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May 7, 2024

Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street SW
Washington, DC 20024

Re: GMéxico Transportes, S.A.B. DE C.V. – Acquisition of Control Exemption – CG
Railway, LLC STB Finance Docket No. 36701

GW and SEACOR Reply to Board Inquiry Regarding Control of CG Railway, LLC

Dear Ms. Brown:

On April 4, 2024, the Board served a decision (the "April 4 Decision") rejecting a petition by GMéxico Transportes, S.A.B. DE C.V. to obtain authority for indirect control of CG Railway, LLC ("CGR"). CGR is currently wholly owned by Golfo de México Rail Ferry Holdings LLC, a 50/50 joint venture ("JV") between SEACOR Holdings, Inc. (through its wholly-owned subsidiary, Rail Ferry Investment Holdings Inc.) ("SEACOR") and Genesee & Wyoming Inc. (through its wholly-owned subsidiary, G&W Agave Holdings Inc.) ("GWI" or "G&W").

In its April 4 Decision, the Board directed GWI and SEACOR to explain whether the JV sought Board authority to acquire control of CGR. If no Board authority was sought, the Board requested an explanation for why not. Specifically, the Board finds: "The petition does not state how or when CGR's current owner – Golfo de México Rail Ferry Holdings LLC, described in the petition as a '50/50 joint venture' between SEACOR and GWI – acquired CGR." The Board concluded, "SEACOR and GWI are directed to inform the Board, by May 9, 2024, whether acquisition authority was sought (and provide related details) and, if authority was not sought, explain why it was not (or, alternatively, state that they will promptly seek after-the-fact acquisition authority)." April 4 Decision, slip op. at 5.

G&W and SEACOR jointly submit this letter in response to the Board's request to explain that neither G&W nor SEACOR were required to file for control of CGR because – consistent with Board precedent – neither party "controlled" CGR due to the 50/50 ownership and management structure of the JV.

A. Background: The JV that owns CGR is equally owned and managed by G&W and SEACOR.

In 2017, G&W acquired a 50% membership interest in the JV pursuant to a Membership Interest Purchase Agreement. See Amended and Restated Limited Liability Company Agreement of Golfo de Mexico Rail Ferry Holdings LLC (the "JV Agreement"), Recitals.¹ Contemporaneously with the 2017 acquisition, G&W entered into the JV Agreement with International Shipholding Corporation (an indirect subsidiary of SEACOR) to govern the 50%/50% split management and control of CGR.

Under the JV Agreement, Sections 7.1, except as specifically reserved to matters reserved to the Managers, Members do not participate in the management of control of the JV's business (which includes the CG Railway Business). Further, Section 8.1 provides that the JV is to be governed by the Board of Managers comprised equally of SEACOR and G&W designated members that "shall have exclusive and complete authority and discretion to manage the operations and affairs of [the JV] and to make all decisions regarding the business of [the JV]. The Board of Managers consists of six Managers, three to be appointed by SEACOR and three to be appointed by G&W. JV Agreement, Section 8.3(a).

The JV Agreement, Section 8.3(d) and Schedule 2 – Reserved Matters, prohibits CGR from taking any actions, decisions, incurring expenses, or obligating the JV without the written consent of both SEACOR and G&W. Specifically, Section 8.3(d) states, the JV "directly or indirectly on behalf of [the JV] or any of its subsidiaries [which would include CGR], and no officer or employee of [the JV] shall have any authority to cause or to permit [the JV] or any of its subsidiaries to take, any action, make any decision, expend any sum or undertake or suffer any obligation which comes within the scope of any of the actions set forth on Schedule 2 (each, a "Reserved Matter"), without the prior written consent of each of [SEACOR] and G&W."

Schedule 2 outlines the types of management decisions of the JV that can only be executed with the mutual consent of both SEACOR and G&W, which framework is consistent with the 50%/50% ownership structure. These decisions include, but are not limited to, (b) changes to the annual budget; (c) capital expenditures; (d) entering into contracts exceeding a certain dollar amount; (g) creating or dissolving a subsidiary; (h) adding additional members of the JV; (o) hiring or firing certain employees of the JV or any of its subsidiaries; (q) entering into or terminating any material contract; (s) any sale, lease, or disposition of CGR assets exceeding a certain dollar amount; (w) changes to organizational documents; and (x) "pursuit of a CG Business Opportunity" by the JV or any Member. Additionally, under Section 8.4, the Board of Managers is given the right to appoint such officers, agents and employees as it may deem necessary or proper.

B. The Legal Standard for Control

ICCTA defines "control" as including "actual control, legal control, and the power to exert control, through or by (A) common directors, officers, stockholders, a voting trust, or a holding or investment company or (b) any other means." 49 U.S.C. §10102(7). As the U.S. Circuit Court for the Eighth Circuit has held: "The courts have charged the Commission [now the Board] with determining on a case by case basis, whether control exists in a given situation, with due regard

¹ A "public version" of the JV Agreement is attached hereto. A "highly confidential" version of the JV Agreement is being submitted under separate cover in accordance with the Protective Order served on January 5, 2024, in this proceeding.

for the actualities and current practices of the industry involved." *Brotherhood of Ry. And Airline Clerks v. Burlington Northern, Inc.*, 722 F. 2d 380,382 n.3 (8th Cir. 1983) (citations omitted).

As noted by the Court of Appeals, under Board and ICC case law, the legal standard for control is based on the facts of each case. The Board does not consider "an arbitrary formula based upon the percentage of stock ownership" but instead it examines "factors, including distribution of the remaining stock, the ability to elect directors and otherwise control or influence decision-making machinery, and the existence of management, marketing, operating and financial ties." *Paducah & Louisville RY, Inc. – Control Exemption – Paducah & Illinois R.R. Co.* STB Finance Docket No. 33362, 1997WL 487405, *2 (served Aug. 25, 1997).

With respect to 50% interests, the ICC in *Burlington Northern, Inc.-Control and Merger-St. Louis-San Francisco Ry. Co.*, 366 I.C.C. 862, 865, 1983 WL 28006, *3 (I.C.C. 1983) ("*St. Louis-San Francisco Ry.*") accepted BN's contention that for companies in which BNSF owned 50 percent or less, it lacked the power and authority to dominate their affairs and cannot theoretically or in fact control those companies, particularly when the ICC gave consideration to the nature of the remaining ownership interests. This is consistent with other instances where a party held a 50% interest, and the Board found no control when the remaining stock is owned as a single block. *Paducah & Illinois R.R., supra*. In *St. Louis-San Francisco Ry* went on to explain that where two parties each hold a 50% interest and daily operations are managed as a cooperative joint venture. no control exists by either party:

BN's relationship to Camas Prairie is similar to its relationship to those terminal and switching companies in which it holds a 50-percent ownership interest (appendix D). Its ownership interest is matched by that of UP as is its representation on the Camas Prairie board of directors. Daily operations of the Camas Prairie are controlled by a manager who, while subject to the joint directives of the two proprietary interests, is not subject to the unilateral directives of either. The operating agreement by which this company is governed assures complete impartiality as between the two proprietary interests. The company is operated as a cooperative venture of BN and UP and can be dominated by neither.

St. Louis-San Francisco Ry., 366 I.C.C. 862, 866-867, 1983 WL 28006, *3. The ICC's standard of control and how it was applied to BN, were appealed by labor interests. defended by the Commission, and affirmed by Court of Appeals. *Brotherhood of Ry. And Airline Clerks, supra*.

C. Discussion: Neither GWI nor SEACOR exercise "control" over the JV and therefore, no STB authority was required for the JV to acquire control of CGR.

In 2017, neither GWI nor SEACOR were required to seek STB authority for the acquisition of their interests in the JV, or the JV's control of CGR, because the parties each owned an equal 50% interest in the JV (and indirectly in CGR). The direct management of the JV, and indirect management of CGR under the JV Agreement, demonstrates that neither the JV nor CGR are subject to the unilateral directives of either GWI or SEACOR.

The JV Agreement is analogous to the Board's discussion of control in *St. Louis-San Francisco Ry.* 366 I.C.C. 862, 1983 WL 28006, *3. In that case, the Board explained that control does not exist where there is a 50/50 ownership split and management assures impartiality between the two proprietary interest that is operated in a cooperative venture that can be dominated by either party. Here, GWI and SEACOR each hold a 50% ownership interest. In addition,

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management as governed by Article 8 and Schedule 2 of the JV Agreement, ensures that CGR is a cooperative venture by requiring that decision-making authority is shared equally by GWI and SEACOR.

In conclusion, for the reasons stated above, neither GWI nor SEACOR had or have an obligation under Board precedent to obtain Board authority to control the JV or indirectly control CGR.² Therefore, a commitment to filing after-the-fact authority is not appropriate at this time absent a Board order requiring the parties to do so.

I certify that a copy of this reply has been served by email on all parties of record in this proceeding.

Sincerely,



Justin J. Marks
Counsel to Genesee & Wyoming Inc.

SEACOR Holdings, Inc joins in the foregoing reply to the Board.

/s/ Raymond Atkins

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Attorneys for SEACOR Holdings, Inc.

Enclosure

cc: All parties of record.

² As a further matter, since SEACOR does not directly or indirectly control any other rail carriers, it was not required to seek authority from the Board regardless of any control findings to the contrary.

"PUBLIC VERSION"

*Subject to protective order
entered in FD 36701*

**AMENDED AND RESTATED LIMITED LIABILITY COMPANY AGREEMENT
OF GOLFO DE MEXICO RAIL FERRY HOLDINGS LLC**

**AMENDED AND RESTATED
LIMITED LIABILITY COMPANY AGREEMENT**

OF

GOLFO DE MÉXICO RAIL FERRY HOLDINGS LLC

Dated as of September 1, 2017

**AMENDED AND RESTATED
LIMITED LIABILITY COMPANY AGREEMENT
OF
GOLFO DE MÉXICO RAIL FERRY HOLDINGS LLC**

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**AMENDED AND RESTATED
LIMITED LIABILITY COMPANY AGREEMENT**

OF

GOLFO DE MÉXICO RAIL FERRY HOLDINGS LLC

This AMENDED AND RESTATED LIMITED LIABILITY COMPANY AGREEMENT of GOLFO DE MÉXICO RAIL FERRY HOLDINGS LLC, a Delaware limited liability company (the "Company"), dated as of September 1, 2017, is by and between International Shipholding Corporation, a Delaware corporation ("ISH"), and G&W Agave Holdings Inc., a Delaware corporation ("G&W"). Capitalized terms used herein and not otherwise defined herein shall have the meanings set forth in Section 2.1.

RECITALS

WHEREAS, on July 5, 2017, the Company was formed as a limited liability company under the Act by the filing of the Certificate of Formation of the Company (the "Certificate") with the office of the Secretary of State of the State of Delaware;

WHEREAS, on August 31, 2017, ISH executed the Limited Liability Agreement of the Company (the "Original Agreement") and ratified the filing of the Certificate with the office of the Secretary of State of the State of Delaware;

WHEREAS, prior to the execution and delivery of this Agreement, Frascati Shops Inc., an Alabama corporation and wholly-owned subsidiary of ISH, was liquidated and dissolved, and its assets were transferred to Central Gulf Railcar Services L.L.C., an Alabama limited liability company and wholly-owned subsidiary of ISH ("Central Gulf");

WHEREAS, prior to the date hereof, CG Railway Inc., a Delaware corporation and wholly-owned subsidiary of ISH, has been converted into a limited liability company under the name "CG Railway LLC" ("CG");

WHEREAS, contemporaneously with the execution and delivery of this Agreement, ISH contributed all of the issued and outstanding equity interests in Central Gulf and CG to the Company;

WHEREAS, contemporaneously with the execution and delivery of this Agreement, G&W purchased a fifty percent (50%) membership interest in the Company from ISH for \$ [REDACTED] pursuant to a Membership Interest Purchase Agreement between G&W and ISH dated September 1, 2017;

WHEREAS, contemporaneously with the execution and delivery of this Agreement, SEACOR Holdings Inc., a Delaware corporation and the indirect parent entity to ISH ("SEACOR"), and the Company have entered into a services agreement (the "SEACOR Services Agreement") and Genesee & Wyoming Railroad Services, Inc. and the Company have

entered into a services agreement (the "G&W Services Agreement" and, collectively with the SEACOR Services Agreement, the "Services Agreements"); and

WHEREAS, in connection with the transactions described in the preceding recitals, each of ISH and G&W (each a "Member" and, collectively, the "Members") desire to amend and restate the Original Agreement for the purposes of setting forth the amended and restated agreement governing the relations among the Members on the terms and conditions herein set forth.

