited from operating our 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. As a result, we have restricted participation in this offering to U.S. citizens as defined under the Jones Act.

In order to ensure compliance with the U.S. citizenship and cabotage laws principally contained in the Jones Act, sales in the offering will be limited so that shares will only be allocated to U.S. citizens (as determined in accordance with the Jones Act). A “U.S. citizen” for purposes of the Jones Act includes the following:

- If the investor is an individual, the investor is deemed a citizen of the United States (for Jones Act purposes) if the investor is native-born, naturalized, or a derivative citizen of the United States, or otherwise qualifies as a United States citizen.
- If the investor is a partnership, limited liability company or limited partnership, the entity is deemed a citizen of the United States (for Jones Act purposes) if the investor: (a) is organized under the laws of the United States or a State, (b) each general partner or manager is a citizen of the United States and (c) is 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 investor is a corporation, the investor is deemed a citizen of the United States (for Jones Act purposes) if: (a) the investor is organized 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 is a citizen of the United States, (c) the investor is no more than a minority of the number of its directors necessary to constitute a quorum for the transaction of business are non-citizens of the United States and (d) not less than 75.0% of the shares (beneficially and of record) 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 investor 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.

Our amended and restated certificate of incorporation further provides the Board of Directors with authority to take certain actions to protect our Jones Act status. These actions may include: (i) refusing to recognize any transfer (including our original issuance) that would result in ownership by non-U.S. citizens in the aggregate exceeding 24% of our issued and outstanding common stock, (ii) treating any such purported transfer as void *ab initio* or (iii) redeeming any share of our common stock that caused the ownership by non-U.S. citizens to exceed such 24% ownership limitation. For a description of the Jones Act citizenship restrictions and redemption procedures, see "Description of Capital Stock and Warrants—Limitations on Ownership by Non-U.S. Citizens."

LEGAL MATTERS

The validity of the shares of common stock offered by this prospectus will be passed upon for us by Kirkland & Ellis LLP, Houston, Texas. Certain legal matters relating to this offering will be passed upon for the underwriters by Vinson & Elkins LLP, Houston, Texas.

EXPERTS

The consolidated financial statements of Hornbeck Offshore Services, Inc. at December 31, 2023 and 2022, and for each of the three years in the period ended December 31, 2023, appearing in this prospectus or the registration statement of which this prospectus forms a part 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.

With respect to the unaudited consolidated interim financial information of Hornbeck Offshore Services, Inc. as of June 30, 2024 and for the three-month and six-month periods ended June 30, 2024 and June 30, 2023, appearing in this prospectus or the registration statement of which this prospectus forms a part, Ernst & Young LLP reported that they have applied limited procedures in accordance with professional standards for a review of such information. However, their separate report dated August 14, 2024 appearing elsewhere herein states that they did not audit and they do not express an opinion on that interim financial information. Accordingly, the degree of reliance on their report on such information should be restricted in light of the limited nature of the review procedures applied. Ernst & Young LLP is not subject to the liability provisions of Section 11 of the Securities Act for their report on the unaudited interim financial information because that report is not a “report” or a “part” of the registration statement of which this prospectus forms a part prepared or certified by Ernst & Young LLP within the meaning of Sections 7 and 11 of the Securities Act.

WHERE YOU CAN FIND MORE INFORMATION

We have filed with the SEC a registration statement on Form S-1 under the Securities Act with respect to the common stock offered in this prospectus. This prospectus, filed as part of the registration statement, does not contain all of the information set forth in the registration statement and its exhibits and schedules, portions of which have been omitted as permitted by the rules and regulations of the SEC. For further information about us and our common stock, we refer you to the registration statement and to its exhibits and schedules. Statements in this prospectus about the contents of any contract, agreement or other document are not necessarily complete and, in each instance, we refer you to the copy of such contract, agreement or document filed as an exhibit to the registration statement, with each such statement being qualified in all respects by reference to the document to which it refers.

The SEC maintains a website that contains reports, proxy statements and other information about companies like us, who file electronically with the SEC. The address of that website is http://www.sec.gov. This reference to the SEC’s website is an inactive textual reference only and is not a hyperlink.

Upon the effectiveness of the registration statement, we will be subject to the reporting, proxy and information requirements of the Exchange Act and will be required to file periodic reports, proxy statements and other information with the SEC. These periodic reports, proxy statements and other information will be available on the website of the SEC referred to above, as well as on our website, www.hornbeckoffshore.com. This reference to our website is an inactive textual reference only and is not a hyperlink. The contents of, or other information accessible through, our website are not part of this prospectus or the registration statement of which this prospectus forms a part, and you should not consider the contents of our website in making an investment decision with respect to our common stock. We will furnish our stockholders with annual reports containing audited financial statements and quarterly reports containing unaudited interim financial statements for each of the first three quarters of each year.

INDEX TO FINANCIAL STATEMENTS

Review Report of Independent Registered Public Accounting Firm

To the Stockholders and the Board of Directors of Hornbeck Offshore Services, Inc.

Results of Review of Interim Financial Statements

We have reviewed the accompanying consolidated balance sheet of Hornbeck Offshore Services, Inc. and Subsidiaries (the Company) as of June 30, 2024, the related consolidated statements of operations, comprehensive income and changes in stockholders' equity for the three-month and six-month periods ended June 30, 2024 and 2023, and cash flows for the six-month periods ended June 30, 2024 and 2023, and the related notes (collectively referred to as the "consolidated interim financial statements"). Based on our reviews, we are not aware of any material modifications that should be made to the consolidated interim financial statements for them to be in conformity with U.S. generally accepted accounting principles.

We have previously audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States) (PCAOB) and in accordance with auditing standards generally accepted in the United States of America (GAAS), the consolidated balance sheet of the Company as of December 31, 2023, and the related consolidated statements of operations, comprehensive income, changes in stockholders' equity and cash flows for the year then ended, and the related notes (not presented herein); and in our report dated March 14, 2024, we expressed an unqualified audit opinion on those consolidated financial statements. In our opinion, the information set forth in the accompanying consolidated balance sheet as of December 31, 2023, is fairly stated, in all material respects, in relation to the consolidated balance sheet from which it has been derived.

Basis for Review Results

These financial statements are the responsibility of the Company's management. We are a public accounting firm registered with the 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 SEC and the PCAOB. We conducted our review in accordance with the standards of the PCAOB and in accordance with GAAS applicable to reviews of interim financial information. A review of interim financial information consists principally of applying analytical procedures and making inquiries of persons responsible for financial and accounting matters. It is substantially less in scope than an audit conducted in accordance with the standards of the PCAOB and GAAS, the objective of which is the expression of an opinion regarding the financial statements taken as a whole. Accordingly, we do not express such an opinion.

/s/ Ernst & Young LLP

New Orleans, Louisiana

August 14, 2024

HORNBECK OFFSHORE SERVICES, INC. AND SUBSIDIARIES
CONSOLIDATED BALANCE SHEETS
(in thousands, except per share data)

	June 30, 2024 (Unaudited)	December 31, 2023 (Audited)
ASSETS		
Current assets:		
Cash and cash equivalents	$ 91,078	$ 120,055
Accounts receivable, net of allowance for credit losses of $6,273 and $6,307, respectively	142,738	126,438
Prepaid expenses	11,635	4,870
Taxes receivable	16,072	7,961
Other current assets	11,276	11,500
Total current assets	272,799	270,824
Property, plant and equipment, net	625,270	602,422
Restricted cash	765	765
Deferred charges, net	62,758	48,336
Operating lease right-of-use assets	24,260	22,905
Finance lease right-of-use assets	960	827
Other assets	440	440
Total assets	$ 987,252	$ 946,519
LIABILITIES AND STOCKHOLDERS' EQUITY		
Current liabilities:		
Accounts payable	$ 63,257	$ 76,484
Accrued interest	5,357	5,357
Accrued payroll and benefits	22,224	26,511
Operating lease liabilities	6,961	5,096
Finance lease liabilities	399	342
Accrued taxes payable	15,558	12,328
Deferred revenue	12,334	2,822
Other current liabilities	6,827	1,475
Total current liabilities	132,917	130,415
Long-term debt	349,001	349,001
Deferred tax liabilities, net	1,332	1,996
Liability-classified warrants	74,779	75,475
Operating lease liabilities	19,931	20,309
Finance lease liabilities	419	351
Other long-term liabilities	7,597	7,679
Total long-term liabilities	453,059	454,811
Total liabilities	585,976	585,226
Stockholders' equity:		
Common stock: $0.00001 par value; 50,000 shares authorized; 5,642 and 5,554 shares issued and outstanding, respectively	—	—
Additional paid-in capital	211,389	210,776
Retained earnings	192,654	148,428
Accumulated other comprehensive income (loss)	(2,767)	2,089
Total stockholders' equity	401,276	361,293
Total liabilities and stockholders' equity	$ 987,252	$ 946,519

HORNBECK OFFSHORE SERVICES, INC. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF OPERATIONS
(in thousands, except per share data)

	Three Months Ended June 30,		Six Months Ended June 30,	
	2024	2023	2024	2023
	(Unaudited)		(Unaudited)	
Revenues:				
Vessel revenues	$163,998	$135,912	$283,207	$256,487
Non-vessel revenues	11,982	10,986	23,569	21,902
	175,980	146,898	306,776	278,389
Costs and expenses:				
Operating expense	90,153	74,592	181,818	141,501
Depreciation expense	9,507	6,029	18,093	11,753
Amortization expense	6,363	5,655	12,163	10,366
General and administrative expense	16,882	15,609	32,430	32,366
Stock-based compensation expense	2,584	2,361	4,423	15,363
Terminated debt refinancing costs	—	3,633	—	3,633
	125,489	107,879	248,927	214,982
Gain on sale of assets	27	2,576	31	2,566
Operating income	50,518	41,595	57,880	65,973
Interest expense	6,706	11,123	13,437	22,972
Interest income	(1,327)	(2,614)	(3,007)	(4,830)
Net interest expense	5,379	8,509	10,430	18,142
	45,139	33,086	47,450	47,831
Other income (expense):				
Foreign currency loss	(537)	(629)	(757)	(857)
Fair value adjustment of liability-classified warrants	(8,490)	(7,947)	696	(4,533)
Other income	—	42	—	756
	(9,027)	(8,534)	(61)	(4,634)
Income before income taxes	36,112	24,552	47,389	43,197
Income tax expense	3,014	4,168	3,163	6,362
Net income	$ 33,098	$ 20,384	$ 44,226	$ 36,835
Basic earnings per common share	$ 1.94	$ 1.20	$ 2.59	$ 2.17
Diluted earnings per common share	$ 1.71	$ 1.07	$ 2.29	$ 1.94

HORNBECK OFFSHORE SERVICES, INC. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME
(in thousands)

	Three Months Ended June 30,		Six Months Ended June 30,	
	2024	2023	2024	2023
	(Unaudited)		(Unaudited)	
Net income	$33,098	$20,384	$44,226	$36,835
Other comprehensive income:				
Foreign currency translation income (loss), net	(3,899)	1,321	(4,856)	2,222
Total comprehensive income	$29,199	$21,705	$39,370	$39,057

HORNBECK OFFSHORE SERVICES, INC. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF CHANGES IN STOCKHOLDERS' EQUITY
(in thousands)

	Three Months Ended June 30, 2024 (Unaudited)					
	Common Stock		Additional Paid-In Capital	Retained Earnings	Accumulated Other Comprehensive Income (Loss)	Total Stockholders Equity
	Shares	Amount				
Balance at April 1, 2024 (1)	16,931	$ —	$212,631	$159,556	$ 1,132	$ 373,319
Issuance of common stock and warrants	88	—	130	—	—	130
Stock-based compensation expense	—	—	2,344	—	—	2,344
Shares withheld for employee withholding taxes	—	—	(3,716)	—	—	(3,716)
Net income	—	—	—	33,098	—	33,098
Foreign currency translation loss, net	—	—	—	—	(3,899)	(3,899)
Balance at June 30, 2024 (2)	17,019	$ —	$211,389	$192,654	$ (2,767)	$ 401,276