AGREEMENT

NOW, THEREFORE, in consideration of the premises and the covenants contained herein, the parties hereto, intending to be legally bound, agree as follows:

ARTICLE 1. FORMATION OF THE COMPANY

Section 1.1 Formation of the Company. The Company has been formed as a Delaware limited liability company under the Act by the execution and filing of the Certificate with the Office of the Secretary of State of Delaware on July 5, 2017. The Company shall complete all filing, recording, publishing and any other act necessary or appropriate for compliance with all requirements for operation of the Company as a limited liability company under this Agreement and the Act and under all other laws of the State of Delaware and such other jurisdictions in which the Company determines that it may conduct business.

Section 1.2 Name. The name of the Company is "Golfo de México Rail Ferry Holdings LLC", as such name may be modified from time to time by the Board of Managers as it may deem advisable.

Section 1.3 Business of the Company. Subject to the limitations on the activities of the Company otherwise specified in this Agreement, the purpose and business of the Company shall be (a) to own, operate and develop the CG Railway Business, and (b) the conduct of any business or activity that may be conducted by a limited liability company organized pursuant to the Act. The Company may enter into, make and perform all contracts and other undertakings, and engage in all activities and transactions as the Board of Managers may reasonably deem necessary or advisable to carry out the foregoing.

Section 1.4 Registered Office; Location of Principal Place of Business. The registered office of the Company required by the Act to be maintained in the State of Delaware shall be the office of the initial registered agent named in the Certificate or such other office (which need not be a place of business of the Company) as the Board of Managers may designate from time to time in the manner provided by law. The location of the principal place of business of the Company shall be 2200 Eller Drive, Fort Lauderdale, Florida 33316 or such other location as may be determined by the Board of Managers. In addition, the Company may maintain such other offices as the Board of Managers may deem advisable at any other place or places within or without the State of Delaware.

Section 1.5 Registered Agent. The registered agent for the Company shall be the Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, DE 19801, New Castle County, or such other registered agent as the Board of Managers may designate from time to time.

Section 1.6 Term. The term of the Company commenced on the date of filing of the Certificate, and shall be perpetual unless the Company is earlier dissolved and terminated in accordance with the provisions of this Agreement.

ARTICLE 2. DEFINITIONS

Section 2.1 Definitions. The following terms used in this Agreement shall have the following meanings.

"Acceptance Notice" has the meaning set forth in Section 9.4(b).

"Accepted Interest" has the meaning set forth in Section 9.3(c).

"Act" means the Delaware Limited Liability Company Act, 6 Del. Code §18-101 et seq., as in effect on the date hereof and as it may be amended hereafter from time to time.

"Additional Member" has the meaning set forth in Section 8.13.

"Adjusted Capital Account" has the meaning set forth in Section 4.2(b).

"Affiliate" of another Person means any Person directly or indirectly Controlling, Controlled by or under common Control with such other Person. For purposes of the foregoing, "Control" means the possession, directly or indirectly, of the power to direct the management or policies of a Person, whether through ownership or voting of securities, by contract or otherwise. Notwithstanding the foregoing, in no event shall any Member or any of its Affiliates be deemed to be an Affiliate of any other Member or any of its Affiliates (other than the Company) solely by reason of such Member's control of the Company.

"Agreement" means this Amended and Restated Limited Liability Company Agreement, as amended, modified or supplemented from time to time.

"Annual Budget" has the meaning set forth in Section 6.3(f).

"Assignee" has the meaning set forth in Section 10.1(b).

"Available Cash" at the time of any distribution means the excess of (a) all cash then held by the Company to the extent not otherwise required to pay Company expenses over (b) the amount of reserves established by the Company in accordance with Section 5.3.

"Board of Managers" means the board of managers of the Company established pursuant to Section 8.3.

"Business Day" means any day other than a Saturday, Sunday or a day on which commercial banks are authorized or required to close in New York City, New York.

"Buyer" has the meaning set forth in Section 9.4(a).

"Buy-Sell Defaulting Member" has the meaning set forth in Section 9.10(f).

"Buy-Sell Notice" has the meaning set forth in Section 9.10(b).

"Buy-Sell Period" has the meaning set forth in Section 9.10(c).

"Buy-Sell Purchase Price" has the meaning set forth in Section 9.10(b).

"Capital Account" means with respect to each Member the account established and maintained for such Member on the books of the Company in compliance with Regulation §§ 1.704-1(b)(2)(iv) and 1.704-2, as amended. Subject to the preceding sentence, each Member's Capital Account balance shall initially equal the amount of cash and the Contribution Value of any other property contributed by such Member, which initial Capital Account balance is set forth opposite such Member's name under the heading "Initial Capital Account Balance" on its signature page hereto. Throughout the term of the Company, each Capital Account will be (i) increased by the amount of (A) income and gains allocated to such Capital Account pursuant to Article 4 and (B) the amount of any cash and the Contribution Value of any other property subsequently contributed to the Company, and (ii) decreased by the amount of (A) losses and deductions allocated to such Capital Account pursuant to Article 4 and (B) the amount of cash and the Distribution Value of any other property distributed or transferred from such Capital Account pursuant to Article 3, 5 or 10.

"Capital Contribution" means, with respect to any Member, the amount of money and the Contribution Value of any asset (other than money) contributed to the Company by such Member.

"Capital Contribution Notice" has the meaning set forth in Section 3.1(b).

"Central Gulf" has the meaning set forth in the Recitals.

"Certificate" has the meaning set forth in the Recitals.

"CG" has the meaning set forth in the Recitals.

"CG Business Opportunities" means any and all opportunities in connection with the movement of railcars by marine transportation between (i) locations in the continental United States of America [REDACTED] and (ii) the [REDACTED] (clauses (i) and (ii) collectively, the "Territory"), including, to the extent relating primarily to moving railcars by marine transportation between locations in the Territory: (A) the leasing of railcars or railcar related equipment or marine assets, (B) owning and developing rail ferry terminals in the Territory, (C) owning and developing railcar repair and transloading facilities in the Territory and (D) owning, leasing, retrofitting and refurbishing any rail ferry vessel in the Territory. For the avoidance of doubt, any railcars owned

or leased by G&W or one of its Affiliates that are moved by maritime transportation in the Territory in the ordinary course of business shall not be deemed to fall within this definition.

"CG Railway Business" shall mean the rail ferry business and related activities currently conducted by CG, Central Gulf (as successor to Frascati Shops, Inc.) and Terminales Transgolfo S.A. de C.V.

"Code" means the Internal Revenue Code of 1986, as amended from time to time (or any succeeding law).

"Company" means the limited liability company formed by the filing of the Certificate and governed by this Agreement under the name "Golfo de México Rail Ferry Holdings LLC."

"Consenting Member" has the meaning set forth in Section 8.3(e).

"Contribution Agreement" means the Contribution Agreement, dated as of the date hereof, by and between ISH and the Company.

"Contribution Value" means the Value of a Company asset contributed by a Member to the Company (net of liabilities secured by such contributed asset that the Company is treated as assuming or taking subject to).

"Control" has the meaning set forth in the definition of "Affiliate" in this Article 2.

"Covered Interest" has the meaning set forth in Section 9.3(a).

"Deadlock" has the meaning set forth in Section 8.3(e).

"Default Amount" has the meaning set forth in Section 3.5(a).

"Default Collection Costs" has the meaning set forth in Section 3.5(a).

"Default Contribution" has the meaning set forth in Section 3.5.

"Default Interest" has the meaning set forth in Section 3.5(a).

"Default Interest Rate" has the meaning set forth in Section 3.5(a).

"Default Remedy Date" has the meaning set forth in Section 3.5(a).

"Defaulting Member" has the meaning set forth in Section 3.5.

"Distribution Value" means the Value of a Company asset distributed to a Member by the Company (net of liabilities secured by such distributed asset that such Member is treated as assuming or taking subject to).

"Election Notice" has the meaning set forth in Section 9.10(c).

"ERISA" means the Employee Retirement Income Security Act of 1974, as amended from time to time, and the regulations promulgated thereunder.

"Expiration Date" has the meaning set forth in Section 9.4(b).

"Fiscal Year" has the meaning set forth in Section 6.4.

"G&W" has the meaning set forth in the Preamble.

"G&W Manager" has the meaning set forth in Section 8.3(a).

"G&W Services Agreement" has the meaning set forth in the Recitals.

"Governmental Authority" means any federal, state, local, municipal, tribal or other government within the United States; any governmental, regulatory or administrative agency, commission, body or other authority exercising or entitled to exercise any administrative, executive, judicial, legislative, regulatory or taxing authority or power within the United States; and any court, governmental or arbitral tribunal, including any tribal authority having or asserting jurisdiction within the United States.

"Indemnified Party" has the meaning set forth in Section 8.10(a).

"Interest" when used in reference to an interest in the Company, means the entire ownership interest of a Member in the Company at any particular time, including its interest in the capital, profits, losses and distributions of the Company.

"ISH" has the meaning set forth in the Preamble.

"ISH Manager" has the meaning set forth in Section 8.3(a).

"Liquidator" has the meaning set forth in Section 10.2(b).

"Majority-in-Interest of the Members" means, at any time, Members whose Percentage Interests at such time exceed 50% of all Members' Percentage Interests at such time.

"Manager" means a member of the Board of Managers.

"Member" means each of ISH and G&W, for so long as such party holds an Interest in the Company, as well as each Substituted Member and each Additional Member.

"Net Income" and "Net Loss", respectively, for any period means the income or loss of the Company for such period as determined in accordance with the method of accounting followed by the Company for Federal income tax purposes, including, for all purposes, any income exempt from tax and any expenditures of the Company which are described in Code Section 705(a)(2)(B); provided, however, that in determining Net Income and Net Loss and every item entering into the computation thereof, solely for the purpose of adjusting the Capital Accounts of the Members (and not for tax purposes), (i) any income, gain, loss or deduction attributable to the taxable disposition of any Company asset shall be computed as if the adjusted

basis of such Company asset on the date of such disposition equaled its book value as of such date, (ii) if any Company asset is distributed in-kind to a Member, the difference between its Value and its book value at the time of such distribution shall be treated as gain or loss, and (iii) any depreciation, cost recovery and amortization as to any Company asset shall be computed by assuming that the adjusted basis of such Company asset equaled its book value determined under the methodology described in Regulation §1.704-1(b)(2)(iv)(g)(3); and provided, further, that any item (computed with the adjustments in the preceding proviso) allocated under Section 4.2 shall be excluded from the computation of Net Income and Net Loss.

"No-Sale Period" has the meaning set forth in Section 9.1(a).

"Non-Consenting Member" has the meaning set forth in Section 8.3(e).

"Non-Defaulting Member" has the meaning set forth in Section 3.5(a).

"Notifying Member" has the meaning set forth in Section 7.5.

"Offeree Member" has the meaning set forth in Section 9.10(a).

"Offering Member" has the meaning set forth in Section 9.10(a).

"Offer Letter" has the meaning set forth in Section 9.3(a).

"Offer Period" has the meaning set forth in Section 9.3(a).

"Original Agreement" has the meaning set forth in the Recitals.

"Percentage Interest" means, with respect to each Member, the percentage of such Member's total Capital Contribution as compared to the total Capital Contributions of all Members.

"Permitted Transfer" has the meaning set forth in Section 9.2.

"Person" means any individual, partnership, limited liability company, association, corporation, trust or other entity.

"Prime Rate" means the highest prime rate of interest quoted from time to time by The Wall Street Journal as the "base rate" on corporate loans at large money center commercial banks.

"Regulation" means a Treasury Regulation promulgated under the Code.

"Reserved Matter" has the meaning set forth in Section 8.3(d).

"ROFR Offer" has the meaning set forth in Section 9.3(a)(iv).

"ROFR Offeree Member" has the meaning set forth in Section 9.3(a).

"ROFR Offering Member" has the meaning set forth in Section 9.3(a).

“ROFR Purchase Notice” has the meaning set forth in Section 9.3(c).

“ROFR Purchase Price” has the meaning set forth in Section 9.3(a)(ii).

“SEACOR” has the meaning set forth in the Recitals.

“SEACOR Services Agreement” has the meaning set forth in the Recitals.

“Securities” means any foreign or domestic “securities,” as defined in Section 2(1) of the Securities Act of 1933, as amended, or Section 3(a)(10) of the Securities Exchange Act of 1934, as amended, and shall include common or preferred stocks, limited partnership interests, investment contracts, certificates of deposit, trade acceptances and trade claims, convertible securities, fixed income securities, notes or other evidences of indebtedness of other Persons, warrants, rights, synthetic securities, put and call options on any of the foregoing, other options related thereto, interests or participations therein or any combination of any of the foregoing.

“Seller” has the meaning set forth in Section 9.4(a).

“Services Agreements” has the meaning set forth in the Recitals.

“Substituted Member” means any Person admitted to the Company as a substituted Member pursuant to the provisions of Article 9.

“Tag-Along Interest” has the meaning set forth in Section 9.4(a)(ii).

“Tag-Along Notice” has the meaning set forth in Section 9.4(a).

“Tag-Along Purchase Price” has the meaning set forth in Section 9.4(a)(ii).

“Tag-Along Sale” has the meaning set forth in Section 9.4(a).

“Tax Matters Partner” has the meaning set forth in Section 8.9.

“Tag Offeree” has the meaning set forth in Section 9.4(a).

“Territory” has the meaning set forth in the definition of “CG Business Opportunity” in this Article 2.

“Transfer,” “Transferee” and “Transferor” have the respective meanings set forth in Section 9.1.

“Value” of any asset of the Company, as the case may be, as of any date, means the fair market value of such asset, as the case may be, as of such date, as determined by the Board of Managers in good faith and on a reasonable basis.

“Vessels” means the Bali Sea and the Banda Sea, collectively.

“Void Transfer” has the meaning set forth in Section 9.1(b).

"Withdrawing Member" has the meaning set forth in Section 10.1(b).

Section 2.2 Rules of Interpretation. Unless the context otherwise clearly requires: (a) a term has the meaning assigned to it; (b) "or" is not exclusive; (c) wherever from the context it appears appropriate, each term stated in either the singular or the plural shall include the singular and the plural, and pronouns stated in either the masculine, feminine or neuter shall include the masculine, feminine and neuter; (d) provisions apply to successive events and transactions; (e) all references in this Agreement to "include" or "including" or similar expressions shall be deemed to mean "including without limitation"; (f) all references in this Agreement to designated "Articles," "Sections," "paragraphs," "clauses" and other subdivisions are to the designated Articles, Sections, paragraphs, clauses and other subdivisions of this Agreement, and the words "herein," "hereof," "hereunder" and other words of similar import refer to this Agreement as a whole and not to any particular Article, Section, paragraph, clause or other subdivision; (g) all references to "federal" or "Federal" means United States federal or United States Federal, respectively; (h) all references in this Agreement to "\$" shall mean United States dollars; and (i) any definition of or reference to any agreement, instrument, document, statute or regulation herein shall be construed as referring to such agreement, instrument, document, statute or regulation as from time to time amended, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set forth herein). This Agreement is among financially sophisticated and knowledgeable parties and is entered into by the parties in reliance upon the economic and legal bargains contained herein and shall be interpreted and construed in a fair and impartial manner without regard to such factors as the party who prepared, or cause the preparation of, this Agreement or the relative bargaining power of the parties. Wherever in this Agreement a Member or other Person is empowered to take or make a decision, direction, consent, vote, determination, election, action or approval, such Member or Person is entitled to consider, favor and further such interests and factors as it desires, including its own interests, and has no duty or obligation to consider, favor or further any other interest of the Company, any subsidiary of the Company or any other Member or Person. Wherever in this Agreement a Member is permitted or required to make a decision or determination or take an action in its "discretion" or its "judgment," that means that such Member may take that decision in its "sole discretion" or "sole judgment" without regard to the interests of any other Person.

ARTICLE 3. CAPITAL CONTRIBUTIONS

Section 3.1 Capital Contributions

(a) Contemporaneously with the execution of this Agreement, each of the Members shall make a Capital Contribution to the Company in the respective amounts set forth on Schedule 1.

(b) Subject to the approval requirements of a Reserved Matter under Section 8.3(d), as and when appropriate from time to time, in the opinion of the Board of Managers, capital is required to fund expenses, contractual obligations or other operating requirements of the Company, the Company shall provide written notice (the "Capital Contribution Notice") to each Member stating that such Member shall make a Capital Contribution to the Company in an

amount equal to its Percentage Interest of such required capital on such date as shall be determined by the Board of Managers (such date to be at least ten (10) Business Days following the delivery of such Capital Contribution Notice), and each Member shall make such Capital Contribution on or before such specified date. The Board of Managers shall cause the Company's books and records to be updated to reflect such additional Capital Contributions and any corresponding changes to the Members' Capital Account and Percentage Interests as a result thereof.

(c) Any Additional Member admitted to the Company in accordance with the terms of Section 8.13 hereof will be assigned such Percentage Interest (and the Percentage Interests of each other Member shall be diluted *pro rata* in connection therewith) and will make such Capital Contributions, if any, as the Board of Managers deems appropriate.

(d) Except as otherwise required by law or pursuant to this Section 3.1, no Member shall be permitted to make any additional Capital Contributions to the Company without the prior consent of the Board of Managers.

Section 3.2 Interest on Capital Contributions. No Member shall be entitled to interest on or with respect to any Capital Contribution.

Section 3.3 Withdrawal and Return of Capital Contributions. Except as provided in this Agreement, no Member shall be entitled to withdraw any part of such Member's Capital Contribution or to receive distributions from the Company.

Section 3.4 Form of Capital Contribution. Unless otherwise set forth in the Contribution Agreement or determined by the Board of Managers, all Capital Contributions shall be made in cash.

Section 3.5 Defaulting Member. In the event that a Member fails to make all or any portion of a Capital Contribution set forth in any Capital Contribution Notice, as and when required pursuant to the provisions of Section 3.1, then such Member shall be deemed to be a "Defaulting Member" and such unpaid Capital Contribution a "Default Contribution." In such event, the Members shall be bound by the following:

(a) Default Interest. Outstanding and unpaid amounts of the Default Contribution and any reasonable and documented collection costs related thereto ("Default Collection Costs") shall bear interest ("Default Interest") at the greater of (i) █% per annum, compounded annually, and (ii) a rate per annum equal to the Prime Rate plus █%, computed daily and compounded annually (the greater of (i) and (ii) being referred to as the "Default Interest Rate"), from the date of default through the earlier of the date (the "Default Remedy Date") that (x) the Defaulting Member pays (or is deemed to pay in accordance with Section 3.5(b)(i)) the total of the amount of the Default Contribution, the Default Collection Costs and the Default Interest it owes hereunder (the "Default Amount") in full and (y) the non-Defaulting Members (whether one or more, the "Non-Defaulting Member") exercise the options contemplated in Section 3.5(c). Any Default Interest incurred hereunder shall be paid to the Company, and shall become part of the assets of the Company.

(b) Distribution and Unanimous Approval Rights. From and after the date a Member becomes a Defaulting Member, but only until the Default Remedy Date, (i) any distributions by the Company which the Defaulting Member would otherwise be entitled to receive shall be deemed distributed to the Defaulting Member for all purposes under this Agreement, but shall actually be retained by the Company and shall be applied as a Capital Contribution by the Defaulting Member in respect of the Default Contribution or a payment of the Default Collection Costs or the Default Interest, in such amounts and such order as determined by the Non-Defaulting Member in its sole discretion and (ii) any Managers appointed by the Defaulting Member shall, automatically and without the taking of any further action, lose such Manager's voting rights (A) with respect to all matters, except for Reserved Matters, brought before the Board of Managers if the Default Amount is not paid within 15 days of such Member becoming a Defaulting Member and (B) with respect to all matters, including Reserved Matters, brought before the Board of Managers if such Default Amount is not paid within 30 days of such Member becoming a Defaulting Member.

(c) Default Remedies. From the date a Member becomes a Defaulting Member through the Default Remedy Date, the Non-Defaulting Member may advance an amount equal to the Default Amount as a loan (bearing interest at the Default Interest Rate) to the Defaulting Member (the "Default Loan"), the proceeds of which shall be disbursed directly to the Company (with an amount equal to the Default Contribution to be treated as the Capital Contribution of the Defaulting Member in respect of the Default Contribution and an amount equal to the Default Interest plus the Default Collection Costs to be treated as the payment of such amounts to the Company), which Default Loan shall be due and payable to the Non-Defaulting Member within 60 business days or as extended by the Non-Defaulting Member in its sole discretion. If the Defaulting Member does not repay the Default Loan when due, the Non-Defaulting Member, may elect, by the delivery of a notice to the Defaulting Member, to purchase, or cause the Company to purchase, the Interests of the Defaulting Member in exchange for an amount equal to 100% of the Defaulting Member's Capital Account balance. If the Non-Defaulting Member does not elect to make the Default Loan, then the Company shall raise additional capital for the Company from unaffiliated third parties (and issue Interests in respect thereof, including amending this Agreement to reflect the terms and conditions of such Interests) pursuant to such terms and conditions as the Non-Defaulting Member may determine in its sole discretion; provided that such terms do not disproportionately and adversely affect the Defaulting Member; and provided further that the Non-Defaulting Member does not notify the Company in writing that it disapproves of raising such additional capital for the Company.

ARTICLE 4. ALLOCATION OF NET INCOME AND NET LOSS

Section 4.1 General. The Members agree to treat the Company as a partnership and the Members as partners for Federal income tax purposes and shall file all tax returns accordingly. Except as provided in Section 4.2, Net Income or Net Loss, as the case may be, and each item of income, gain, loss and deduction entering into the computation thereof, for each Fiscal Year (or any other period that the Board of Managers deems appropriate) shall be allocated to the Members in proportion to their Percentage Interests.

Section 4.2 Other Allocation Provisions.

(a) If during a Fiscal Year there is a net decrease in "partnership minimum gain" (within the meaning of Regulation § 1.704-2(d)) with respect to the Company, then there shall be allocated to each Member items of income and gain of the Company for such Fiscal Year (and, if necessary, for succeeding Fiscal Years) equal to such Member's share of the net decrease in partnership minimum gain (within the meaning of Regulation § 1.704-2(g)(2)), subject to the exceptions set forth in Regulation § 1.704-2(f)(2) and (3), and to any exceptions provided by the Commissioner of the Internal Revenue Service pursuant to Regulation § 1.704-2(f)(5), provided, that if the Company has any discretion as to an exception provided pursuant to Regulation § 1.704-2(f)(5), the Board of Managers may exercise reasonable discretion on behalf of the Company. The foregoing is intended to be a "minimum gain chargeback" provision as described in Regulation § 1.704-2(f) and shall be interpreted and applied in all respects in accordance with such Regulation.