	Six Months Ended June 30, 2024 (Unaudited)					
	Common Stock		Additional Paid-In Capital	Retained Earnings	Accumulated Other Comprehensive Income (Loss)	Total Stockholders Equity
	Shares	Amount				
Balance at January 1, 2024 (1)	16,931	$ —	$210,776	$148,428	$ 2,089	$ 361,293
Issuance of common stock and warrants	88	—	130	—	—	130
Stock-based compensation expense	—	—	4,199	—	—	4,199
Shares withheld for employee withholding taxes	—	—	(3,716)	—	—	(3,716)
Net income	—	—	—	44,226	—	44,226
Foreign currency translation loss, net	—	—	—	—	(4,856)	(4,856)
Balance at June 30, 2024 (2)	17,019	$ —	$211,389	$192,654	$ (2,767)	$ 401,276

	Three Months Ended June 30, 2023 (Unaudited)					
	Common Stock		Additional Paid-In Capital	Retained Earnings	Accumulated Other Comprehensive Income (Loss)	Total Stockholders Equity
	Shares	Amount				
Balance at April 1, 2023 (1)	16,931	$ —	$208,927	$ 90,341	$ 837	$ 300,105
Stock-based compensation expense	—	—	2,116	—	—	2,116
Shares withheld for employee withholding taxes	—	—	(3,834)	—	—	(3,834)
Net income	—	—	—	20,384	—	20,384
Foreign currency translation income, net	—	—	—	—	1,321	1,321
Balance at June 30, 2023 (1)	16,931	$ —	$207,209	$110,725	$ 2,158	$ 320,092

HORNBECK OFFSHORE SERVICES, INC. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF CHANGES IN STOCKHOLDERS' EQUITY
(in thousands)

	Six Months Ended June 30, 2023 (Unaudited)					
	Common Stock		Additional Paid-In Capital	Retained Earnings	Accumulated Other Comprehensive Income (Loss)	Total Stockholders Equity
	Shares	Amount				
Balance at January 1, 2023 (3)	16,763	$ —	$197,006	$ 73,890	$ (64)	$ 270,832
Issuance of common stock and warrants	168	—	—	—	—	—
Stock-based compensation expense	—	—	15,118	—	—	15,118
Shares withheld for employee withholding taxes	—	—	(4,915)	—	—	(4,915)
Net income	—	—	—	36,835	—	36,835
Foreign currency translation income, net	—	—	—	—	2,222	2,222
Balance at June 30, 2023 (1)	16,931	$ —	$207,209	$110,725	$ 2,158	$ 320,092

(1) Reflects 5,554 shares of common stock and 11,377 Jones Act Warrants issued and outstanding.
(2) Reflects 5,642 shares of common stock and 11,377 Jones Act Warrants issued and outstanding.
(3) Reflects 5,386 shares of common stock and 11,377 Jones Act Warrants issued and outstanding.

HORNBECK OFFSHORE SERVICES, INC. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF CASH FLOWS
(in thousands)

	Six Months Ended June 30,	
	2024	2023
	(Unaudited)	
CASH FLOWS FROM OPERATING ACTIVITIES:		
Net income	$ 44,226	$ 36,835
Adjustments to reconcile net income to net cash provided by operating activities:		
Depreciation	18,093	11,753
Amortization	12,163	10,366
Stock-based compensation expense	4,423	15,363
Provision for (recovery of) credit losses	(34)	386
Deferred tax expense (benefit)	(110)	1,965
Amortization of deferred financing costs	—	283
Amortization of deferred contract-specific costs of sales	431	489
Accumulated paid-in-kind interest	—	7,763
Mark-to-market adjustment of creditor warrants	(696)	4,533
Gain on sale of assets	(31)	(2,566)
Changes in operating assets and liabilities:		
Accounts receivable	(19,153)	(21,295)
Other current and long-term assets	(17,750)	(3,374)
Deferred drydocking charges	(26,106)	(15,416)
Accounts payable	(4,402)	1,781
Accrued liabilities and other liabilities	15,612	13,657
Accrued interest	—	(174)
Net cash provided by operating activities	26,666	62,349
CASH FLOWS FROM INVESTING ACTIVITIES:		
Maintenance capital improvements	(9,969)	(3,782)
Growth capital expenditures	(26,313)	(32,254)
Commercial capital expenditures	(12,923)	(10,277)
Non-vessel capital expenditures	(315)	(415)
Net proceeds from sale of assets	38	2,756
Net cash used in investing activities	(49,482)	(43,972)
CASH FLOWS FROM FINANCING ACTIVITIES:		
Repayment of first-lien term loans	—	(1,870)
Cash paid in lieu of shares	(70)	(54)
Cash paid for withholding taxes on net share settlements	(3,716)	(4,915)
Principal payments under finance lease obligations	(156)	(139)
Net cash used in financing activities	(3,942)	(6,978)
Effects of foreign currency exchange rate changes on cash	(2,219)	1,494
Net increase (decrease) in cash, cash equivalents and restricted cash	(28,977)	12,893
Cash, cash equivalents and restricted cash at beginning of period	120,820	217,651
Cash, cash equivalents and restricted cash at end of period	$ 91,843	$230,544
SUPPLEMENTAL DISCLOSURES OF CASH FLOW ACTIVITIES:		
Cash paid for interest	$ 14,556	$ 15,502
Cash paid for income taxes, net of refunds	$ 13,035	$ 1,136

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, 2023. 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
Standards that have been adopted:			
ASU No. 2023-07, Segment Reporting (Topic 280): Improvements to Reportable Segment Disclosures	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.	Effective for fiscal years beginning after December 15, 2023, and interim periods within fiscal years beginning after December 15, 2024. Early adoption is permitted.	The Company adopted the annual reporting requirements under ASU No. 2023-07 on January 1, 2024 and will implement the interim disclosure requirements in fiscal year 2025. This adoption had no material impact on its consolidated financial statements.

Standard	Description	Date of Adoption	Effect on the financial statements and other significant matters
Standards that have not been adopted:			
ASU No. 2023-05, Business Combinations—Joint Venture Formations (Subtopic 805-60): Recognition and Initial Measurement	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 will adopt ASU No. 2023-05 on January 1, 2025 and elect to apply the standard prospectively. The Company does not believe implementation will have a material impact on its consolidated financial statements.
ASU No. 2023-09, Income Taxes (Topic 740): Improvements to Income Tax Disclosures	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, 2026	The Company will adopt ASU No. 2023-09 on January 1, 2026 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

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 is as follows (in thousands):

	Three Months Ended June 30,	
	2024	2023
Balance at April 1	$6,207	$5,830
Current period provision for credit losses	66	342
Write-offs	—	—
Balance at June 30	$6,273	$6,172

	Six Months Ended June 30,	
	2024	2023
Balance at January 1	$6,307	$5,786
Current period provision for (recovery of) credit losses	(34)	386
Write-offs	—	—
Balance at June 30	$6,273	$6,172

4. Revenues from Contracts with Customers

As of June 30, 2024, 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 June 30, 2024, the aggregate amount of the transaction price allocated to remaining performance obligations for such contracts totaled $110.6 million, of which $44.3 million is expected to be fully recognized in 2024, $47.8 million in 2025 and $18.5 million in 2026. These amounts are a result of multi-year vessel charters that commenced in either 2022, 2023 or 2024.

As of June 30, 2024, we had $12.3 million of deferred revenue included in current liabilities related to unsatisfied performance obligations that will be recognized during the remainder of 2024 and 2025.

Disaggregation of Revenues

The Company recognized revenues as follows (in thousands):

	Three Months Ended June 30,		Six Months Ended June 30,	
	2024	2023	2024	2023
Vessel revenues	$ 163,998	$ 135,912	$ 283,207	$ 256,487
Vessel management revenues	11,262	10,609	22,454	21,097
Shore-based facility revenues	720	377	1,115	805
	$ 175,980	$ 146,898	$ 306,776	$ 278,389

Revenues by geographic region [1] were as follows (in thousands):

	Three Months Ended June 30,				Six Months Ended June 30,			
	2024	% of Total	2023	% of Total	2024	% of Total	2023	% of Total
United States	$127,441	72.4%	$110,762	75.4%	$227,170	74.1%	$214,895	77.2%
International [2][3]	48,539	27.6%	36,136	24.6%	79,606	25.9%	63,494	22.8%
	$175,980	100.0%	$146,898	100.0%	$306,776	100.0%	$278,389	100.0%

(1) The Company attributes revenues to individual geographic regions based on the location where services are performed.

(2) International revenues of $6.7 million and $24.4 million were attributed to services performed in Mexico, and international revenues of $23.9 million and $10.6 million were attributed to services performed in Brazil for the three months ended June 30, 2024 and 2023, respectively. Revenues attributed to other countries were not individually material for the periods presented.

(3) International revenues of $12.8 million and $44.6 million were attributed to services performed in Mexico, and international revenues of $44.5 million and $17.7 million were attributed to services performed in Brazil for the six months ended June 30, 2024 and 2023, respectively. 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 June 30,		Six Months Ended June 30,	
	2024	2023	2024	2023
Customer A	16%	n/a (1)	15%	n/a (1)
Customer B	14%	20%	15%	21%
Customer C	14%	14%	16%	16%

(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 June 30,		Six Months Ended June 30,	
	2024	2023	2024	2023
Net income	$33,098	$20,384	$44,226	$36,835
Weighted-average number of shares of common stock outstanding (1)(2)	17,099	17,036	17,068	16,971
Add: Net effect of dilutive stock options, restricted stock units, and Creditor Warrants (3)(4)(5)	2,194	2,083	2,215	2,045
Weighted-average number of dilutive shares of common stock outstanding	19,293	19,119	19,283	19,016
Earnings per common share:				
Basic earnings per common share	$ 1.94	$ 1.20	$ 2.59	$ 2.17
Diluted earnings per common share	$ 1.71	$ 1.07	$ 2.29	$ 1.94

(1) The Company included 11,377 Jones Act Warrants in the weighted-average number of shares of common stock outstanding for the three and six months ended June 30, 2024 and 2023, which represents the weighted-average number of Jones Act Warrants existing at each period-end.

(2) Includes 105 and 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 and six month periods ended June 30, 2024 and 2023, respectively.

(3) Includes 171 and 163 unvested restricted stock units and 619 and 619 contingently-exercisable vested restricted stock units in the weighted average calculation for the three and six months ended June 30, 2024, respectively, and 165 and 146 unvested restricted stock units and 615 and 610 contingently-exercisable, vested restricted stock units in the weighted average calculation for the three and six months ended June 30, 2023, respectively.

(4) Includes 490 and 493 dilutive unvested stock options granted under the MIP in the weighted-average calculation for the three and six months ended June 30, 2024, respectively, and 469 and 467 dilutive unvested stock options granted under the MIP in the weighted-average calculation for the three and six months ended June 30 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.

(5) Includes 914 and 940 of in-the-money, liability-classified Creditor Warrants in the weighted-average calculation for the three and six months ended June 30, 2024, respectively, and 834 and 822 of in-the-money, liability-classified Creditor Warrants in the weighted-average calculation for the three and six months ended June 30, 2023, 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 June 30, 2024 and December 31, 2023, 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 $12.9 million and $13.5 million as of June 30, 2024 and December 31, 2023, 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):

	June 30, 2024	December 31, 2023
Offshore supply vessels and multi-purpose support vessels	$604,002	$ 510,882
Non-vessel related property, plant and equipment	25,492	19,533
Less: Accumulated depreciation	(83,909)	(65,890)
	545,585	464,525
Construction in progress (1)	79,685	137,897
	$625,270	$ 602,422

(1) Includes $10.3 million and $17.6 million of accrued accounts payable as of June 30, 2024 and December 31, 2023, 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):

	June 30, 2024	% of Total	December 31, 2023	% of Total
United States	$548,080	87.7%	$ 522,347	86.7%
International (2)	77,190	12.3%	80,075	13.3%
	$625,270	100.0%	$ 602,422	100.0%

(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 $68.8 million and $70.6 million were owned by certain Mexican subsidiaries of the Company as of June 30, 2024 and December 31, 2023, 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):

	June 30, 2024	December 31, 2023
Second Lien Term Loans due 2026 (including accumulated paid-in-kind interest)	$349,001	$ 349,001

In June 2023, we elected to stop accruing paid-in-kind interest and began cash paying the interest on the Second Lien Term Loans. Effective September 4, 2023, the Second Lien Term Loans contractually converted to full cash-pay obligations with an annual fixed interest rate of 8.25% based on our prevailing total leverage ratio, which was below 3.00 to 1.00.