If during a Fiscal Year there is a net decrease in partner nonrecourse debt minimum gain (as determined in accordance with Regulation § 1.704-2(i)(3)) with respect to the Company, then, in addition to the amounts, if any, allocated pursuant to the preceding paragraph, any Member with a share of such partner nonrecourse debt minimum gain (determined in accordance with Regulation § 1.704-2(i)(5)) as of the beginning of the Fiscal Year shall, subject to the exceptions set forth in Regulation § 1.704-2(i)(4), be allocated items of income and gain of such Fiscal Year for the Fiscal Year (and, if necessary, for succeeding Fiscal Years) equal to such Member's share of the net decrease in the partner nonrecourse minimum gain. The foregoing is intended to be the "chargeback of partner nonrecourse debt minimum gain" required by Regulation § 1.704-2(i)(4) and shall be interpreted and applied in all respects in accordance with such Regulation.

(b) If during any Fiscal Year a Member unexpectedly receives an adjustment, allocation or distribution described in Regulation § 1.704-1(b)(2)(ii)(d)(4), (5) or (6), which causes or increases a deficit balance in such Member's Adjusted Capital Account, there shall be allocated to such Member items of income and gain (consisting of a pro rata portion of each item of income, including gross income, and gain of the Company for such Fiscal Year) in an amount and manner sufficient to eliminate such deficit as quickly as possible. The foregoing is intended to be a "qualified income offset" provision as described in Regulation § 1.704-1(b)(2)(ii)(d) and shall be interpreted and applied in all respects in accordance with such Regulation.

A Member's "Adjusted Capital Account", at any time, shall equal the Member's Capital Account at such time (x) increased by the sum of (A) the amount of the Member's share of partnership minimum gain (as defined in Regulation § 1.704-2(g)(1) and (3)), (B) the amount of the Member's share of partner nonrecourse debt minimum gain (as defined in Regulation § 1.704-2(i)(5)) and (C) any amount of the deficit balance in its Capital Account that the Member is treated as obligated to restore pursuant to Regulation § 1.704-1(b)(2)(ii)(c) and (y) decreased by reasonably expected adjustments, allocations and distributions described in Regulation §§ 1.704-1(b)(2)(ii)(d)(4), (5) and (6). This definition shall be interpreted consistently with Regulation § 1.704-1(b)(2)(ii)(d).

(c) Notwithstanding anything to the contrary in this Article 4,

(i) losses, deductions, or expenditures subject to Code section 705(a)(2)(B) that are attributable to a particular partner nonrecourse liability shall be allocated to the Member that bears the economic risk of loss for the liability in accordance with the rules of Regulation § 1.704-2(i); and

(ii) losses, deductions, or expenditures subject to Code section 705(a)(2)(B) that are attributable to partnership nonrecourse liabilities shall be allocated to the Members in proportion to their Percentage Interests.

(d) (i) Notwithstanding any provision of Section 4.1, no allocation of Net Loss shall be made to a Member if it would cause the Member to have a negative balance in its Adjusted Capital Account. Allocations of Net Loss that would be made to a Member but for this Section 4.2(d)(i) shall instead be made to other Member pursuant to Section 4.1 to the extent not inconsistent with this Section 4.2(d)(i). To the extent allocations of Net Loss cannot be made to any Member because of this Section 4.2(d)(i), such allocations shall be made to the Members in accordance with Section 4.1 notwithstanding this Section 4.2(d)(i).

(ii) If any Member has a deficit in its Adjusted Capital Account, such Member shall be specially allocated items of Company income and gain in the amount of such deficit as rapidly as possible, provided, however, that an allocation pursuant to this Section 4.2(d)(ii) shall be made if and only to the extent that such Member would have a deficit in its Adjusted Capital Account after all other allocations provided for in this Agreement have been tentatively made as if this Section 4.2(d)(ii) were not in this Agreement.

(e) To the extent that any item of income, gain, loss or deduction has been specially allocated pursuant to paragraph (b) or (d) of this Section 4.2 and such allocation is inconsistent with the way in which the same amount otherwise would have been allocated under Section 4.1, subsequent allocations under Section 4.1 shall be made, to the extent possible and without duplication, in a manner consistent with paragraph (a), (b), (c) or (d), which negate as rapidly as possible the effect of all such inconsistent allocations under said paragraph (b) or (d).

(f) Except to the extent otherwise required by the Code and Regulations, if any Interest in the Company or part thereof is transferred in any Fiscal Year, the items of income, gain, loss, deduction and credit allocable to such Interest for such Fiscal Year shall be apportioned between the transferor and the transferee in proportion to the number of days in such Fiscal Year the Interest is held by each of them, except that, if they agree between themselves and so notify the Board of Managers within thirty days after the transfer, then at their option and expense, (i) all items or (ii) extraordinary items, including capital gains and losses, may be allocated to the Person who held the Interest on the date such items were realized or incurred by the Company.

(g) Any allocations made pursuant to this Article 4 shall be made in the following order:

(i) Section 4.2(a);

- (ii) Section 4.2(b);
- (iii) Section 4.2(c);
- (iv) Section 4.2(e);
- (v) Section 4.2(g); and
- (vi) Section 4.1, as modified by Section 4.2(d).

These provisions shall be applied as if all distributions and allocations were made at the end of the Fiscal Year. Where any provision depends on the balance of a Capital Account of any Member, such Capital Account shall be determined after the operation of all preceding provisions for the year. These allocations shall be made consistently with the requirements of Regulation § 1.704-2(j).

Section 4.3 Allocations for Income Tax Purposes. The income, gains, losses, deduction and credits of the Company for any Fiscal Year shall be allocated to the Members in the same manner as Net Income and Net Loss were allocated to the Members for such Fiscal Year pursuant to Sections 4.1 and 4.2; provided, however, that solely for Federal, state and local income and franchise tax purposes and not for book or Capital Account purposes, income, gain, loss and deduction with respect to any Company asset properly carried on the Company's books at a value other than the tax basis of such Company asset shall be allocated in accordance with the method determined in the discretion of the Board of Managers, so as to take into account (consistently with Code Section 704(c) principles) the difference between such Company asset's book basis and its tax basis.

Section 4.4 Tax Advances. The Company shall be entitled to retain or withhold amounts with respect to any Member in amounts required to discharge any obligation of the Company to withhold or make payments to any federal, state, local or foreign taxing authority with respect to any distribution or allocation of income or gain to such Member. Any amount so retained or withheld and paid over to any authority with respect to distributions or allocations to any Member, the amount retained or withheld shall be deemed to be, at the option of the Tax Matters Partner, either a distribution to or a demand loan by the Company to such Member in the amount of the withholding. In the event of any claimed over-withholding, Members shall be limited to an action against the applicable jurisdiction. If the amount was deemed to be a demand loan, the Company may, at its option, (a) at any time require the Member to repay such loan in cash or (b) at any time reduce any subsequent distributions by the amount of such loan. Each Member agrees to furnish the Company with any representations and forms as shall reasonably be requested by the Company to assist it in determining the extent of, and in fulfilling, its withholding obligations. The obligations of a Member set forth in this Section 4.4 shall survive the withdrawal of any Member from this Company or any Transfer of a Member's Interest.

ARTICLE 5. DISTRIBUTIONS

Section 5.1 Distributions. Subject to (a) the approval requirements for a Reserved Matter under Section 8.3(d) and (b) the provisions of Sections 5.2 and 5.3, the Company shall distribute Available Cash at the times and in amounts as determined by the Board

of Managers. Any distribution made to the Members pursuant to this Section 5.1 shall be made in proportion to their respective Percentage Interests at the time of distribution.

Section 5.2 Limitations on Distributions.

(a) Anything to the contrary herein notwithstanding:

(i) no distribution pursuant to this Agreement shall be made if such distribution would result in a violation of the Act; and

(ii) no distribution shall be made if such distribution would violate the terms of any, to the extent applicable, agreement or any other instrument to which the Company or any of its direct or indirect subsidiaries is a party.

(b) In the event that a distribution is not made as a result of the application of paragraph (a) of this Section 5.2, all amounts so retained by the Company shall continue to be subject to all of the debts and obligations of the Company. The Company shall make such distribution (with accrued interest actually earned thereon) as soon as such distribution would not be prohibited pursuant to this Section 5.2.

Section 5.3 Reserves. The Company may establish reserves in such amounts and for such time periods as the Board of Managers determines reasonably necessary for estimated accrued Company expenses and any contingent or unforeseen Company liabilities. When such reserves are no longer necessary, the balance may be distributed to the Members in accordance with this Article 5.

**ARTICLE 6. BOOKS OF ACCOUNT, RECORDS
AND REPORTS, FISCAL YEAR**

Section 6.1 Books and Records. Accurate, full and complete records and books of account shall be kept by the Company, showing fully and accurately all transactions and other matters relative to the Company's business as are usually entered into records and books of account maintained by Persons engaged in businesses of a similar character, including, but not limited to, receipts and expenditures, assets and liabilities, profits and losses and the Capital Account established for each Member. The Company books and records shall be kept in a manner determined by the Board of Managers in its sole discretion to be most beneficial for the Company. The Company's properties, books and records and operating information shall at all times be maintained at the principal office of the Company and shall be open to the inspection and examination of the Members or their duly authorized representatives for a proper purpose as set forth in Section 18-305 of the Act, upon reasonable advance notice from a Member to the Company, during reasonable business hours and at the sole cost and expense of the inspecting or examining Member. The Company shall maintain at its principal office and make available to any Member or any designated representative of any Member a current list of names, addresses and Percentage Interests of all Members.

Section 6.2 Annual Reports. By the 15th day of the third month after the end of the Company's tax year, the Company shall send to each Person who was a Member

at any time during such Fiscal Year (i) a copy of Schedule K-1 to Internal Revenue Service Form 1065 (or any successor form) indicating such Member's share of the Company's income, loss, gain, expense and other items relevant for Federal income tax purposes and corresponding analogous state and local tax forms; provided, however, that such period shall be reasonably extended to the extent it is not possible to provide the materials specified in this Section 6.2 within such period due to the failure of third parties (including Persons in which the Company has invested directly or indirectly) to provide information necessary to prepare such materials and (ii) the best available information otherwise necessary for such Person to fulfill all tax reporting requirements that are attributable to the Company's investments. If the Company determines it will not be able to provide information under clause (i) by the initial deadline, it shall promptly notify such Person and provide a new deadline by when such information will be provided.

Section 6.3 Financial Reports. The Company shall deliver the following reports to each Member at the times specified below:

(a) immediately upon the Tax Matter Partner's completion of their normal month-end close deadlines, but in any event no later than any statutory or regulatory requirement for either Member, the monthly management accounts of the Company and its subsidiaries;

(b) as soon as available and in any event within 45 days after the end of each of the first three quarters of each Fiscal Year, consolidated balance sheets of the Company and its subsidiaries as of the end of such period, and consolidated statements of income and cash flows of the Company and its subsidiaries for the period then ended and for the period from the beginning of the current Fiscal Year (i.e., the Fiscal Year in which such quarter falls) to the end of such quarter, prepared in conformity with generally accepted accounting principles in the United States applied on a consistent basis, except as otherwise noted therein, and subject to the absence of footnotes and to year-end adjustments;

(c) as soon as available and in any event within 120 days after the end of each Fiscal Year, a consolidated balance sheet of the Company and its subsidiaries as of the end of such year, and consolidated statements of income and cash flows of the Company and its subsidiaries for the year then ended prepared in conformity with generally accepted accounting principles in the United States applied on a consistent basis, except as otherwise noted therein, together with an auditor's report thereon of a firm of established national reputation;

(d) to the extent the Company is required by law or pursuant to the terms of any outstanding indebtedness of the Company to prepare such reports, any annual reports, quarterly reports and other periodic reports pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934, as amended, actually prepared by the Company as soon as available;

(e) to the extent any Member is required to prepare any annual reports, quarterly reports and other periodic reports pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934, any additional information that such Member may require in order to satisfy such reporting requirements in a timely manner; and

(f) as soon as available, and in any event within thirty (30) days prior to the commencement of each Fiscal Year, a comprehensive operating plan and budget forecast of the revenues, expenses and cash position of the Company and its subsidiaries on a month-to-month basis for such Fiscal Year, including capital and operating expense budgets, projected revenues and cash flow projections, all itemized in reasonable detail (in respect of any Fiscal Year, the "Annual Budget").

provided, however, that such periods shall be reasonably extended to the extent it is not possible to provide the materials specified in this Section 6.3 as and when required by this Section 6.3 due to the failure of third parties (including Persons in which the Company has invested directly or indirectly) to provide information necessary to prepare such materials.

Section 6.4 Fiscal Year. The fiscal year of the Company (the "Fiscal Year") shall be the calendar year; provided, however, that the last Fiscal Year of the Company shall end on the date on which the Company is terminated.

ARTICLE 7. POWERS, RIGHTS AND DUTIES OF THE MEMBERS

Section 7.1 Limitations. Other than with respect to any Reserved Matter under Section 8.3(d) or as otherwise set forth in this Agreement, the Members shall not participate in the management or control of the Company's business nor shall they transact any business for the Company, nor shall they have the power to act for or bind the Company, said powers being vested solely and exclusively in the Board of Managers.

Section 7.2 Liability. Subject to the provisions of the Act, no Member, or their respective Affiliates, partners, equityholders or representatives, shall be liable for the repayment, satisfaction or discharge of any Company liabilities in excess of the balance of such Member's Capital Account. No Member, or their respective Affiliates, partners, equityholders or representatives, shall be personally liable for the return of any portion of the Capital Contributions (or any return thereon) of any other Member.

Section 7.3 Priority. Except as otherwise provided in this Agreement, no Member shall have priority over any other Member as to Company allocations or distributions.

Section 7.4 Member Standard of Care. To the fullest extent permitted by law, no Member shall have any duties, including fiduciary duties, to the Company, any other Member or any other Person, and any duties or implied duties, including fiduciary duties, of any Member that would otherwise apply at law, common or statutory, or in equity are hereby eliminated to the fullest extent permitted under the Act (including 18-1101(c) and (e) of the Act) and any other applicable law; provided, however, that this Agreement does not limit or eliminate liability for any act or omission that constitutes a bad faith violation of the implied contractual covenant of good faith and fair dealing.

Section 7.5 CG Business Opportunities. Each Member hereby agrees that if it or any of its Affiliates identifies a business transaction or venture that constitutes a CG Business Opportunity, and such Member or its Affiliate (the "Notifying Member") wants

to actively pursue entering into a definitive agreement with respect to such CG Business Opportunity, then prior to taking any such action, such Notifying Member shall notify the other Member and the Board of Managers and shall present all material information received by the Notifying Member regarding such CG Business Opportunity to the other Member and the Board of Managers. If the other Member, following such presentation, either (A) provides written notice to the Notifying Member that the Company will not pursue such CG Business Opportunity or (B) fails to provide written notice to the Notifying Member that the Company should pursue such CG Business Opportunity within thirty (30) days after such CG Business Opportunity is presented to such other Member and the Board of Managers, then the Notifying Member may, either individually or with any third parties, pursue such CG Business Opportunity independently of the Company on terms no more favorable to the Notifying Member than those presented to the Board of Managers. If the other Member has notified the Notifying Member within the above referenced 30-day period that the Company should pursue such CG Business Opportunity, neither Member shall directly or indirectly pursue such CG Business Opportunity independently of the Company without the prior written consent of the other Member (it being understood that a dispute between the Members with respect to the pursuit of a CG Business Opportunity may result in a Deadlock with respect to a Reserved Matter). For the avoidance of doubt, no Member shall have any obligation to offer any business opportunity other than a CG Business Opportunity to the Company or present any such opportunity to the Board of Managers, and will not be restricted from owning, operating, managing, controlling, engaging in, participating in, investing in, financing, rendering services for or otherwise carrying out any business opportunity that is not a CG Business Opportunity.

Section 7.6 Contractual Arrangements with the Company.

SEACOR shall provide services to the JV as set forth in the SEACOR Services Agreement and Genesee & Wyoming Railroad Services, Inc. shall provide services to the JV as set forth in the G&W Services Agreement.

Section 7.7 Representations and Warranties. Each Member (as to itself only) represents and warrants to the Company and the other Members that, as of the time such Member becomes a party to this Agreement:

(a) Such Member is an entity duly organized, validly existing and in good standing (or the equivalent thereof) under the laws of its jurisdiction of formation, and has all requisite power and authority to own, lease and operate its properties and to carry on its business as now being conducted;

(b) Such Member has the requisite power and authority and has taken all action necessary to execute and deliver this Agreement, to perform its obligations hereunder and to consummate the transactions contemplated hereby. The execution, delivery and performance by such Member of this Agreement, the consummation by it of the transactions contemplated hereby and the performance of its obligations hereunder have been duly authorized and approved by the appropriate governing body of such Member. This Agreement has been duly executed and delivered by such Member. This Agreement constitutes a valid and binding obligation of such Member, enforceable against such Member in accordance with its terms, except as such enforcement may be limited by applicable bankruptcy, insolvency, reorganization, moratorium

or other similar laws affecting the enforcement of creditors' rights generally, and by general equitable principles;

(c) The execution and delivery of this Agreement do not, and the consummation of the transactions contemplated hereby will not, (i) conflict with any of the provisions of the certificate of incorporation or by-laws or other organizational documents of such Member, (ii) conflict with or result in breach of, or constitute a default under, or result in the acceleration of any obligation or loss of any benefits under, any material agreement or other instrument to which such Member is a party or by which such Member or any of its properties or assets are bound or (iii) contravene any law applicable to such Member or by which any of its properties or assets are bound;

(d) To the knowledge of such Member, no consent of or filing with any Governmental Authority or any other Person must be obtained or made in connection with the execution and delivery of this Agreement by such Member or the consummation by such Member of the transactions contemplated by hereby or thereby; and

(e) Such Member acknowledges that the Interests it is acquiring hereunder have not been registered under the Securities Act, or any other state or federal law relating to the sale or offering for sale of securities. Such Member's acquisition of its Interests is being made for its own account for investment, and not with a view to the sale or distribution thereof. Each Member is aware that the Interests it is acquiring hereunder cannot be resold without registration under applicable securities laws, or exemption therefrom.

ARTICLE 8. POWERS, RIGHTS AND DUTIES OF THE BOARD OF MANAGERS

Section 8.1 Authority. Subject to the limitations provided in this Agreement and except as specifically provided herein, the Board of Managers shall have exclusive and complete authority and discretion to manage the operations and affairs of the Company and to make all decisions regarding the business of the Company. Except as otherwise required by applicable law, any action authorized by the Board of Managers shall constitute the act of and serve to bind the Company. Persons dealing with the Company are entitled to rely conclusively on the power and authority of the Board of Managers as set forth in this Agreement.

Section 8.2 Powers and Duties of the Board of Managers. Except as otherwise specifically provided herein, the Board of Managers shall have all rights and powers of a "manager" under the Act, and shall have such authority, rights and powers in the management of the Company business to do any and all other acts and things necessary, proper, convenient or advisable to effectuate the purposes of this Agreement.

Section 8.3 Board of Managers. A board of managers shall be established to manage the business and affairs of the Company in accordance with the following terms:

(a) Appointment and Term of Managers; Vacancies. The Board of Managers shall consist of six Managers. Three Managers shall be appointed by ISH (each, an "ISH Manager") and three Managers shall be appointed by G&W (each, a "G&W Manager"). The ISH

Managers shall initially be [REDACTED], and the G&W Managers shall initially be [REDACTED]. Each Manager shall hold office from the time of his or her appointment until his or her resignation or removal. A Member may at any time with or without cause remove any Manager appointed by such Member upon written notice to the Company. Any Manager may resign at any time upon written notice to the Company. Any such resignation shall take effect at the time specified therein or, if the time be not specified, upon receipt thereof, and the acceptance of such resignation, unless required by the terms thereof, shall not be necessary to make such resignation effective. A vacancy on the Board of Managers shall be filled by appointment by the Member that appointed the Manager whose resignation or removal created such vacancy.

(b) Meetings. Meetings of the Board of Managers, regular or special, may be held at any place within or without the State of Delaware; provided, that such meetings shall be held no less than quarterly. Members of the Board of Managers, or of any committee designated by the Board of Managers, may participate in a meeting of the Board of Managers or such committee by means of conference telephone or similar communications equipment by means of which all Persons participating in the meeting can hear each other, and participation in a meeting by such means shall constitute presence in Person at such meeting. The Board of Managers may fix times and places for regular meetings of the Board of Managers and no notice of such meetings need be given. A special meeting of the Board of Managers shall be held whenever called by any Manager then in office, at such time and place as shall be specified in the notice or waiver thereof. Notice of each special meeting shall be given by the Person calling the meeting to each Manager personally or by emailing and telephoning the same not later than the day before the meeting.

(c) Quorum and Voting. The presence of at least one (1) ISH Manager and one (1) G&W Manager, either present or represented by proxy, shall constitute a quorum for the transaction of business, but if there is less than a quorum at any meeting of the Board of Managers, a majority of the Managers present may adjourn the meeting, provided that notice of the adjournment and the time and place of the rescheduled meeting shall be given to all of the Managers not then in attendance, provided, however, if there is less than a quorum at three (3) successive meetings (including rescheduled meetings) which were scheduled in good faith and with proper notice, then the presence of three (3) Managers at the third such successive meeting shall constitute a quorum. At any such adjourned meeting, the Managers shall only discuss and act upon matters originally listed in the notice or agenda of the meeting subject to adjournment. Except as otherwise provided by this Agreement and subject to Section 3.5(b), the vote of a majority of the Managers present and entitled to vote at a meeting at which a quorum is present shall be the act of the Board of Managers; provided, that in the event that any ISH Manager or G&W Manager is not present at any meeting of the Board of Managers requiring a vote at which such Manager is entitled to vote, such Manager shall be deemed to have given a proxy to an ISH Manager present at such meeting (in the case of an absent ISH Manager) or a G&W Manager present at such meeting (in the case of an absent G&W Manager) to exercise such Manager's vote.

(d) Reserved Matters. Notwithstanding anything to the contrary contained in this Agreement, the Company shall not take, directly or indirectly on behalf of the Company or any of its subsidiaries, and no officer or employee of the Company shall have any authority to

cause or to permit the Company or any of its subsidiaries to take, any action, make any decision, expend any sum or undertake or suffer any obligation which comes within the scope of any of the actions set forth on Schedule 2 (each, a "Reserved Matter"), without the prior written consent of each of ISH and G&W.