The table below summarizes the Company's cash interest payments (in thousands):

	Cash Interest Payments (1)	Payment Dates
Second Lien Term Loans due 2026	$ 7,278	March 31, June 30, September 30, December 31

(1) The interest rate on the Second Lien Term Loans is variable at 8.25% or 10.25% per annum based on the Company's total leverage ratio on a quarterly basis. The amount reflected in this table is consistent with the current 8.25% interest rate applicable to the Company's current total leverage ratio.

As of June 30, 2024, certain lenders of the Second Lien Term Loans were considered related parties due to their ownership of Jones Act Warrants and/or shares of common stock of the Company.

9. Liability-Classified Warrants

The Company's outstanding Creditor Warrants are currently classified as liabilities pursuant to ASC 815, *Derivatives and Hedging*. Warrants that are classified as liabilities are 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, uses 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. The Company's third-party valuation advisors estimate 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 falls 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, the Company currently considers 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. As of June 30, 2024, every one-dollar change in the estimated fair value per share of the underlying common stock would have an approximate $1.5 million impact on the estimated fair value of the Creditor Warrants.

There were no exercises of Creditor Warrants during the three and six months ended June 30, 2024 and 2023. The estimated fair value of the Creditor Warrants was determined to be $74.8 million, or $46.97 per warrant, as of June 30, 2024, representing an increase in value since their original issuance on September 4, 2020 of approximately $66.6 million, or $41.81 per warrant.

The inputs to the Black-Scholes model utilized for the valuation of the Creditor Warrants at June 30, 2024 and December 31, 2023 were as follows:

	June 30, 2024	December 31, 2023
Fair value per share of the underlying common stock	$68.39	$ 67.23
Warrant exercise price	$27.83	$ 27.83
Remaining contractual term (years)	3.18	3.68
Expected volatility	55%	60%
Risk-free rate	4.45%	3.91%
Expected dividend yield	0%	0%

10. 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 June 30, 2024, there were 2.1 million shares reserved for issuance related to granted awards and 0.1 million shares available for future grants to eligible individuals under the MIP.

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 June 30,		Six Months Ended June 30,	
	2024	2023	2024	2023
Income before taxes	$2,584	$2,361	$4,423	$15,363
Net income	$2,368	$1,960	$4,128	$13,100
Earnings per common share:				
Basic	$ 0.14	$ 0.12	$ 0.24	$ 0.77
Diluted	$ 0.12	$ 0.10	$ 0.21	$ 0.69

In April 2024, the Company issued certain restricted stock unit awards pursuant to the MIP of which 50% immediately vested and settled upon issuance while the remaining 50% vests one year following the grant date. The Company recorded $0.3 million of stock-based compensation expense in 2024 related to the portion of the awards that immediately vested and settled upon issuance.

In March 2023, the Company issued certain restricted stock unit awards pursuant to the MIP of which 50% immediately vested and settled upon issuance while the remaining 50% vests ratably over the three-year period following the grant date. The Company recorded $10.6 million of stock-based compensation expense in 2023 related to the portion of the awards that immediately vested and settled upon issuance.

The Company recorded $0.2 million and $0.2 million of stock-based compensation expense related to restricted stock awards redeemable in cash to other accrued liabilities on the consolidated balance sheet during the six months ended June 30, 2024 and 2023, respectively.

11. Income Taxes

The Company's effective income tax expense rate for the six months ended June 30, 2024 and 2023 was 6.7% and 14.7%, respectively. The Company's current income tax expense reflects its current foreign tax liabilities and certain deferred tax liabilities that could not be offset with a reduction in the valuation allowance. The Company's effective tax rate differs from the federal statutory rate primarily due to foreign taxes and the reversal of valuation allowance for certain deferred tax assets.

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 2020. The Company has ongoing examinations by various foreign tax authorities, 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. Please see Note 12 below for further discussion regarding the relevant ongoing foreign tax examinations.

12. 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 amounted to $53.8 million in the aggregate on the settlement date. The Surety is required to cure all defaults of Gulf Island and pay all completion costs in excess of the $53.8 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 June 30, 2024, the Company had paid $5.3 million to Eastern related to the completion of these two MPSVs.

Pursuant to the settlement, the Surety is contractually required to deliver both MPSVs in 2025. However, in June 2024, the Company was provided an updated schedule by the Surety and Eastern indicating that they currently expect a six-month shipyard delay for the first of the two MPSVs. An updated delivery schedule has not yet been provided for the second vessel. Following physical delivery by Eastern, the Company expects each vessel to undergo crane and other system installations, which will make the first vessel available for commercial service in the first half of 2026 and the second vessel thereafter. The Company expects to incur an additional $91.2 million in the aggregate for outfitting, overhead and the post-delivery discretionary enhancements, of which $63.6 million solely relates to the purchase and installation of the cranes. As of June 30, 2024, the Company had incurred $0.8 million of such amounts.

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 $0.8 million and $0.5 million for potential insurance deductibles or losses associated with such claims as of June 30, 2024 and December 31, 2023, 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 2014 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 initiated an appeal process in June 2022 through the Mexican tax judicial system. As of June 30, 2024, the Company had accrued a liability totaling $2.6 million for potential losses from additional taxes, interest and penalties resulting from this assessment based upon estimates developed in collaboration with its Mexican tax advisors for the ongoing 2015 audit and appeal. The Company believes it has properly applied the applicable tax laws and has reasonably supported its positions. The ultimate impact resulting from the 2015 tax assessment and appeal process and other ongoing tax audits may materially differ from the current estimates. The Company will continue to update its estimates related to these pending proceedings as new information warrants.

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 $10.0 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.

13. Reportable Segments

The Company has one reportable segment, which encompasses all aspects of its marine transportation services business. 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 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 Adjusted EBITDA and Adjusted Free Cash Flow and generating the highest possible rate of return on invested capital without a permanent commitment to any particular geographic region or customer market.

14. 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 $1.5 million during each of the six months ended June 30, 2024 and 2023, respectively, 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 Purchasing Director. As of June 30, 2024 and December 31, 2023, the Company had accrued amounts payable to HFR, LLC totaling $0.8 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 six months ended June 30, 2024 and 2023, the Company generated $45.8 million, or 14.9%, and $59.8 million, or 21.5%, of revenues, respectively, from contracts with such customer. The Company had outstanding accounts receivable from this customer totaling $10.7 million and $8.0 million as of June 30, 2024 and December 31, 2023, respectively.

15. Subsequent Events

The Company has evaluated subsequent events through August 14, 2024, which represents the date its financial statements were available to be issued and determined that all materially relevant information known through this date was appropriately addressed within the consolidated financial statements and notes herein except for the following:

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 revolving loan commitments under the new 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, plus additional amounts if consented to by all lenders. As of August 14, 2024, there were no revolving loan amounts outstanding under the First Lien Revolving Credit Facility.

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, 2023 and 2022, 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, 2023 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, 2023 and 2022, and the results of its operations and its cash flows for each of the three years in the period ended December 31, 2023, 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 and in accordance with auditing standards generally accepted in the United States of America. 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.

Fair Value of the Creditor Warrants

Description of the Matter	As described in Note 11 to the consolidated financial statements, the Company issued 1.6 million Creditor Warrants upon emergence from voluntary reorganization under Chapter 11. The Creditor Warrants estimated fair value was $75.5 million as of December 31, 2023 and was recorded as a non-current liability on the consolidated balance sheets. The Company utilizes a Black-Scholes model to estimate the fair value of the Creditor Warrants, which uses inputs including the current estimated fair value of the underlying common stock, the exercise price, the contractual expiry term, an estimated equity volatility, a term-match risk-free rate and an expected dividend yield. Auditing management's fair value estimate of the Creditor Warrants was complex and highly judgmental due to the estimation required to determine the fair value of the Creditor Warrants. In particular, the current estimated fair value of the underlying common stock involves a high degree of subjectivity including the use of prospective financial information, weighted average cost of capital, and an exit multiple.
How We Addressed the Matter in Our Audit	To test the estimated fair value of the Creditor Warrants, we performed audit procedures that included, among others, assessing methodologies and testing the significant assumptions used in estimating the fair value of the underlying common stock, and testing the underlying data used by the Company in its analysis. For example, we compared the prospective financial information used by management in estimating the fair value of the underlying common stock to current industry and economic trends and other relevant factors, such as the Company's historical financial results. We also assessed the historical accuracy of management's prospective financial information. We involved our valuation specialists to assist in our evaluation of the methodology applied by the Company and the significant assumptions used in estimating the fair value of the underlying common stock, which is used to estimate the fair value of the Creditor Warrants.

/s/ Ernst & Young LLP

We have served as the Company's auditors since 2002.

New Orleans, Louisiana

March 14, 2024

HORNBECK OFFSHORE SERVICES, INC. AND SUBSIDIARIES
CONSOLIDATED BALANCE SHEETS
(In thousands)

	December 31, 2023	December 31, 2022
ASSETS		
Current assets:		
Cash and cash equivalents	$ 120,055	$ 217,303
Accounts receivable, net of allowance for doubtful accounts of $6,307 and $5,786, respectively	126,438	117,621
Prepaid expenses	4,870	4,190
Assets held for sale	—	146
Taxes receivable	7,961	5,956
Other current assets	11,500	12,717
Total current assets	270,824	357,933
Property, plant and equipment, net	602,422	449,249
Restricted cash	765	348
Deferred charges, net	48,336	26,778
Operating lease right-of-use-assets	22,905	24,634
Finance lease right-of-use assets	827	934
Other assets	440	344
Total assets	$ 946,519	$ 860,220
LIABILITIES AND STOCKHOLDERS' EQUITY		
Current liabilities:		
Accounts payable	$ 76,484	$ 42,975
Accrued interest	5,357	5,517
Accrued payroll and benefits	26,511	19,447
Operating lease liabilities	5,096	6,607
Finance lease liabilities	342	286
Accrued taxes payable	12,328	8,087
Deferred revenue	2,822	3,416
Other accrued liabilities	1,475	1,868
Total current liabilities	130,415	88,203
Long-term debt, net of original discount of $0 and $1,090, and deferred financing costs of $0 and $495	349,001	410,258
Deferred tax liabilities, net	1,996	103
Liability-classified warrants	75,475	64,558
Operating lease liabilities	20,309	20,100
Finance lease liabilities	351	475
Other long-term liabilities	7,679	5,691
Total liabilities	585,226	589,388
Stockholders' equity:		
Common stock: $0.00001 par value; 50,000 shares authorized; 5,554 and 5,386 shares issued and outstanding, respectively	—	—
Additional paid-in capital	210,776	197,006
Retained earnings	148,428	73,890
Accumulated other comprehensive income (loss)	2,089	(64)
Total stockholders' equity	361,293	270,832
Total liabilities and stockholders' equity	$ 946,519	$ 860,220

The accompanying notes are an integral part of these consolidated financial statements.

HORNBECK OFFSHORE SERVICES, INC. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF OPERATIONS
(In thousands, except per share data)

	Year ended December 31,		
	2023	2022	2021
Revenues:			
Vessel revenues	$528,780	$406,034	$214,680
Non-vessel revenues	44,669	45,192	41,620
	573,449	451,226	256,300
Costs and expenses:			
Operating expense	305,463	214,788	142,819
Depreciation expense	26,355	18,601	15,672
Amortization expense	21,496	10,339	2,711
General and administrative expense	66,108	58,946	40,632
Stock-based compensation expense	19,097	5,330	3,372
Terminated debt refinancing costs	3,693	—	—
	442,212	308,004	205,206
Gain on sale of assets	2,702	21,837	2,679
Operating income	133,939	165,059	53,773
Interest expense	39,802	41,172	35,794
Interest income	(9,755)	(2,832)	(510)
Net interest expense	30,047	38,340	35,284
	103,892	126,719	18,489
Other income (expense):			
Loss on early extinguishment of debt	(1,236)	(44)	—
Foreign currency loss	(1,559)	(198)	(434)
Fair value adjustment of liability-classified warrants	(10,917)	(41,408)	(15,150)
Other income	853	2,867	1,615
	(12,859)	(38,783)	(13,969)
Income before income taxes	91,033	87,936	4,520
Income tax expense	16,495	7,174	1,533
Net income	$ 74,538	$ 80,762	$ 2,987
Earnings per share:			
Basic earnings per common share	$ 4.38	$ 4.80	$ 0.20
Diluted earnings per common share	$ 3.89	$ 4.39	$ 0.19
Weighted-average basic shares outstanding	17,004	16,829	14,980
Weighted-average diluted shares outstanding	19,157	18,394	15,497

The accompanying notes are an integral part of these consolidated financial statements.