(e) Deadlock. In the event that ISH or G&W (such party, the "Non-Consenting Member") is not willing to provide its consent with respect to a Reserved Matter (a "Deadlock"), the other party (the "Consenting Member"), within 10 business days after approval for such Reserved Matter is sought, may send a notice to the Non-Consenting Member requesting that such Deadlock be referred for negotiation to a committee comprised of one representative of ISH and one representative of G&W, the initial such representatives as designated on Schedule 3 (which schedule may be revised from time to time by ISH or G&W to change its designee thereon by written notice to the other Member and the Company), who shall promptly meet and attempt in good faith for a period of ten (10) Business Days to resolve such Deadlock. If such Deadlock remains unresolved following such ten (10) Business Day period, the following rights and obligations shall apply:

(i) if the Deadlock relates to the determination of the Annual Budget, the prior Fiscal Year's Annual Budget shall be adopted with respect to such items that are the subject of the Deadlock, with an increase to all such items based on the change in the consumer price index;

(ii) if the Deadlock relates to the determination of the auditor, the prior Fiscal Year's auditor shall remain as auditor of the Company; provided, that if for any reason the prior Fiscal Year's auditor is unable to continue to serve as auditor of the Company, such Deadlock shall be resolved pursuant to the procedures set forth in paragraph (iii) of this Section 8.3(e) below; and

(iii) if the Deadlock relates to any other Reserved Matter, except as described in paragraphs (i) and (ii) of this Section 8.3(e), the Members shall endeavor in good faith to resolve the Deadlock pursuant to non-binding mediation. The mediation shall take place in New York, New York, shall be conducted in English and shall be conducted before a single independent mediator with at least ten (10) years' professional experience in the subject matter of the Deadlock and who is mutually agreed upon by the Members; provided, however, if the Members fail or are unable to agree upon a mediator within ten (10) Business Days following a Member's request therefore, a mediator shall, upon application of either Member, be appointed pursuant to the rules and procedures of the American Arbitration Association. The Members shall equally bear the fees and expenses of the mediator so selected. If the Members cannot agree on the mediator, each Member shall select a mediator and such mediators shall select a third mediator who will conduct the mediation. Each Member shall bear the fees and expenses of its mediator and both Members shall equally bear the fees and expenses of the final mediator. In the event that the mediation required by this Section 8.3(e)(iii) involves any Deadlock with respect to a Reserved Matter listed under clauses (a), (c), (d), (h), (j), (k), (l), (r), (s) or (x) of Schedule 2 and such Deadlock has not been resolved by mediation within 25 Business Days after such mediation is commenced, either ISH or G&W may initiate a buy-sell offer in accordance with Section 9.10 by providing written notice to the Company and the

other Member. In the event that the mediation involves any Deadlock with respect to any Reserved Matter other than those listed in the immediately preceding sentence and such Deadlock has not been resolved by mediation within 25 Business Days after such mediation is commenced, the Deadlock shall be deemed not to have been approved by the Board of Managers.

(f) Written Consent of Managers in Lieu of a Meeting. Any action required or permitted to be taken at any meeting of the Board of Managers or of any committee thereof may be taken without a meeting if a majority of the members of the Board of Managers or of such committee, as the case may be, consent thereto in writing.

(g) Resignation. Any Manager may resign at any time upon written notice to the Company.

(h) Compensation. The members of the Board of Managers may receive compensation for services to the Company in their capacities as Managers or otherwise in such manner and in such amounts as may be fixed from time to time by the Board of Managers.

(i) Committees of the Board of Managers. The Board of Managers may from time to time designate one or more committees, each committee to consist of one or more Managers of the Company as the Board of Managers shall direct. The Board of Managers may designate one or more Managers as alternate members of any committee, who may replace any absent or disqualified committee member at any meeting of the committee. The resolution of the Board of Managers may, in addition or alternatively, provide that in the absence or disqualification of a member of a committee, the committee member or members thereof present at any meeting and not disqualified from voting, whether or not he, she or they constitute a quorum, may unanimously appoint another member of the Board of Managers to act at the meeting in the place of any such absent or disqualified committee member. Any such committee, to the extent provided in the resolution of the Board of Managers, shall have and may exercise all the powers and authority of the Board of Managers in the management of the business and affairs of the Company and may take any action required or permitted to be taken by the Board of Managers under this Agreement, including the issuance of additional Interests pursuant to Section 8.13. Any such committee may adopt rules governing the method of calling and time and place of holding its meetings. Unless otherwise provided by the Board of Managers, a majority of any such committee, either present or represented by proxy, shall constitute a quorum for the transaction of business, and the vote of a majority of the members of such committee at a meeting at which a quorum is present shall be the act of such committee. Each such committee shall keep a record of its acts and proceedings and shall report thereon to the Board of Managers whenever requested so to do. Any or all members of any such committee may be removed, with or without cause, by resolution of the Board of Managers, passed by a majority of the entire Board of Managers.

Section 8.4 Officers, Agents and Employees.

(a) Appointment and Term of Office. Subject to the approval requirements of a Reserved Matter under Section 8.3(d), the Board of Managers may appoint, and may delegate the power to appoint, such officers, agents and employees as it may deem necessary or proper,

who shall hold their offices or positions for such terms, have such authority and perform such duties as may from time to time be determined by or pursuant to authorization of the Board of Managers. Except as may be prescribed otherwise by the Board of Managers or a committee thereof in a particular case, all such officers shall hold their offices at the pleasure of the Board of Managers for an unlimited term and need not be reappointed annually or at any other periodic interval. Any action taken by an officer of the Company pursuant to authorization of the Board of Managers shall constitute the act of and serve to bind the Company. Persons dealing with the Company are entitled to rely conclusively on authority of such officers set forth in the authorization of the Board of Managers. Without limiting the generality of the foregoing, the Members and the Board of Managers hereby authorize and grant the officers of the Company power of attorney (i) to execute an IRS Form SS-4 on behalf of the Company and to take all actions necessary to obtain a federal employer identification number from the Internal Revenue Service, (ii) to execute the Certificate and any application of authority to do business as a foreign limited liability required by the Company to do business in a jurisdiction other than Delaware and to take all actions necessary in connection with the filing of such Certificate or applications and (iii) to execute on behalf of the Company any certificate of required to be filed in connection with the formation of a subsidiary of the Company and any application of authority to do business as a foreign limited liability required by any such subsidiary to do business in a jurisdiction other than Delaware and to take all actions necessary in connection with the filing of such certificates or applications. The initial officers of the Company are set forth on Schedule 4.

(b) Resignation and Removal. Any officer may resign at any time upon written notice to the Company. Any officer, agent or employee of the Company may be removed by the Board of Managers, or by a duly authorized committee thereof, with or without cause at any time. The Board of Managers or such a committee thereof may delegate such power of removal as to officers, agents and employees not appointed by the Board of Managers or such a committee.

(c) Compensation. Subject to the approval requirements of a Reserved Matter under Section 8.3(d), the compensation of the officers of the Company shall be fixed by the Board of Managers, but this power may be delegated to any officer in respect of other officers under his or her control.

Section 8.5 Company Funds. Company funds shall be held in the name of the Company and shall not be commingled with those of any other Person. Company funds shall be used only for the business of the Company.

Section 8.6 Other Activities and Competition. The members of the Board of Managers shall not be required to manage the Company as their sole and exclusive function. Except as set forth in Section 7.5, the members of the Board of Managers may engage in or possess any interests in business ventures and may engage in other activities of every kind and description independently or with others in addition to those relating to the Company. Each Member authorizes, consents to and approves of such present and future activities by such Persons. Neither the Company (except for CG Business Opportunities) nor any Member shall have any right by virtue of this Agreement or the relationship created hereby in or to other ventures or activities of the members of the Board of Managers or to the income or proceeds derived therefrom.

Section 8.7 Exculpation. No Manager, officer, agent or employee of the Company shall be personally liable for the return of any portion of the Capital Contributions (or any return thereon) of any Member. The return of such Capital Contributions (or any return thereon) shall be made solely from the Company's assets. No Manager, officer, agent or employee of the Company shall be required to pay to the Company or to any Member any deficit in the Capital Account of any Member upon dissolution of the Company or otherwise. No Member shall have the right to demand or receive property other than cash for its Interest in the Company. No Manager, officer, agent or employee of the Company shall be liable, responsible or accountable in damages or otherwise to the Company or any Member for any loss incurred as a result of any act or failure to act by such Person on behalf of the Company unless such loss is finally determined by a court of competent jurisdiction to have resulted solely from such Person's fraud, willful misconduct or gross negligence.

Section 8.8 Limits on the Power of the Board of Managers. Anything in this Agreement to the contrary notwithstanding, no action shall be taken by the Board of Managers, or by any Manager, officer, agent or employee of the Company, without the written consent or ratification of the specific act by all of the Members, which would cause or permit the Company to:

- (a) knowingly make, do or perform any act, or knowingly cause any act to be made, done or performed, which would make it impossible to carry on the ordinary business of the Company;
- (b) possess Company property, or assign Company property, other than for a Company purpose;
- (c) admit a Person as a Member, except as provided in this Agreement;
- (d) make any loans to any Member or its Affiliates; or
- (e) knowingly perform any act that would subject any Member to personal liability in any jurisdiction.

Section 8.9 Tax Matters Partner. For as long as ISH remains a Member, ISH shall (i) for Company tax years beginning on or before December 31, 2017, be the "Tax Matters Partner" for purposes of Code Section 6231(a)(7), and (ii) for Company tax years beginning on or after January 1, 2018, unless the Company elects under Section 6221(b) of the Code (as amended by the Bipartisan Budget Act of 2015), act as or appoint the "partnership representative" within the meaning of Section 6223(c) of the Code (as amended by the Bipartisan Budget Act of 2015). If ISH is no longer a Member, the Tax Matters Partner or partnership representative, as applicable, shall be designated by the Board of Managers. The Tax Matters Partner or partnership representative, as applicable, shall keep the Members reasonably informed of any inquiry, examination or proceeding, including, without limitation, promptly notifying Members of the beginning and completion of an administrative proceeding involving the Company promptly upon such notice being received by the Tax Matters Partner or partnership representative, as applicable, and the Tax Matters Partner or partnership representative, as applicable, shall cause the preparation and timely filing of all tax returns required to be filed by the Company and each subsidiary pursuant to U.S. federal, state, local and foreign law; provided, however that the Tax Matters Partner or partnership representative, as applicable, shall consult with Members before (w) extending any statute of limitations or any period of limitations with respect to the Company or any Members in any matter; (x) agreeing to any settlement of any alleged tax deficiency or other tax matter, or to any adjustment of taxable income or loss or any item included therein, affecting the Company, (y) filing any petition for judicial review, or any other judicial proceeding, with respect to the Company or any Member in any tax matter; or (z) filing any requests for administrative review or adjustment, or other administrative relief, on behalf of the Company or any Member in any tax matter, and in no event shall take any action described in clauses (w) through (z) that would have a disproportionate adverse effect to a Member without the consent of such Member. No election shall be made for the Company to apply the provisions of Section 1101 of the Bipartisan Budget Act of 2015 for any taxable year of the Company including the date hereof. The Company will indemnify and reimburse, to the fullest extent permitted by law, the Tax Matters Partner or partnership representative, as applicable for all reasonable expenses (including reasonable legal and accounting fees) incurred as Tax Matters Partner or partnership representative, as applicable, pursuant to this Section 8.9, including (but not limited to) any expenses incurred in connection with any administrative or judicial proceeding with respect to the tax liability of the Members attributable to their interests in the Company.

Section 8.10 Indemnification of the Board of Managers, Officers and Agents.

(a) The Company shall indemnify and hold harmless the Managers, officers, agents and employees of the Company (each, an "Indemnified Party") from and against any loss, expense, damage or injury suffered or sustained by them, by reason of any acts, omissions or alleged acts or omissions arising out of their activities on behalf of the Company or in furtherance of the interests of the Company, including but not limited to any judgment, award, settlement, reasonable attorneys' fees and other costs or expenses incurred in connection with the defense of any actual or threatened action, proceeding or claim if the acts, omissions or alleged acts or omissions upon which such actual or threatened action, proceeding or claims are based were not a result of fraud, gross negligence or willful misconduct by such Indemnified Party. Any indemnification pursuant to this Section 8.10 shall only be from the assets of the Company.

(b) Expenses (including attorneys' fees) incurred by an Indemnified Party in a civil or criminal action, suit or proceeding shall be paid by the Company in advance of the final disposition of such action, suit or proceeding; provided that if an Indemnified Party is advanced such expenses and it is later determined that such Indemnified Party was not entitled to indemnification with respect to such action, suit or proceeding, then such Indemnified Party shall reimburse the Company for such advances.