HORNBECK OFFSHORE SERVICES, INC. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME
(In thousands)

	Year ended December 31,		
	2023	2022	2021
Net income	$74,538	$80,762	$ 2,987
Other comprehensive income (loss):			
Foreign currency translation income (loss), net	2,153	867	(1,217)
Total comprehensive income	$76,691	$81,629	$ 1,770

The accompanying notes are an integral part of these consolidated financial statements.

HORNBECK OFFSHORE SERVICES, INC. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF CHANGES IN STOCKHOLDERS' EQUITY
(In thousands)

	Common Stock		Additional Paid-In Capital	Retained Earnings (Deficit)	Accumulated Other Comprehensive Income (Loss)	Total Stockholders Equity
	Shares	Amount				
Balance at January 1, 2021	14,911	$ —	$152,223	$ (9,859)	$ 286	$ 142,650
Issuance of common stock and warrants (1)	1,852	—	36,081	—	—	36,081
Stock-based compensation expense	—	—	3,372	—	—	3,372
Net income	—	—	—	2,987	—	2,987
Foreign currency translation loss, net	—	—	—	—	(1,217)	(1,217)
Balance at December 31, 2021 (2)	16,763	$ —	$191,676	$ (6,872)	$ (931)	$ 183,873
Stock-based compensation expense	—	—	5,330	—	—	5,330
Net income	—	—	—	80,762	—	80,762
Foreign currency translation income, net	—	—	—	—	867	867
Balance at December 31, 2022 (3)	16,763	$ —	$197,006	$ 73,890	$ (64)	$ 270,832
Issuance of common stock	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 (4)	16,931	$ —	$210,776	$148,428	$ 2,089	$ 361,293

(1) Consists of 183 shares of common stock and 1,568 Jones Act Warrants issued through a preemptive rights offering and 101 shares of common stock issued under the Stock Purchase Plan, net of issuance costs, in 2021. See Note 12 to these consolidated financial statements for further information regarding the preemptive rights offering and the Stock Purchase Plan.
(2) Reflects 4,652 shares of common stock and 12,111 Jones Act Warrants issued and outstanding as of December 31, 2021.
(3) Reflects 5,386 shares of common stock and 11,377 Jones Act Warrants issued and outstanding as of December 31, 2022.
(4) Reflects 5,554 shares of common stock and 11,377 Jones Act Warrants issued and outstanding as of December 31, 2023.

The accompanying notes are an integral part of these consolidated financial statements.

HORNBECK OFFSHORE SERVICES, INC. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF CASH FLOWS
(In thousands)

	Year ended December 31,		
	2023	2022	2021
CASH FLOWS FROM OPERATING ACTIVITIES:			
Net income	$ 74,538	$ 80,762	$ 2,987
Adjustments to reconcile net income to net cash provided by operating activities:			
Depreciation	26,355	18,601	15,672
Amortization	21,496	10,339	2,711
Stock-based compensation expense	19,097	5,330	3,372
Loss on early extinguishment of debt	1,236	44	—
Provision for credit losses	551	257	44
Deferred tax expense	1,340	55	14
Amortization of deferred financing costs	383	572	26
Amortization of deferred contract-specific costs	1,028	—	—
Accumulated paid-in-kind interest	7,763	30,407	29,250
Mark-to-market adjustment of creditor warrants	10,917	41,408	15,150
Gain on sale of assets	(2,702)	(21,837)	(2,608)
Changes in operating assets and liabilities:			
Accounts receivable	(8,553)	(45,467)	(20,186)
Other current and long-term assets	(3,550)	(11,454)	6,877
Deferred drydocking charges	(29,828)	(19,114)	(14,113)
Accounts payable	15,385	8,303	10,050
Accrued liabilities and other liabilities	10,819	14,540	3,408
Accrued interest	(160)	221	(3,043)
Net cash provided by operating activities	146,115	112,967	49,611
CASH FLOWS FROM INVESTING ACTIVITIES:			
Acquisition of offshore supply vessels	(128,547)	(116,047)	—
Net proceeds from sale of assets	2,898	22,925	3,145
Vessel capital expenditures	(41,609)	(14,707)	(6,581)
Non-vessel capital expenditures	(1,087)	(1,328)	(688)
Net cash used in investing activities	(168,345)	(109,157)	(4,124)
CASH FLOWS FROM FINANCING ACTIVITIES:			
Proceeds from Replacement First Lien Term Loans	—	37,500	36,750
Fees for repayment of Replacement First Lien Term Loans	(34)	—	—
Principal payments under finance lease obligations	(287)	(200)	(96)
Repayment of first-lien term loans	(70,605)	(4,436)	(18,655)
Deferred financing costs	—	11	(1,456)
Cash paid in lieu of shares	(54)	—	—
Shares withheld for employee withholding taxes	(5,058)	—	—
Rights offering proceeds from equity issued	—	—	20,000
Rights offering costs	—	—	(934)
Net cash proceeds from other equity issued	—	—	2,015
Net cash provided by (used in) financing activities	(76,038)	32,875	37,624
Effects of exchange rate changes on cash	1,437	196	(463)
Net increase (decrease) in cash, cash equivalents and restricted cash	(96,831)	36,881	82,648
Cash, cash equivalents and restricted cash at beginning of period	217,651	180,770	98,122
Cash, cash equivalents and restricted cash at end of period	$ 120,820	$ 217,651	$ 180,770
SUPPLEMENTAL DISCLOSURES OF CASH FLOW ACTIVITIES:			
Cash paid for interest	$ 32,970	$ 8,868	$ 8,467
Cash paid for income taxes, net of refunds	$ 9,311	$ 474	$ 2,399

The accompanying notes are an integral part of these consolidated financial statements.

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 Mexico, or the GoM, 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, and amounts to be rebilled to customers.

Concentration of Credit Risk

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 uncollectible accounts 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 doubtful accounts.

Activity in the allowance for doubtful accounts was as follows (in thousands):

	December 31,		
	2023	2022	2021
Balance, beginning of year	$5,786	$5,530	$ 7,643
Current period provision for credit losses	551	256	(2,107)
Write-offs	(30)	—	(6)
Balance, end of year	$6,307	$5,786	$ 5,530

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 amortized 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).

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 established valuation allowances of $264.6 million and $246.4 million against its deferred tax assets as of December 31, 2023 and 2022, respectively.

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 balance in accumulated other comprehensive income (loss) as of December 31, 2023 and 2022 relates primarily to the Company's long-term investments in its foreign subsidiaries.

Warrants

Common stock warrants are accounted for as either equity instruments or liabilities depending on the specific terms of the applicable warrant agreement. Warrants that are classified as liabilities are recorded at their estimated fair value on a recurring basis at each balance sheet date. Changes in the estimated fair value of such warrants are 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.

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. 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 for its operating leases. The Company uses the rate implicit in the lease for its finance leases.

The Company is obligated under certain operating leases for shore-based facilities, office space, temporary housing and equipment. The Company is obligated under finance leases for vehicles. 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 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 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 geographic region or customer market.

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
Standards that have been adopted:			
ASU No. 2016-13, *Financial Instruments—Credit Losses (Topic 326): Measurement of Credit Losses on Financial Instruments*	This standard requires measurement and recognition of expected credit losses for financial assets held. ASU No. 2016-13 requires modified retrospective application. Early adoption is permitted.	January 1, 2023	The Company adopted ASU No. 2016-13 on January 1, 2023. This adoption had no material impact on its consolidated financial statements.
ASU No. 2020-04, *Reference Rate Reform (Topic 848), Facilitation of the Effects of Reference Rate Reform on Financial Reporting*	The amendments in this update provide optional expedients and exceptions for applying generally accepted accounting principles (GAAP) to contracts, hedging relationships, and other transactions affected by the reference rate reform if certain criteria are met.	Effective upon issuance (March 12, 2020) and generally can be adopted at the reporting entity's election through December 31, 2024.	The Company adopted ASU No. 2020-04 on July 27, 2023. This adoption had no material impact on its consolidated financial statements.
ASU No. 2022-06, *Reference Rate Reform (Topic 848): Deferral of the Sunset Date of Topic 848*	The amendments in this update defer the sunset date of Topic 848 from December 31, 2022, to December 31, 2024.	Effective upon issuance (December 21, 2022) through December 31, 2024.	The Company adopted ASU No. 2022-06 on January 1, 2023. This adoption had no material impact on its consolidated financial statements.
Standards that have not been adopted:			
ASU No. 2023-05, *Business Combinations—Joint Venture Formations (Subtopic 805-60): Recognition and Initial Measurement*	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 will adopt ASU No. 2023-05 on January 1, 2025 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.

Standard	Description	Date of Adoption	Effect on the financial statements and other significant matters
ASU No. 2023-07, *Segment Reporting (Topic 280): Improvements to Reportable Segment Disclosures*	The amendments in this update improve reportable segment disclosure requirements, primarily through enhanced disclosures about significant segment expenses. In addition, the amendments enhance interim disclosure requirements, clarify circumstances in which an entity can disclose multiple segment measures of profit or loss, provide new segment disclosure requirements for entities with a single reportable segment, and contain other disclosure requirements. ASU No. 2023-07 requires retrospective application.	Effective for fiscal years beginning after December 15, 2023, and interim periods within fiscal years beginning after December 15, 2024. Early adoption is permitted.	The Company adopted ASU No. 2023-07 on January 1, 2024. This adoption had no material impact on its consolidated financial statements.
ASU No. 2023-09, *Income Taxes (Topic 740): Improvements to Income Tax Disclosures*	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, 2026	The Company will adopt ASU No. 2023-09 on January 1, 2026 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. 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, 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, 2023, 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, 2023, the aggregate amount of the transaction price allocated to remaining performance obligations for such contracts totaled $92.2 million, of which $76.2 million is expected to be fully recognized in 2024 and $16.0 million in 2025. These amounts are a result of multi-year vessel charters that commenced in 2022 and 2023.

As of December 31, 2023, we had $2.8 million and $0.8 million of deferred revenue included in current liabilities and other long-term liabilities, respectively, related to unsatisfied performance obligations that will be recognized during 2024 and 2025.

Disaggregation of Revenues

The Company recognized revenues as follows (in thousands):

	Year Ended December 31,		
	2023	2022	2021
Vessel revenues	$528,780	$406,034	$214,680
Vessel management revenues	43,128	42,893	39,177
Shore-based facility revenues	1,541	2,299	2,443
	$573,449	$451,226	$256,300

Revenues by geographic region[1] were as follows (in thousands):

	Year Ended December 31,					
	2023	% of Total	2022	% of Total	2021	% of Total
United States	$432,621	75.4%	$362,830	80.4%	$196,357	76.6%
International[2]	140,828	24.6%	88,396	19.6%	59,943	23.4%
	$573,449	100.0%	$451,226	100.0%	$256,300	100.0%

(1) The Company attributes revenues to individual geographic regions based on the location where services are performed.

(2) International revenues of $62.1 million, $41.3 million and $40.7 million were attributed to services performed in Mexico for the years ended December 31, 2023, 2022 and 2021, respectively. International revenues of $53.2 million, $15.4 million and $8.7 million were attributed to services performed in Brazil for the years ended December 31, 2023, 2022 and 2021, respectively. Revenues attributed to other countries were not individually material for the periods presented.

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):

	Year Ended December 31,		
	2023	2022	2021
Net income	$74,538	$80,762	$ 2,987
Weighted-average number of shares of common stock outstanding (1) (2)	17,004	16,829	14,980
Add: Net effect of dilutive stock options, restricted stock units, and Creditor Warrants (3)(4)(5)	2,153	1,565	517
Weighted-average number of dilutive shares of common stock outstanding	19,157	18,394	15,497
Earnings per common share:			
Basic earnings per common share	$ 4.38	$ 4.80	$ 0.20
Diluted earnings per common share	$ 3.89	$ 4.39	$ 0.19

(1) The Company included 11,377, 11,488 and 10,588 Jones Act Warrants in the weighted-average number of shares of common stock outstanding for the years ended December 31, 2023, 2022 and 2021, 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, 105 and 53 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, 2023, 2022 and 2021, respectively. See Note 13 to these consolidated financial statements for further information regarding the equity-settled restricted stock units granted under the MIP.

(3) Includes 196, 254 and 257 unvested restricted stock units and 611, 380 and 128 vested 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, subject to certain employment requirements of the grantee, for the years ended December 31, 2023, 2022 and 2021, respectively. See Note 13 to these consolidated financial statements for further information regarding the equity-settled restricted stock units granted under the MIP.

(4) Includes 476, 403 and 83 dilutive unvested stock options granted under the MIP in the weighted-average calculation for the years ended December 31, 2023, 2022 and 2021, 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 870 and 488 of in-the-money, liability-classified Creditor Warrants in the weighted-average calculation for the years ended December 31, 2023 and 2022, respectively. Excludes 1,592 of out-of-the-money, liability-classified Creditor Warrants for the year ended December 31, 2021. See Note 11 to these consolidated financial statements for further information regarding the Creditor Warrants.

6. Defined Contribution Plan

The Company offers a 401(k) plan to all full-time employees. Employees must be at least eighteen years of age and are eligible to participate the first of the month following their date of hire. Participants may elect to defer up to 60% of their compensation, subject to certain statutorily established limits. The Company may elect to make annual matching and profit sharing contributions to the 401(k) plan. In response to weak market conditions at the advent of the offshore industry downturn that began in October 2014, the Company ceased matching contributions to the 401(k) plan and did not match any contributions in 2015 through 2019 and then

again in 2021. Effective January 1, 2022, the Company reinstated a discretionary match of employee contributions to the 401(k) plan. During the years ended December 31, 2023 and 2022, the Company made contributions to the 401(k) plan of approximately $5.6 million and $2.6 million, respectively.

7. Property, Plant and Equipment

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

	December 31,	
	2023	2022
Offshore supply vessels and multi-purpose support vessels	$510,882	$437,561
Non-vessel related property, plant and equipment	19,533	15,964
Less: Accumulated depreciation	(65,890)	(39,842)
	464,525	413,683
Construction in progress (1)	137,897	35,566
	$602,422	$449,249

(1) Includes $17.6 million and $7.7 million of accrued accounts payable as of December 31, 2023 and 2022, respectively. These amounts were excluded from the statement of cash flows as non-cash items for the respective periods.

The following table presents the net book value of property, plant and equipment by geographic region(1) (in thousands):

	As of December 31,			
	2023	% of Total	2022	% of Total
United States	$522,347	86.7%	$365,769	81.4%
International(2)	80,075	13.3%	83,480	18.6%
	$602,422	100.0%	$449,249	100.0%

(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 $70.6 million and $74.5 million were owned by certain Mexican subsidiaries of the Company as of December 31, 2023 and 2022, respectively. Property, plant and equipment attributed to other countries were not individually material as of any of the dates presented. No other individual foreign location accounted for a material portion of property, plant and equipment as of any of the dates presented.

Vessel Construction

During the first quarter of 2018, the Company notified Gulf Island Shipyards, LLC, or Gulf Island, the shipyard that was constructing the remaining two vessels in the Company's fifth OSV newbuild program, that it was terminating the construction contracts for such vessels based on the shipyard's statements that it would be more than one year late in the delivery of the vessels, among other reasons. On October 2, 2018, Gulf Island filed suit against the Company in the 22nd Judicial District Court for the Parish of St. Tammany in the State of Louisiana, claiming that the Company's termination was improper. In October 2023, the Company entered into a final settlement agreement with Zurich American Insurance Company and Fidelity & Deposit Company of Maryland, together the Surety, and Gulf Island. Pursuant to the settlement agreement, 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. Gulf Island released all claims asserted against the Company and the Company released its claims against Gulf Island and the Surety. The Company is obligated to pay only the remaining portion of the original shipyard contract price for the two MPSVs, which amounts to $53.8 million in the aggregate. The Surety is required to cure all defaults of Gulf Island and pay all completion costs in excess of the $53.8 million remaining contract price, excluding approved change orders. In addition, the Company is currently exploring discretionary post-delivery enhancements to add, among other things, secondary cranes to both vessels. On December 20, 2023, Eastern Shipbuilding Group, Inc. was contracted by the Surety to complete the construction of the two MPSVs. Pursuant to the settlement, the Surety is required to deliver both MPSVs in 2025.

8. Assets Held for Sale

Pursuant to ASC 360, *Property, Plant, and Equipment*, the Company considers an asset to be held for sale when all of the following criteria are met: (i) management commits to a plan to sell the asset, (ii) the asset is available for immediate sale in its present condition, (iii) actions required to complete the sale of the asset have been initiated, (iv) the sale of the asset is probable and the sale is expected to be completed within one year, (v) the asset is being actively marketed for sale at a price that is reasonable given its current fair value, and (vi) it is unlikely that the plan to sell will be significantly modified or withdrawn.

Upon designation as held for sale, an asset is recorded at the lower of its carrying value or estimated fair value, less estimated costs to sell, as of the reporting date. If at any time the above criteria are no longer met, subject to certain exceptions, the asset previously classified as held for sale is reclassified as held and used and measured individually at the lower of: (i) the carrying amount before being classified as held for sale, adjusted for any depreciation expense that would have been recognized had the asset been continuously classified as held and used, or (ii) the fair value at the date of the subsequent decision to not sell.

The Board of Directors previously approved a plan to scrap or sell certain low-spec and mid-spec vessels. The Company sold all but two such vessels during 2021, 2022 and 2023 for net gains of $2.2 million, $20.5 million, and $0.8 million, respectively. The Company consummated the sale of four low-spec vessels for net proceeds totaling $2.7 million in 2021, seven low-spec and three mid-spec vessels for net proceeds totaling $21.5 million in 2022 and two low-spec vessels for net proceeds totaling $1.0 million in 2023. In 2021, 2022, and 2023, the Company also sold certain non-vessel assets for proceeds of $0.5 million, $1.3 million, and $2.0 million, at net gains of $0.5 million, $1.3 million, $1.9 million, respectively.

As of December 31, 2022, the Company had two vessels that met all of the held-for-sale criteria and were included in assets held for sale on the consolidated balance sheet at an aggregate carrying value of $0.1 million, which represented their estimated net scrap value. Based on current assessments, the Company did not have any vessels that met the held-for-sale criteria as of December 31, 2023.

9. Vessel Acquisitions

ECO Acquisitions #1

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 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.

As of December 31, 2023, the Company had paid $82.2 million for the original purchase price and $1.7 million in purchase price adjustments associated with discretionary enhancements of the ECO Acquisitions #1 vessels, prior to the $1.5 million termination fee paid by ECO. In addition, the Company had incurred $4.8 million of costs associated with additional outfitting of the six vessels through the fourth quarter of 2023. The Company expects to incur an additional $0.1 million related to post-closing modifications of the sixth vessel during the first quarter of 2024.

MARAD Acquisition and SOV/Flotel Conversion

On February 4, 2022, the Company completed the acquisition of three high-spec new generation OSVs from the U.S. Department of Transportation's Maritime Administration, or MARAD, for an aggregate price of $37.2 million. All three vessels are U.S.-flagged, Jones Act-qualified, 280 class DP-2 OSVs with cargo-carrying capacities of circa 4,500 DWT. In September 2022, the Company placed two of these vessels into service for immediate time charters in the U.S. GoM. Since taking physical delivery of the vessels from MARAD, the Company has incurred approximately $27.1 million for the reactivation and regulatory drydockings of all three vessels. The Company has also incurred $23.5 million, excluding capitalized interest, associated with the conversion of the third vessel into a dual-use SOV/flotel to support the domestic offshore wind and oilfield markets. The Company currently expects to spend an additional $54.2 million toward the SOV/flotel conversion of the third vessel, which is expected to be completed by mid-year 2025.

ECO Acquisitions #2

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. Payment of 10% of the purchase price for each vessel was made upon arrival of such vessel to the shipyard and the remaining 90% was paid at the closing and delivery of each vessel. The Company took delivery of the first five vessels during 2023.

As of December 31, 2023, the Company had paid $86.7 million, including deposits, of the original purchase price and $0.8 million in purchase price adjustments associated with discretionary enhancements for the ECO Acquisitions #2 vessels. In addition, the Company had incurred $4.1 million of costs associated with additional outfitting of the six vessels through the fourth quarter of 2023.

In January 2024, the Company took delivery of the sixth vessel and paid $15.3 million for the remaining 90% of the original purchase price and $0.1 million for purchase price adjustments related to discretionary enhancements. The Company expects to incur an additional $4.4 million related to additional outfitting, discretionary enhancements and post-closing modifications of these vessels during the first quarter of 2024 for these acquired vessels.

The Company has determined that substantially all of the fair value of the assets acquired from ECO, MARAD and Nautical are concentrated in a group of similar identifiable assets and therefore, will account 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, 2023	December 31, 2022
Replacement First Lien Term Loans due 2025, net of original issue discount of $0 and $1,090 and deferred financing costs of $0 and $495	$ —	$ 69,020
Second Lien Term Loans due 2026 (including accumulated paid-in-kind interest)	349,001	341,238
	$349,001	$410,258

The table below summarizes the Company's cash interest payments (in thousands) based on the most recent payment amount:

	Cash Interest Payments (1)	Payment Dates
Second Lien Term Loans due 2026	$ 7,278	March 31, June 30, September 30, December 31

(1) The interest rate on the Second Lien Term Loans is variable at either 8.25% or 10.25% per annum based on the Company's total leverage ratio on a quarterly basis. The amount reflected in this table is consistent with the interest applicable to the Company's total leverage ratio for the quarter ended December 31, 2023.

The Company incurred $41.0 million of interest related to debt instruments in 2023 of which $1.5 million related to certain capital projects was capitalized to the consolidated balance sheet as of December 31, 2023. In 2022 and 2021, the Company incurred $40.1 million and $34.7 million of interest related to debt instruments, respectively, but recorded no capitalized interest during such years.

Annual maturities of debt during each year ending December 31, are as follows (in thousands):

2024	$ —
2025	—
2026	349,001
2027	—
2028	—
Thereafter	—
	$349,001

Second Lien Term Loans

The Second Lien Credit Agreement, as subsequently amended, was entered into by and among the Company, as Parent Borrower, Hornbeck Offshore Services. LLC, or HOS, as Co-Borrower, the prepetition 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 initially outstanding as of September 4, 2020. The Second Lien Term Loans will mature on March 31, 2026. The Company may voluntarily prepay, in whole or in part, any amounts due under the Second Lien Credit Agreement without penalty prior to maturity. The Second Lien Term Loans are guaranteed by certain of the Company's domestic and foreign subsidiaries and are secured by a security interest in, and lien on, substantially all of the Company's property (whether tangible, intangible, real, personal or mixed). The Second Lien Credit Agreement continues to permit the Company to incur up to

$75 million of first lien senior secured debt that would be senior in priority to the Second Lien Term Loans, subject to certain terms and conditions set forth in the Second Lien Credit Agreement. Until such time as any future first lien senior secured debt is entered into by the Company, the Second Lien Term Loans are effectively first lien senior secured in priority. The credit agreement contains customary representations and warranties, covenants and events of default, and one maintenance covenant, which is a $25 million minimum liquidity requirement.