(c) No amendment, modification or deletion of this Section 8.10 will apply to or have any effect on the right of any Indemnified Party to indemnification for or with respect to any acts or omissions of such Indemnified Party occurring prior to such amendment, modification or deletion.

Section 8.11 Expenses.

(a) Except as otherwise provided in this Agreement, the Company shall be responsible for all expenses incurred in connection with the operation of the Company's business, including, without limitation (i) all costs, expenses and liabilities associated with the business of the Company, including routine administrative expenses, consulting, auditing, financing and legal fees, (ii) expenses incurred, costs, interest and other obligations in respect of money borrowed by the Company, (iii) costs of litigation or arbitration brought by or against the Company, including without limitation, attorney's fees and expenses, judgments and settlements, (iv) indemnification costs and expenses incurred by the Company under any contract to which it is a party, and (v) any taxes, fees and other governmental charges levied against the company, including any expenses relating to any governmental inquiry of the Company or its business activities.

(b) The Company shall reimburse each Manager for all reasonable out-of-pocket expenses incurred in connection with attendance at meetings of the Board of Managers and any committee thereof, including travel, lodging and meal expenses. Notwithstanding anything to the contrary in this Agreement, no Member or any of its Affiliates shall be entitled to be paid or reimbursed by the Company for any of their expenses, except (i) the Member serving as the Tax Matters Partner and partnership representative shall be entitled to reimbursement for expenses associated therewith and (ii) as may be provided in the G&W Services Agreement or the SEACOR Services Agreement.

Section 8.12 Standard of Care. Notwithstanding anything to the contrary set forth in this Agreement or under applicable law, no Manager nor any officer of the Company shall be liable to the Company, any Member, any Assignee or any other equity holder in or creditor of the Company for any action taken on behalf of the Company, except for such actions as constitute fraud or willful misconduct. To the fullest extent permitted by law, no Manager shall have any duties, including fiduciary duties, to the Company, any other Manager, Member or any other Person, and any duties or implied duties, including fiduciary duties, of any Manager that would otherwise apply at law, common or statutory, or in equity are hereby eliminated to the fullest extent permitted under the Act (including 18-1101(c) and (e) of the Act) and any other applicable law; provided, however, that this Agreement does not limit or eliminate liability for any act or omission that constitutes a bad faith violation of the implied contractual covenant of good faith and fair dealing.

Section 8.13 Additional Interests; Additional Members.

(a) Subject to the approval requirements of a Reserved Matter under Section 8.3(d), the Company may issue additional Interests at any time and from time to time to any Person for any amount of consideration, if any, as determined by the Board of Managers, and the Percentage Interests of the existing Members shall thereupon be diluted, and, subject to paragraphs (b), (c) and (d) of this Section 8.13, the Board of Managers shall admit such Person as a Member (an "Additional Member") with all of the rights and obligations of a Member under this Agreement. Each Additional Member's Capital Account balance shall initially equal the amount of cash, or the Value of any property, contributed by such Member and, if no cash or property is contributed to the Company by such Member, such Additional Member's Capital Account balance shall initially equal zero and the Percentage Interests of each other Member shall be reduced by the Percentage Interest of such Additional Member in proportion to their respective Percentage Interests).

(b) Notwithstanding the provisions of Section 8.13(a), no Person may be admitted as an Additional Member if such admission would cause the Company to be treated as an association taxable as a corporation for U.S. federal income tax purposes, cause the Company to be treated as a "publicly traded partnership" within the meaning of Code Section 7704, violate or cause the Company to violate any applicable U.S. federal, state or foreign law, rule or regulation including, without limitation, the Securities Act of 1933, as amended, or any other applicable U.S. federal, state or foreign securities laws, rules or regulations, cause the Company to be an investment company required to be registered under the Investment Company Act of 1940, as amended, or cause some or all of the Company's assets to be "plan assets" or the activities of the Company to be subject to ERISA and/or Section 4975 of the Code.

(c) Each Additional Member shall automatically be bound by all of the terms and conditions of this Agreement applicable to a Member. Each Additional Member shall execute such documentation as required by the Board of Managers pursuant to which such Additional Member agrees to be bound by the terms and provisions of this Agreement.

(d) Each Person desiring to become an Additional Member shall be admitted to the Company upon the approval of the Board of Managers and the delivery of a counterpart signature page to this Agreement that has been duly executed and delivered to the Company and any other documentation required by the Board of Managers. The Company shall reflect each admission authorized under this Section 8.13 by preparing an amendment to this Agreement, dated as of the date of such admission, to reflect such admission.

ARTICLE 9. TRANSFERS OF INTEREST BY MEMBERS

Section 9.1 General.

(a) (i) For a period of two years commencing on the date of this Agreement or (ii) if the parties agree to replace the Vessels or purchase additional vessels, then for a period of three years commencing on the date such replacement or additional vessels are put into service (such time period described in (i) or (ii), as applicable, the "No-Sale Period"), no Member may sell, assign, pledge, convey, grant, transfer, create or suffer the creation of a security interest in

or any encumbrance on, or otherwise dispose of (whether for or without consideration, whether directly or indirectly, and whether voluntary, involuntary or by operation of law) of its Interest in the Company (the commission of any such act being referred to as a "Transfer," any Person who effects a Transfer being referred to as a "Transferor" and any Person to whom a Transfer is effected being referred to as a "Transferee") without the prior approval of the Board of Managers, except for Permitted Transfers pursuant to Section 9.2 or transfers to another Member pursuant to Section 9.10. Following such applicable No-Sale Period, a Member may Transfer all, but not less than all, of its Interest to any Person, subject to the provisions of Sections 9.3, 9.4 and 9.5. Any Transfer by a Transferor of its Interests to a Transferee in accordance with this Agreement shall transfer to such Transferee all of Transferor's rights and obligations under this Agreement (including its right to appoint Managers pursuant to Section 8.3(a)).

(b) No Transfer of an Interest in the Company shall be effective until such time as all requirements of this Article 9 in respect thereof have been satisfied and, if consents, approvals or waivers are required by the Board of Managers, all such consents, approvals or waivers shall have been confirmed in writing by the Board of Managers. Any Transfer or purported Transfer of an Interest in the Company not made in accordance with this Agreement (a "Void Transfer") shall be null and void and of no force or effect whatsoever. Any amounts otherwise distributable under Article 5 or Article 10 in respect of an Interest in the Company that has been the subject of a Void Transfer may be withheld by the Company until the Void Transfer has been rescinded, whereupon the amount withheld (after reduction by any damages suffered by the Company attributable to such Void Transfer) shall be distributed without interest. For the avoidance of doubt, any (a) sale, assignment, pledge or other transfer of an equity interest in the publicly traded parent company of either of ISH or G&W or (b) pledge of equity of any subsidiaries (including CG) in connection with any financing facility of ISH or G&W or their respective subsidiaries, shall not constitute a "Transfer" under this Agreement. The restrictions on the Transfer of Interests herein may not be avoided by the holding of Interests directly or indirectly through a Person that can itself be sold to dispose of an interest in the Interests free of such restrictions, and for the avoidance of doubt, no parent entity (whether direct or indirect) of either Member shall directly or indirectly (i) permit the Transfer of all or any portion of the direct or indirect equity or beneficial interest in such Member to any Person other than a Permitted Transferee or (ii) otherwise seek to avoid the provisions of this Article 9 by issuing or permitting the issuance of, any direct or indirect equity or beneficial interest in such Member, in any such case, in a manner that does not comply with the Transfer restrictions in this Agreement.

Section 9.2 Permitted Transfer of Interest of Members. Subject to Section 9.5, a Member may Transfer all or any portion of its Interest in the Company to one or more of its Affiliates (a "Permitted Transfer") without the consent of the Board of Managers or any other Member.

Section 9.3 Rights of First Refusal. With respect to any Transfer (other than a Permitted Transfer) of a Member's Interest by a Member following the No-Sale Period, the following provisions shall apply:

(a) Offer Notice. If any Member (a "ROFR Offering Member") shall have received a bona fide offer or offers from one or more third parties to purchase all, but not less than all, of its Interest in the Company (the "Covered Interest"), then, prior to selling such

Covered Interest to such third party or parties, such ROFR Offering Member shall deliver to the Company and to the other Members (the "ROFR Offeree Members") a letter (an "Offer Letter") signed by such ROFR Offering Member setting forth the following information:

(i) the name of such third party or parties, including with respect to a limited liability company, partnership or corporation, the names of all members, partners (including general partners and any limited partners) or stockholders owning more than ten percent (10%) of any class of its membership interest, partnership interest or capital stock, as the case may be;

(ii) the Percentage Interest represented by the Covered Interest and proposed aggregate amount (including an estimate, in the ROFR Offering Member's reasonable judgment, of the Value of any non-cash consideration) and form of consideration (including any potential purchase price adjustments) offered by such third party or parties (the "ROFR Purchase Price");

(iii) all material terms and conditions contained in the offer of such third party or parties;

(iv) such ROFR Offering Member's offer, irrevocable by its terms during the Offer Period, to sell to such Member such Covered Interest for the same ROFR Purchase Price, and on the same terms and conditions, as contained in the offer of the third party or parties (the "ROFR Offer"); and

(v) closing arrangements and, to the extent such date is determinable, a closing date (which in all cases shall be a date that is not less than sixty (60) days following the date of such Offer Letter in the event of an offer for cash or a date that is thirty (30) days following the determination of the Value of such offer in accordance with this Section 9.3 in the case of an offer for other than cash) for any purchase and sale that may be effected by the Members or any of their assignees, pursuant to this Section 9.3 provided, that in the event any regulatory approvals or clearances, including, but not limited to, from the Surface Transportation Board, are required to be obtained or waiting periods thereunder are required to elapse in connection with such Transfer, such time period shall be extended until all such approvals and clearances have been obtained and such waiting periods have elapsed.

The "Offer Period" means the period commencing on the date of the Offer Letter and terminating 15 Business Days following (x) in the case of a cash offer, the receipt of the Offer Letter and (y) in the case of an offer for other than cash, the determination of the Value of such offer in accordance with this Section 9.3.

(b) Right to Purchase. During the Offer Period, the ROFR Offeree Member shall have the right to purchase all, but not less than all, of the Covered Interest for the same ROFR Purchase Price and on the same terms and conditions as set forth in the ROFR Offer. Notwithstanding anything to the contrary herein, if the ROFR Offer is other than for all cash, the right to purchase the Covered Interest hereunder shall be exercisable only in cash at the Value of the securities or other property which constitute the ROFR Offer.

(c) Sale of Covered Interest. If, during the Offer Period, the ROFR Offeree Member accepts in writing (the "ROFR Purchase Notice") the ROFR Offer to purchase all, but not less than all, of the Covered Interests (the "Accepted Interest"), the closing of the purchase and sale pursuant to such acceptance shall take place at the offices of the Company on the date set forth in the Offer Letter, or at such other place or on such other date as the applicable parties may agree or such later date as may be necessary to obtain any required regulatory approvals. In connection with such purchase and sale, each party shall execute and deliver all agreements, certificates and other documentation reasonably requested by, and in form and substance satisfactory to, the other party to effect the purchase of the Accepted Interest hereunder. To the extent that, upon the expiration of the Offer Period, the ROFR Offeree Member elects not to exercise its right or does not deliver a ROFR Purchase Notice to purchase the Covered Interests pursuant to this Section 9.3, the ROFR Offering Member may sell such Covered Interest to such third party or parties for the ROFR Purchase Price and on the other terms and conditions contained in such ROFR Offer. Prior to consummating any such sale, the ROFR Offering Member shall, upon request from the ROFR Offeree Member, provide the ROFR Offeree Member with reasonable supporting documentation with respect to the terms and conditions of any such sale to a third party so as to demonstrate such ROFR Offering Member's compliance with the provisions of the preceding sentence. If the sale of the Covered Interests has not been completed within ninety (90) days after the expiration of the Offer Period, the Covered Interest covered by such ROFR Offer may not thereafter be sold by such ROFR Offering Member unless such ROFR Offering Member complies again with the procedures set forth in this Section 9.3; provided, that in the event any regulatory approvals or clearances, including, but not limited to, from the Surface Transportation Board, are required to be obtained or waiting periods thereunder are required to elapse in connection with such Transfer, such time period shall be extended until all such approvals and clearances have been obtained and such waiting periods have elapsed.