For the time periods set forth below, borrowings accrued or accrue interest at a cash rate or cash plus paid-in-kind (PIK) rate, at the Company's option, but in no event to exceed the highest lawful rate:

Time Period	Cash Interest Only	Cash Interest and PIK Interest
From September 4, 2020 until September 4, 2022	9.25% per annum	1.00% per annum cash interest plus 9.50% per annum PIK interest
From the September 4, 2022 until September 4, 2023	10.25% per annum	2.50% per annum cash interest plus 9.00% per annum PIK interest
From and after September 4, 2023	If the Total Leverage Ratio is greater than or equal to 3.00:1.00, 10.25% per annum	PIK option not available
	If the Total Leverage Ratio is less than 3.00:1.00, 8.25% per annum	PIK option not available

The outstanding balance of Second Lien Term Loans increased by $7.8 million, $30.4 million and $29.3 million as a result of accumulated PIK interest incurred during 2023, 2022 and 2021, respectively. This increase in Second Lien Term Loans was reduced by $15.0 million in 2021 in connection with the preemptive rights offering of equity discussed below.

On December 22, 2021, the Company concluded a preemptive rights offering of equity to certain eligible stockholders and Jones Act Warrant holders. As a result, certain related party lenders converted $15.0 million in the aggregate principal amount of the Second Lien Term Loans in lieu of cash payments to acquire a total of 750,000 shares of common stock and Jones Act Warrants at a purchase price of $20.00 per share or warrant. See Note 12 to these consolidated financial statements for further information regarding the preemptive rights offering.

In June 2023, the Company elected to stop accruing PIK interest and began paying the full amount of interest in cash on the Second Lien Term Loans. Effective September 4, 2023, the PIK option on the Second Lien Term Loans is no longer available and interest payments have converted to full cash-pay obligations with an annual interest rate of 8.25% or 10.25% depending on the prevailing Total Leverage Ratio. As of December 31, 2023, the Total Leverage Ratio remains below 3.0, resulting in the applicable lower annual interest rate of 8.25%. The carrying value of the Company's Second Lien Term Loans approximates their fair value (a level 2 measurement).

As of December 31, 2023, certain lenders of the Second Lien Term Loans were considered related parties due to their ownership of Jones Act Warrants and/or shares of common stock.

Replacement First Lien Term Loans

On September 4, 2020, the Company entered into that certain first lien term loan credit agreement (as amended and restated pursuant to that certain Amendment No. 1 to First Lien Credit Agreement and Amendment

No. 1 to the Effective Date Junior Lien Intercreditor Agreement, dated December 22, 2021, as further amended pursuant to that certain First Amendment to Restated First Lien Credit Agreement, dated June 6, 2022, as further amended pursuant to that certain Interest Rate Replacement Index Agreement and Second Amendment to First Lien Credit Agreement, dated July 27, 2023), or the First Lien Credit Agreement, with Hornbeck Offshore Services, LLC, as co-borrower, Wilmington Trust, National Association, as administrative agent and collateral agent, and the lenders from time to time party thereto. The initial aggregate principal amount of the initial term loans under the First Lien Credit Agreement, or the Existing Initial Term Loans, was $18.7 million. In connection with the First Lien Credit Agreement, certain lenders agreed to make additional first lien term loans in an aggregate principal amount of $37.5 million and delayed draw term loans in an aggregate principal amount of $37.5 million, or together the Replacement First Lien Term Loans, the proceeds of which were applied to, among other things, repay in full the outstanding principal amount of the Existing Initial Term Loans. Pursuant to ASC 470-50, *Debt – Modification and Extinguishments,* the repayment of the Existing Initial Terms Loans qualified as a debt extinguishment and was accounted for accordingly.

On August 31, 2023, the Company repaid the full $68.7 million then-outstanding principal balance of the Replacement First Lien Term Loans and terminated the obligations and commitments under the First Lien Credit Agreement. As a result, the Company incurred a $1.2 million loss on early extinguishment of debt; most of which related to the write-off of deferred issuance costs and original issue discount.

Postponed Debt Refinancing

In the second quarter of 2023, the Company postponed plans to refinance all of its then-existing debt. As a result, the Company recorded a non-recurring charge of $3.7 million for 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.

11. Liability-Classified Warrants

Jones Act Warrants

On September 4, 2020, the Company entered into the Jones Act Warrant Agreement, pursuant to which the Company issued 10.5 million Jones Act Warrants. Upon issuance, the Jones Act Warrants were classified as liabilities due to certain anti-dilution provisions in the Jones Act Warrant Agreement, which indexed the warrants to other equity-linked instruments. On December 31, 2020, the Jones Act Warrant Agreement was amended to remove those provisions. As a result, the Jones Act Warrants were reclassified to equity as of December 31, 2020. See Note 12 for further information regarding the Jones Act Warrants.

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. 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, or up to 1.6 million shares in the aggregate, or (ii) one Jones Act Warrant 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 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.

In order to prevent dilution of the rights granted to the Creditor Warrants and to provide the warrant holders certain additional rights, shares obtainable upon exercise of the Creditor Warrants are subject to a proportionate adjustment in the event the Company executes any of the following actions:

- Issues shares of common stock, options or convertible securities for an amount per share below the then-current market price;
- Repurchases shares of common stock above the then-current market price;
- Effects a subdivision of the outstanding shares of common stock into a greater number of shares;
- Effects a combination of the outstanding shares of common stock into a smaller number of shares; or
- Issues a dividend or distribution in shares of common stock, cash or property to stockholders.

In the event of an adjustment to the number of shares pursuant to the above, the exercise price of the Creditor Warrants will be adjusted by a proportionate amount. Furthermore, if the terms of any option or convertible security: (i) that resulted in an adjustment pursuant to the first bulleted item above are revised, the number of shares issuable upon exercise of the Creditor Warrants will be readjusted to the number of shares that would have been obtainable had such revised terms been in effect upon the original issuance date of such option or convertible security; (ii) that did not result in an adjustment pursuant to the first bulleted item above are revised such that the consideration per share is less than the then-current market price of common stock, the number of shares issuable upon exercise of the Creditor Warrants will be adjusted to the number of shares that would have been obtainable had such revised terms been in effect upon the original issuance date of such option or convertible security. Based on the above anti-dilution provisions, the Creditor Warrants are classified as liabilities pursuant to ASC 815, *Derivatives and Hedging*, as of December 31, 2023 and 2022.

There were no exercises of Creditor Warrants during the years ended December 31, 2023, 2022 and 2021.

The following table reflects the Creditor Warrants measured at fair value on a recurring basis as of December 31, 2023 and 2022 (in thousands):

	December 31, 2023			
	Level 1	Level 2	Level 3	Total
Liability-classified warrants	$ —	$ —	$75,475	$75,475
Liabilities at fair value	$ —	$ —	$75,475	$75,475

	December 31, 2022			
	Level 1	Level 2	Level 3	Total
Liability-classified warrants	$ —	$ —	$64,558	$64,558
Liabilities at fair value	$ —	$ —	$64,558	$64,558

To estimate the fair value of the Creditor Warrants, the Company uses 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. The Company, assisted by third-party valuation experts, estimated the fair value of the underlying common stock using the income approach and the market approach with each equally weighted. The income approach involved 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 falls 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.

The inputs to the Black-Scholes model utilized for the valuation of the Creditor Warrants at December 31, 2023 and 2022 are as follows:

	December 31,	
	2023	2022
Fair value per share of the underlying common stock	$67.23	$55.53
Warrant exercise price	27.83	27.83
Remaining contractual term (years)	3.68	4.68
Expected volatility	60%	70%
Risk-free rate	3.91%	3.95%
Expected dividend yield	0%	0%

The estimated fair value of the Creditor Warrants was determined to be $75.5 million, or $47.40 per warrant, as of December 31, 2023, representing an increase in value since their original issuance on September 4, 2020 of approximately $67.3 million, or $42.24 per warrant.

The following table summarizes the change in fair value of the liability-classified warrants for the years ended December 31, 2023, 2022 and 2021 (in thousands):

	December 31,		
	2023	2022	2021
Beginning balance	$64,558	$23,150	$ 7,794
Issuances	—	—	206
Revaluations included in earnings, net	10,917	41,408	15,150
Exercises	—	—	—
Forfeitures/expirations	—	—	—
Ending balance	$75,475	$64,558	$23,150

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. As of December 31, 2023 and 2022, the Company had issued and outstanding common shares totaling 5.6 million and 5.4 million, respectively.

Preemptive Rights Offering

On December 22, 2021, the Company concluded a preemptive rights offering of equity to certain eligible stockholders and Jones Act Warrant holders. As a result, the Company received gross cash proceeds of $20.0 million and converted $15.0 million in the aggregate principal amount of the Second Lien Term Loans in lieu of cash for the issuance of 182,987 shares of common stock and 1.6 million Jones Act Warrants at a purchase price of $20.00 per share or warrant. The Company incurred $0.9 million in direct incremental issuance costs that were recorded as a reduction of additional paid-in capital.

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. Concurrent with the closing of the preemptive rights offering on December 22, 2021, the Company issued 100,745 shares of common stock under the SPP for gross cash proceeds of $2.0 million.

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 prepetition 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, 2023, holders of the Jones Act Warrants are entitled to acquire up to 11.4 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 adjustment as described in the Jones Act Warrant Agreement. There were no exercises of Jones Act Warrants during the year ended December 31, 2023 and 734,340 of such exercises during the year ended December 31, 2022.

On December 31, 2020, the Jones Act Warrant Agreement was amended to remove certain anti-dilution provisions. As a result, the Jones Act 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 then-outstanding warrants or on the date of issuance for all subsequent issuances, which totaled $131.5 million as of December 31, 2023 and 2022.

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, 2023, there were 2.1 million shares reserved for issuance related to granted awards and 0.1 million shares available for future grants to eligible individuals under the MIP.

The financial impact of stock-based compensation expense related to the MIP on its operating results is reflected in the table below (in thousands, except for per share data):

	Year Ended December 31,		
	2023	2022	2021
Income before taxes	$19,097	$5,330	$3,372
Net income	$15,637	$4,895	$2,228
Earnings per common share:			
Basic	$ 0.92	$ 0.29	$ 0.15
Diluted	$ 0.82	$ 0.27	$ 0.14

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, 2023, 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 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 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, 2023, the Company has unamortized stock-based compensation expense of $13.2 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 1.8 years. The Company has recorded approximately $18.7 million, $5.0 million and $3.0 million of non-cash incentive compensation expense for the years ended December 31, 2023, 2022 and 2021, respectively, associated with restricted stock unit awards. In 2023, $0.3 million of stock-based compensation expense related to restricted stock awards redeemable in cash was recorded to other accrued liabilities on the consolidated balance sheet.

The following table summarizes the Company's restricted stock unit awards activity during the year ended December 31, 2023 (in thousands, except per share data):

	Number of Shares	Weighted Avg. Fair Value Per Share
Restricted stock unit awards as of January 1, 2023	1,065	$ 18.80
Granted during the period	393	53.90
Cancellations during the period	—	—
Vested and settled during the period	(265)	51.08
Outstanding, as of December 31, 2023	1,193	$ 23.20

The following table summarizes the Company's restricted stock unit awards activity during the year ended December 31, 2022 (in thousands, except per share data):

	Number of Shares	Weighted Avg. Fair Value Per Share
Restricted stock unit awards as of January 1, 2022	724	$ 10.11
Granted during the period (1)	341	37.24
Cancellations during the period	—	—
Vested and settled during the period	—	—
Outstanding, as of December 31, 2022	1,065	$ 18.80

(1) Comprised of 205 shares at a fair value of $42.97 per share and three tranches of 136 shares, in the aggregate, at a weighted- average fair value of $28.56 per share granted on June 9, 2022.

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. 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 options that could be received by an award recipient 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, 2023, the Company has unamortized stock-based compensation expense of $1.3 million related to such stock options, which will be recognized on a straight-line basis over the remaining vesting period, or 3.5 years. The Company has recorded approximately $0.4 million of non-cash incentive compensation expense for each of the years ended December 31, 2023, 2022 and 2021, associated with stock options.

The following table represents the Company's stock option activity for the year ended December 31, 2023 (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, 2023	598	$ 10.00	7.7	$ 27,227
Grants	—	—	—	—
Exercised	—	—	—	—
Forfeited or expired	—	—	n/a	n/a
Stock options outstanding at December 31, 2023	598	$ 10.00	6.7	$ 34,224
Exercisable stock options outstanding at December 31, 2023	—	$ —	—	$ —

The following table represents the Company's stock option activity for the year ended December 31, 2022 (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, 2022	598	$ 10.00	8.7	$ 8,821
Grants	—	—	—	—
Exercised	—	—	—	—
Forfeited or expired	—	—	n/a	n/a
Stock options outstanding at December 31, 2022	598	$ 10.00	7.7	$ 27,227
Exercisable stock options outstanding at December 31, 2022	—	$ —	—	$ —

14. Income Taxes

The net long-term deferred tax liabilities in the accompanying consolidated balance sheets include the following components (in thousands):

	Year Ended December 31,	
	2023	2022
Deferred tax liabilities:		
Deferred charges and other liabilities	$ 8,081	$ 1,117
Total deferred tax liabilities	8,081	1,117
Deferred tax assets:		
Fixed assets	(13,572)	(73,122)
Net operating loss carryforwards	(93,865)	(87,959)
Allowance for doubtful accounts	(1,818)	(798)
Stock-based compensation expense	(3,577)	(2,316)
Tax original issue discount and restructuring costs	(7,396)	(10,037)
Right-of-use liability	(69,397)	(23,063)
Foreign tax credit carryforward	(31,423)	(17,126)
Interest expense limitation	(34,882)	(26,426)
Other	(14,751)	(6,562)
Total deferred tax assets	(270,681)	(247,409)
Valuation allowance	264,596	246,395
Total deferred tax liabilities, net	$ 1,996	$ 103

The components of the income tax expense (benefit) in the accompanying consolidated statements of operations were as follows (in thousands):

	Year Ended December 31,		
	2023	2022	2021
Current tax expense (benefit):			
U.S.—federal and state	$ 33	$ —	$ —
Foreign	15,122	7,119	1,519
Current tax expense (benefit)	15,155	7,119	1,519
Deferred tax expense (benefit):			
U.S.—federal and state	1,340	55	14
Foreign	—	—	—
Deferred tax expense (benefit)	1,340	55	14
Total tax expense (benefit)	$16,495	$7,174	$1,533

Income (loss) from operations before income taxes, based on jurisdiction earned, was as follows (in thousands):

	For The Year Ended December 31,		
	2023	2022	2021
U.S.	$65,022	$73,563	$ 6,707
Foreign	26,011	14,373	(2,187)
Total income from operations before income taxes	$91,033	$87,936	$ 4,520

As of December 31, 2023, 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, 2023	Expiration Years
United States—federal (1)	$ 264,819	None
U.S. states	79,826	None
Mexico	52,308	2027-2033
Brazil (2)	13,767	None
Trinidad	39,646	None

(1) This total includes $5.9 million of NOLs that expire between 2031 and 2033.
(2) 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 $30.0 million, which if not utilized will expire in 2024 through 2033.

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 $66.5 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 recording a valuation allowance with respect to such NOLs and foreign tax credits, the Company assessed the favorable and unfavorable evidence to estimate whether sufficient future taxable income will be generated to

permit use of the existing deferred tax assets. A significant piece of the unfavorable evidence evaluated during the fourth quarter of 2022 was the cumulative pre-tax loss that was incurred over the three-year period ended December 31, 2022. Such objective evidence limits the ability to consider other subjective evidence, such as the Company's projections of future earnings. As of December 31, 2023, the Company is no longer in a cumulative pre-tax loss position. However, the Company has concluded that it is proper to provide valuation allowances against most of its deferred tax assets, as significant unfavorable evidence currently outweighs positive evidence. Positive evidence of an improving market and increasing dayrates currently does not outweigh unfavorable evidence such as the Section 382 and 383 limitations on tax attributes, possible tax legislation allowing for accelerated tax deductions and potential incremental tax losses, entering new markets with increased operational risks, and the inherent volatility and unpredictability of taxable income forecasts associated with the oil and gas industry. As of December 31, 2023 and 2022, the Company had valuation allowances of $264.6 million and $246.4 million, respectively.

The Company is no longer subject to tax audits by federal, state or local taxing authorities for years prior to 2019. The Company has ongoing examinations by various foreign tax authorities, 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.

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):

	For The Year Ended December 31,		
	2023	2022	2021
U.S. federal statutory rate	$19,117	$ 18,466	$ 950
U.S. state taxes, net	1,548	1,495	45
Non-deductible expense	3,137	9,570	3,512
Change in valuation allowance	(5,852)	(23,357)	3,275
Remeasurement of deferred taxes	—	(757)	(1,731)
Return to accrual	(464)	256	(4,368)
Uncertain tax positions	(189)	571	(61)
Foreign taxes and other	(802)	930	(89)
	$16,495	$ 7,174	$ 1,533

The Company records U.S. federal and state deferred taxes using a blended tax rate of 22.7%. During 2021, the Company recorded a $1.7 million deferred tax benefit due to a Louisiana law change that disallows a state deduction for federal income taxes. During 2022, the Company revalued its Louisiana net operating losses to reflect new tax rates effective for 2022.

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, 2021	$1,027
Additions based on tax positions related to the current year	571
Reductions, net based on tax positions related to a prior year	(68)
Balance at December 31, 2022	1,530
Reductions, net based on tax positions related to a prior year	(189)
Balance at December 31, 2023	$1,341

(1) Penalties and interest of $0.5 million and $1.2 million were recorded in the consolidated statements of operations for uncertain tax positions for the years ended December 31, 2023 and 2021, respectively. There

were no such amounts recorded in 2022. As of December 31, 2023 and 2022, the cumulative amount of penalties and interest related to uncertain tax positions reflected in the consolidated balance sheets totaled $1.7 million and $1.2 million, respectively.

15. Leases

Lease expenses for operating leases are recorded in general and administrative and operating expenses. Lease expenses 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,		
	2023	2022	2021
Finance lease expense:			
Amortization of right-of-use assets	$ 372	$ 274	$ 131
Interest on lease liabilities	45	32	16
Operating lease expense	7,241	3,591	3,118
Short-term lease expense	2,869	843	838
Total lease expense	$10,527	$4,740	$4,103

Cash paid for amounts included in the measurement of lease liabilities was as follows (in thousands):

	Year Ended December 31,		
	2023	2022	2021
Operating cash flows from operating leases	$7,012	$3,042	$2,679
Operating cash flows from financing leases	45	40	202
Financing cash flows from financing leases	287	200	96

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
2024	$ 5,309	$ 354
2025	3,424	247
2026	3,474	127
2027	3,365	28
2028	3,298	—
Thereafter	17,457	—
Total lease payments	36,327	756
Less: imputed interest	10,922	63
Total lease liabilities	$ 25,405	$ 693
Weighted-average remaining lease term (in years)	8.65	2.36
Weighted-average discount rate	8.4%	6.4%

16. Commitments and Contingencies

Vessel Construction

In October 2023, the Company entered into a final settlement agreement with Zurich American Insurance Company and Fidelity & Deposit Company of Maryland, together the Surety, and Gulf Island. Pursuant to the settlement agreement, 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. Gulf Island released all claims asserted against the Company and the Company released its claims against Gulf Island and the Surety. The Company is obligated to pay only the remaining portion of the original shipyard contract price for the two MPSVs, which amounts to $53.8 million in the aggregate. The Surety is required to cure all defaults of Gulf Island and pay all completion costs in excess of the $53.8 million remaining contract price, excluding approved change orders. In addition, the Company is currently exploring discretionary post-delivery enhancements to add, among other things, secondary cranes to both vessels. On December 20, 2023, Eastern Shipbuilding Group, Inc. was contracted by the Surety to complete the construction of the two MPSVs. Pursuant to the settlement, the Surety is required to deliver both MPSVs in 2025.

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 $0.5 million and $0.8 million for potential insurance deductibles or losses associated with such claims as of December 31, 2023 and 2022, respectively.

Mexico Tax Audits

The Company is subject to audit by various Mexican statutory bodies, including the Mexican tax authorities, or SAT. 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 initiated an appeal process in June 2022 through the Mexican tax judicial system. As of December 31, 2023, the Company accrued a liability totaling $2.9 million for potential losses from additional taxes, interest and penalties resulting from this assessment based upon estimates developed in collaboration with its Mexican tax advisors for the ongoing 2015 audit and appeal. The Company believes it has properly applied the applicable tax laws and has reasonably supported its positions. The ultimate impact resulting from the 2015 tax assessment and appeal process may materially differ from the current estimates. The Company will continue to update its estimates as new information warrants.

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 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 $10.0 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.

17. Major Customers

In the years ended December 31, 2023, 2022, and 2021, revenues from the following customers represented 10% or more of consolidated revenues:

	Year Ended December 31,		
	2023	2022	2021
Customer A	20%	16%	n/a(1)
Customer B	16%	15%	21%

(1) Customer represented less than 10% of consolidated revenues in such year.

18. 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, 2024 and automatically extends each year thereafter on September 4th for an additional year.

19. Related Parties

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 and $1.0 million in 2023 and 2022, respectively, 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 Purchasing Director. As of December 31, 2023 and 2022, 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, 2023 and 2022, the Company generated $111.9 million and $74.0 million of revenues, respectively, from contracts with such customer, which accounted for approximately 20% and 16% of the Company's total revenues, respectively. The Company had outstanding trade accounts receivable from this customer totaling $8.0 million and $12.3 million as of December 31, 2023 and 2022, respectively.

20. Subsequent Events

The Company has evaluated subsequent events through March 14, 2024, which represents the date its financial statements were available to be issued and determined that all materially relevant information known through this date was appropriately addressed within the financial statements and notes herein.

Table of Contents

Shares

Hornbeck Offshore Services, Inc.

Common Stock

Prospectus

, 2024

J.P. Morgan

Barclays

DNB Markets

Piper Sandler

Guggenheim Securities

Raymond James

BTIG

Johnson Rice & Company

Pickering Energy Partners

Seaport Global Securities

Academy Securities

Drexel Hamilton

PART II
INFORMATION NOT REQUIRED IN PROSPECTUS

Item 13. Other Expenses of Issuance and Distribution.

The following table sets forth the expenses payable by Hornbeck Offshore Services, Inc. expected to be incurred in connection with the issuance and distribution of common stock being registered hereby (other than underwriting discounts and commissions). All of such expenses are estimates, except for the Securities and Exchange Commission, or the SEC, registration fee, the Financial Industry Regulatory Authority, or FINRA, filing fee and listing fee.

SEC registration fee	*
FINRA filing fee	*
Listing fee	*
Printing fees and expenses	*
Legal fees and expenses	*
Blue sky fees and expenses	*
Registrar and transfer agent fees	*
Accounting fees and expenses	*
Miscellaneous expenses	*
Total	$ *

* To be completed by amendment.

Item 14. Indemnification of Directors and Officers.

Section 145 of the DGCL provides that a corporation may indemnify directors and officers as well as other employees and individuals against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement in connection with any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, in which such person is made a party by reason of the fact that the person is or was a director, officer, employee or agent of the corporation (other than an action by or in the right of the corporation—a "derivative action"), if such person acted in good faith and in a manner such 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 such person's conduct was unlawful. A similar standard is applicable in the case of derivative actions, except that indemnification only extends to expenses (including attorneys' fees) incurred in connection with the defense or settlement of such action, and the statute requires court approval before there can be any indemnification where the person seeking indemnification has been found liable to the corporation. The statute provides that it is not exclusive of other indemnification that may be granted by a corporation's bylaws, disinterested director vote, stockholder vote, agreement or otherwise.

Our amended and restated certificate of incorporation provides that no director shall be liable to us or our stockholders for monetary damages for breach of fiduciary duty as a director, except to the extent such exemption from liability or limitation on liability is not permitted under the DGCL, as now in effect or as amended. Currently, Section 102(b)(7) of the DGCL requires that liability be imposed for the following:

- any breach of the director's duty of loyalty to our company or our stockholders;
- any act or omission not in good faith or which involved intentional misconduct or a knowing violation of law;
- unlawful payments of dividends or unlawful stock repurchases or redemptions as provided in Section 174 of the DGCL; and
- any transaction from which the director derived an improper personal benefit.

Our amended and restated certificate of incorporation and amended and restated bylaws provide that, to the fullest extent authorized or permitted by the DGCL, as now in effect or as amended, we will indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding

by reason of the fact that such person, or a person of whom he or she is the legal representative, is or was our director or officer, or by reason of the fact that our director or officer is or was serving, at our request, as a director, 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. We will indemnify such persons against expenses, liabilities, and loss (including attorneys' fees), judgments, fines, excise taxes or penalties under the Employee Retirement Income Security Act of 1974, penalties and amounts paid in settlement actually and reasonably incurred in connection with such action.

We have obtained policies that insure our directors and officers and those of our subsidiaries against certain liabilities they may incur in their capacity as directors and officers. Under these policies, the insurer, on our behalf, may also pay amounts for which we have granted indemnification to the directors or officers.

The underwriting agreement provides for indemnification by the underwriters of us and our officers and directors, and by us of the underwriters, for certain liabilities arising under the Securities Act or otherwise in connection with this offering.

Item 15. Recent Sales of Unregistered Securities.

Service-Related Issuances

The Company has issued 255,925 shares of common stock pursuant to the 2020 Management Incentive Plan. Additionally, since the Chapter 11 Cases, and prior to March 23, 2023, the Company has granted 597,804 stock options and 1,065,254 restricted stock units pursuant to the 2020 Management Incentive Plan.

Further, on March 23, 2023, the Board of Directors granted certain employees and directors additional restricted stock unit awards pursuant to the 2020 Management Incentive Plan, of which 196,704 shares of common stock vested immediately and an additional 196,703 shares will vest pursuant to the terms of the respective award agreements. These shares will net-settle within 60 days of the date of vesting.

The foregoing issuances were exempt from registration under Section 4(a)(2) of the Securities Act.

Additional Issuances of Securities

On December 22, 2021, the Company issued 283,732 shares of common stock and 1,567,013 Jones Act Warrants in a preemptive rights offering relating to the conversion of $15 million of outstanding indebtedness on December 22, 2021. Concurrent with the closing of the preemptive rights offering on December 22, 2021, the Company issued 100,745 shares of common stock under a Stock Purchase Plan that was established on November 29, 2021 for gross cash proceeds of $2.0 million.

The foregoing issuances were exempt from registration under Section 1145 of the Bankruptcy Code or Section 4(a)(2) of the Securities Act.

Item 16. Exhibits and Financial Statement Schedules.

Exhibit No.	Description
1.1**	Form of Underwriting Agreement.
2.1*	Plan of Reorganization Under Chapter 11 of the U.S. Bankruptcy Code.
3.1*	Third Amended and Restated Certificate of Incorporation of Hornbeck Offshore Services, Inc.
3.2*	Fifth Amended and Restated Bylaws of Hornbeck Offshore Services, Inc.
3.3**	Form of Fourth Amended and Restated Certificate of Incorporation of Hornbeck Offshore Services, Inc., to be effective upon consummation of this offering.
3.4**	Form of Sixth Amended and Restated Bylaws of Hornbeck Offshore Services, Inc., to be effective upon consummation of this offering.
4.1**	Form of Common Stock Certificate.
4.2^*	Jones Act Warrant Agreement, dated as of September 4, 2020, between Hornbeck Offshore Services, Inc. and Computershare, Inc. and Computershare Trust Company, N.A.
4.3*	Amendment No. 1 to Jones Act Warrant Agreement, dated as of December 31, 2020, by and among Hornbeck Offshore Services, Inc., Computershare Inc., Computershare Trust Company, N.A. and certain holders signatory thereto.
4.4*	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.
4.5^*	Creditor Warrant Agreement, dated as of September 4, 2020, between Hornbeck Offshore Services, Inc. and Computershare, Inc. and Computershare Trust Company, N.A.
4.6*	Securityholders Agreement, dated as of September 4, 2020, by and among Hornbeck Offshore Services, Inc. and the other parties thereto.
4.7*	Amendment No. 1 to Securityholders Agreement, dated as of December 2, 2021, by and among Hornbeck Offshore Services, Inc. and the other parties thereto.
4.8*	Amendment No. 2 to Securityholders Agreement, dated as of July 7, 2023, by and among Hornbeck Offshore Services, Inc. and the other parties thereto.
4.9**	Form of Amended and Restated Securityholders Agreement.
4.10**	Form of Registration Rights Agreement.
5.1**	Form of Opinion of Kirkland & Ellis LLP as to the legality of the common stock.
10.1**	Form of Indemnification Agreement (between Hornbeck Offshore Services, Inc. and its directors and officers).
10.2†*	2020 Management Incentive Plan of Hornbeck Offshore Services, Inc.
10.3†*	First Amendment to the 2020 Management Incentive Plan of Hornbeck Offshore Services, Inc.
10.4†**	Form of Hornbeck Offshore Services, Inc. 2024 Omnibus Incentive Plan.
10.5†**	Form of Employment Agreement (Executive Officers).
10.6†*	Amended and Restated Employment Agreement dated September 4, 2020, by and between Hornbeck Offshore Operators, LLC and Todd M. Hornbeck.
10.7†*	Amended and Restated Employment Agreement dated September 4, 2020, by and between Hornbeck Offshore Operators, LLC and James O. Harp, Jr.
10.8†*	Amended and Restated Employment Agreement dated September 4, 2020, by and between Hornbeck Offshore Operators, LLC and John S. Cook.

Exhibit No.	Description
10.9†*	Amended and Restated Employment Agreement dated September 4, 2020, by and between Hornbeck Offshore Operators, LLC and Samuel A. Giberga.
10.10†*	Amended and Restated Employment Agreement dated September 4, 2020, by and between Hornbeck Offshore Operators, LLC and Carl G. Annessa.
10.11^*	Second Lien Term Loan Credit Agreement, dated September 4, 2020, by and among Hornbeck Offshore Services, Inc., as parent borrower, Hornbeck Offshore Services, LLC, as co-borrower, Wilmington Trust, National Association, as administrative agent and collateral agent, and the lenders party thereto.
10.12*	Amendment No. 1 to Second Lien Credit Agreement and Amendment No. 1 to the Effective Date Junior Lien Intercreditor Agreement, dated December 22, 2021, by and among Hornbeck Offshore Services, Inc., as parent borrower, Hornbeck Offshore Services, LLC, as co-borrower, Wilmington Trust, National Association, as administrative agent and collateral agent, and the lenders party thereto.
10.13*	Second Amendment to Second Lien Credit Agreement, dated June 6, 2022, by and among Hornbeck Offshore Services, Inc., as parent borrower, Hornbeck Offshore Services, LLC, as co-borrower, Wilmington Trust, National Association, as administrative agent and collateral agent, and the lenders party thereto.
10.14^	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.
10.15*	Third Amended and Restated Trade Name and Trademark License Agreement, dated September 4, 2020, by and among HFR, LLC and Hornbeck Offshore Operators, LLC.
10.16**	Form of Fourth Amended and Restated Trade Name and Trademark License Agreement.
10.17*	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.
10.18*	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.
15.1	Letter from Ernst & Young LLP regarding Unaudited Interim Financial Information.
21.1**	Subsidiaries of the Registrant.
23.1	Consent of Ernst & Young LLP.
23.2**	Consent of Kirkland & Ellis LLP (included in Exhibit 5.1 to this Registration Statement).
24.1*	Powers of Attorney (included in the signature page of the initial filing of this Registration Statement).
24.2	Power of Attorney of James McConeghy.
107*	Filing Fee Table.

* Previously filed.
** To be included by amendment.
† Compensatory plan or arrangement.
^ Certain of the exhibits or schedules to this Exhibit have been omitted in accordance with Regulation S-K Item 601(a)(5). The registrant agrees to furnish a copy of all omitted exhibits and schedules to the Securities and Exchange Commission upon its request.

No financial statement schedules are provided because the information called for is not applicable or is shown in the financial statements or notes.

Item 17. Undertakings.

The undersigned registrant hereby undertakes to provide to the underwriters at the closing specified in the underwriting agreement, certificates in such denominations and registered in such names as required by the underwriters to permit prompt delivery to each purchaser.

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 Securities and Exchange Commission 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.

The undersigned registrant hereby undertakes that:

(i) For purposes of determining any liability under the Securities Act, the information omitted from the form of prospectus filed as part of this registration statement in reliance upon Rule 430A and contained in a form of prospectus filed by the registrant pursuant to Rule 424(b)(1) or (4) or 497(h) under the Securities Act shall be deemed to be part of this registration statement as of the time it was declared effective; and

(ii) For the purpose of determining any liability under the Securities Act, each post-effective amendment that contains a form of prospectus 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.

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, as amended, the registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in St. Tammany Parish, Louisiana, on August 16, 2024.

HORNBECK OFFSHORE SERVICES, INC.

By: /s/ Todd M. Hornbeck
Name: Todd M. Hornbeck
Title: Chairman of the Board, President and Chief Executive Officer

Pursuant to the requirements of the Securities Act of 1933, as amended, this registration statement and power of attorney have been signed by the following persons in the capacities indicated on August 16, 2024.

Signature	Capacity
/s/ Todd M. Hornbeck Todd M. Hornbeck	Chairman of the Board, President and Chief Executive Officer (Principal Executive Officer)
* James O. Harp, Jr	Executive Vice President and Chief Financial Officer (Principal Financial and Accounting Officer)
* Kurt M. Cellar	Lead Independent Director
* Evan Behrens	Director
* Bobby Jindal	Director
* Sylvia Jo Sydow Kerrigan	Director
* James McConeghy	Director
* Jacob Mercer	Director
* L. Don Miller	Director
* Aaron Rosen	Director

*By: /s/ Todd M. Hornbeck
Todd M. Hornbeck
Attorney-in-fact

Exhibit 10.14

Execution Version

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

TABLE OF CONTENTS

SCHEDULES

EXHIBITS

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:

Grid

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 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 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 necessaries, 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 Indemnitee means (a) any controlling person or controlled affiliate of such Indemnitee, (b) the respective directors, partners, officers, or employees of such Indemnitee or any of its controlling persons or controlled affiliates and (c) the respective agents of such Indemnitee or any of its controlling persons or controlled affiliates, in the case of this clause (c), acting at the instructions of such Indemnitee, 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) VesselsValue™ (or any successor thereof) or (b) at the Borrower's sole election, a Specified Qualified Appraiser; *provided* that, (i) if VesselsValue™ ceases to exist, (ii) if access to such information originating from VesselsValue™ 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 VesselsValue™.

"**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(l).

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 an 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 an 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 an 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, 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] 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 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 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 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 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 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.

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

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

Capital One, National Association, as Lender

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]

Exhibit 15.1

August 16, 2024

Stockholders and Board of Directors

Hornbeck Offshore Services, Inc.

We are aware of the inclusion in Amendment No. 1 to the Registration Statement (Form S-1 No. 333-275939) of Hornbeck Offshore Services, Inc. for the registration of its common stock of our report dated August 14, 2024 relating to the unaudited consolidated interim financial statements of Hornbeck Offshore Services, Inc. as of June 30, 2024 and for the three-month and six-month periods ended June 30, 2024 and 2023, that are included in its Form S-1.

/s/ Ernst & Young LLP

New Orleans, Louisiana

Exhibit 23.1

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 14, 2024 in Amendment No. 1 to the Registration Statement (Form S-1 No. 333-275939) and related Prospectus of Hornbeck Offshore Services, Inc. for the registration of shares of its common stock.

/s/ Ernst & Young LLP

New Orleans, Louisiana

August 16, 2024

Exhibit 24.2

HORNBECK OFFSHORE SERVICES, INC.

Power of Attorney

The undersigned director of Hornbeck Offshore Services, Inc. hereby constitutes and appoints Todd M. Hornbeck and James O. Harp, Jr. and each of them, any of whom may act without joinder of the other, the individual's true and lawful attorneys-in-fact and agents, with full power of substitution and resubstitution, for the person and in his name, place and stead, in any and all capacities, to sign this Registration Statement and any or all amendments, including post-effective amendments to the Registration Statement, including a prospectus or an amended prospectus therein and any Registration Statement for the same offering that is to be effective upon filing pursuant to Rule 462(b) under the Securities Act, and all other documents in connection therewith to be filed with the Securities and Exchange Commission, granting unto said 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 in and about the premises, as fully to all intents and purposes as he might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact as agents or any of them, or their substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

IN WITNESS WHEREOF, the undersigned has hereunto set the undersigned's hand this 16th day of August, 2024.

/s/ James McConeghy
James McConeghy