Section 9.4 Tag-Along Rights.

(a) If a Member (the "Seller") proposes to Transfer (other than a Permitted Transfer) to any Person (such Person, the "Buyer"; such Transfer, the "Tag-Along Sale") all or any portion of its Interest in the Company, then, in addition to the Seller's obligations under Section 9.3, not less than 45 days prior to any Tag-Along Sale, the Seller shall provide to the other Member (the "Tag Offeree") a notice (a "Tag-Along Notice") of such proposed sale, specifying in reasonable detail:

(i) the name of Buyer, including with respect to a limited liability company, partnership or corporation, the names of all members, partners (including general partners and any limited partners) or stockholders owning more than ten percent (10%) of any class of its membership interest, partnership interest or capital stock, as the case may be;

(ii) the Percentage Interest represented by the Interest to be Transferred to the Buyer (the "Tag-Along Interest") and the aggregate purchase price (including an estimate, in the Seller's reasonable judgment, of the Value of any non-cash consideration) and form of consideration (including any potential purchase price adjustments) to be paid by the Buyer (the "Tag-Along Purchase Price");

(iii) the closing date of the Tag-Along Sale; provided, that in the event any regulatory approvals or clearances, including, but not limited to, from the Surface Transportation Board, are required to be obtained or waiting periods thereunder are required to elapse in connection with such Transfer, such time period shall be extended until all such approvals and clearances have been obtained and such waiting periods have elapsed; and

(iv) all material terms and conditions contained in the offer of such third party or parties and any other relevant information as to such proposed transaction as may be reasonably necessary for the Tag Offeree to determine whether or not to participate in the Tag-Along Sale.

(b) The Tag Offeree shall have the right to participate in the Tag-Along Sale on the terms and conditions set forth in such Tag-Along Notice by providing written notice (the "Acceptance Notice") to the Seller within 10 business days after the Tag-Along Notice is delivered to the Other Member (the "Expiration Date"), which Acceptance Notice will include the maximum Percentage Interest which the Tag Offeree desires to Transfer in such Tag-Along Sale. The Seller shall cause the Buyer to purchase from the Tag Offeree (if the Tag Offeree has delivered an Acceptance Notice prior to the Expiration Date) a portion of the Other Member's Interest equal to the lesser of (i) the portion of such Tag Offeree's Interest represented by the Percentage Interest set forth in its Acceptance Notice and (ii) (x) such Tag Offeree's Percentage Interest multiplied by (y) the Percentage Interest represented by the Interests proposed to be sold to such Buyer; provided, however, that to the extent that any such Buyer refuses to purchase such Interest from the Tag Offeree, the Seller shall not make any Transfer to such Buyer unless and until, simultaneously with such Transfer, the Seller purchases from the Tag Offeree the portion of the Tag Offeree's Interest required to be purchased by such Buyer pursuant to the terms hereof at a price and upon other terms and conditions which are no less favorable to the Tag Offeree than as set forth in the Tag-Along Notice. At the time of consummation of the Tag-Along Sale, the Seller shall cause the Buyer to remit directly to the Tag Offeree that portion of the sale proceeds to which the Tag Offeree is entitled by reason of its participation in the Tag-Along Sale.

(c) The Tag Offeree (if it has exercised its right to participate in the Tag-Along Sale) shall deliver to the Buyer (or to the Seller for delivery to the Buyer) one or more instruments or certificates, properly endorsed for Transfer, free and clear of all liens whatsoever, representing the portion of its Interest to be Transferred in the Tag-Along Sale. The Transfer by the Seller shall be on the same date and on terms and conditions as set forth in the Tag-Along Notice and at least as favorable to the Tag Offeree as the terms and conditions of the Seller. The Seller shall take all actions which the Seller deems reasonably necessary or desirable to consummate such transaction, including (i) entering into agreements with third parties which may include representations, indemnities, holdbacks and escrows, provided, that such agreements are on terms substantially identical or more favorable to the Other Member than those agreed to by the Seller; provided, further, that the Tag Offeree shall not be liable in respect of any indemnification obligation pursuant to any Tag-Along Sale in excess of the total consideration (net of broker fees and other selling expenses) paid to the Tag Offeree in such Tag-Along Sale; and (ii) obtaining all consents and approvals reasonably necessary or desirable to consummate such transaction. The Tag Offeree and the Seller shall each pay its pro rata share

(based upon the portion of the proceeds from the Tag-Along Sale to which each is entitled) of any reasonable transaction costs associated with the sale other than the legal expenses and selling commissions of the other participants in the Tag-Along Sale.

(d) If an Acceptance Notice is not received by the Seller prior to the Expiration Date, the Seller shall have 60 days after the Expiration Date to consummate the proposed transaction identified in the Tag-Along Notice at the price and on terms that are not more favorable to the Buyer than those set forth in the Tag-Along Notice; provided, that in the event any regulatory approvals or clearances, including, but not limited to, from the Surface Transportation Board, are required to be obtained or waiting periods thereunder are required to elapse in connection with such Transfer, such time period shall be extended until all such approvals and clearances have been obtained and such waiting periods have elapsed. If, at the end of such 60-day period, the Seller has not consummated the proposed transaction, the Seller shall again be obligated to comply with the provisions of this Section 9.4 with respect to the proposed Transfer.

Section 9.5 Further Requirements. In addition to the other requirements of Sections 9.2, 9.3 and 9.4, and unless waived in whole or in part by the Board of Managers, no Transfer of all or any portion of an Interest in the Company may be made unless the following conditions are met:

(a) The Transferor shall have paid all reasonable costs and expenses, including attorneys' fees and disbursements and the cost of the preparation, filing and publishing of any amendment to this Agreement or the Certificate, incurred by the Company in connection with the Transfer;

(b) The Transferor shall have delivered to the Company a fully executed copy of all documents relating to the Transfer, executed by both the Transferor and the Transferee, and the agreement of the Transferee in writing and otherwise in form and substance acceptable to the Board of Managers to:

(i) be bound by the terms imposed upon such Transfer by the Board of Managers and by the terms of this Agreement; and

(ii) assume all obligations of the Transferor under this Agreement relating to the Interest in the Company that is the subject of such Transfer;

(c) The Board of Managers shall have been reasonably satisfied, including, at its option, having received an opinion of counsel to the Company reasonably acceptable to the Board of Managers, that the Transfer will not:

(i) cause the Company to be treated as an association taxable as a corporation for Federal income tax purposes;

(ii) result in the termination of the Company for Federal income tax purposes;

(iii) cause the Company to be treated as a "publicly traded partnership" within the meaning of Code Section 7704;

(iv) violate the Securities Act of 1933, as amended, or any other applicable Federal, state or non-United States securities laws, rules or regulations;

(v) cause some or all of the assets of the Company to be "plan assets" or the investment activity of the Company to constitute "prohibited transactions" under ERISA or the Code; and

(vi) cause the Company to be an investment company required to be registered under the Investment Company Act of 1940, as amended.

(d) The Company shall reflect each Transfer and admission authorized under this Article 9 (including any terms and conditions imposed thereon by the Board of Managers) by preparing an amendment to this Agreement, dated as of the date of such Transfer, to reflect such Transfer or admission.

Any waivers from the Board of Managers under this Section 9.5 shall be given or denied in the sole discretion of the Board of Managers. The form and content of all documentation delivered to the Board of Managers under this Section 9.5 shall be subject to the approval of the Board of Managers, which approval may be granted or withheld in the sole discretion of the Board of Managers.

Section 9.6 Substituted Member. The Transferee of a Member's Interest in the Company pursuant to a Transfer made in compliance with this Article 9 shall be admitted to the Company as a Substituted Member. Unless a Transferee of a Member's Interest in the Company is admitted as a Substituted Member under this Section 9.6, it shall have none of the powers of a Member hereunder and shall have only such rights of an assignee under the Act as are consistent with this Agreement.

Section 9.7 Consequences of Transfers Generally.

(a) In the event of any Transfer or Transfers permitted under this Article 9, the Transferor and the Interest in the Company that is the subject of such Transfer shall remain subject to this Agreement, and the Transferee shall hold such Interest in the Company subject to all unperformed obligations of the Transferor. Any successor or Transferee hereunder shall be subject to and bound by this Agreement as if originally a party to this Agreement.

(b) Unless a Transferee of a Member's Interest becomes a Substituted Member, such Transferee shall have no right to obtain or require any information or account of Company transactions, or to inspect the Company's books or to vote on Company matters. Such a Transfer shall, subject to the third sentence of Section 9.1(b), merely entitle the Transferee to receive the share of distributions, Net Income, Net Loss and items of income, gain, deduction and loss to which the Transferor otherwise would have been entitled. Each Member agrees that such Member will, upon request of the Board of Managers, execute such certificates or other documents and perform such acts as the Board of Managers deems appropriate after a Transfer of such Member's Interest in the Company (whether or not the Transferee becomes a Substituted Member) to preserve the limited liability of the Members under the laws of the jurisdictions in which the Company is doing business.

(c) The Transfer of a Member's Interest in the Company and the admission of a Substituted Member shall not be cause for dissolution of the Company.

(d) Upon the Transfer of the entire Interest in the Company of a Member and effective upon the admission of its Transferee as a Member, the Transferor shall be deemed to have resigned from the Company as a Member.

(e) All items of income, gain, loss, deduction and credit allocable to any Interest in the Company that may have been transferred shall be allocated between the Transferor and the Transferee based upon any method permissible under Section 706 of the Code and the Regulations thereunder, as reasonably determined by the Board of Managers.

Section 9.8 Capital Account; Percentage Interest. Any Transferee of a Member under this Article 9 shall, subject to the third sentence of Section 9.1(b), succeed to the portion of the Capital Account and Percentage Interest so Transferred to such Transferee.

Section 9.9 Additional Filings. Upon the admission of a Substituted Member under Section 9.6, the Company shall cause to be executed, filed and recorded with the appropriate governmental agencies such documents (including amendments to this Agreement) as are required to accomplish such substitution.

Section 9.10 Buy-Sell.

(a) At any time following (x) either (i) the fifth (5th) anniversary of the date of this Agreement or (ii) if the parties agree either to replace the Vessels or purchase additional vessels prior to the fifth (5th) anniversary of the date of this Agreement, the fifth (5th) anniversary of the date such additional or replacement vessels are put into service, or (y) the failure of a mediation to resolve a Deadlock under Section 8.3(e)(iii), any Member (the "Offering Member") may elect to make a buy-sell offer to the other Member (the "Offeree Member") in accordance with the terms and conditions of this Section 9.10.

(b) The Offering Member shall deliver to the Offeree Member a written notice (a "Buy-Sell Notice") setting forth its intention to exercise the buy-sell option contained herein. The Buy-Sell Notice shall set forth the total cash price at which the Offering Member is willing to purchase from the Offeree Member all, but not less than all, of the Interests held by the Offeree Member (the "Buy-Sell Purchase Price").

(c) No later than the close of business on the fifteenth (15th) day after the delivery of the Buy-Sell Notice (the "Buy-Sell Period"), the Offeree Member must elect to either (A) buy all of the Offering Member's Interests or (B) sell all of the Offeree Members Interests, in either case at the Buy-Sell Purchase Price. The Offeree Member shall notify the Offering Member in writing prior to the expiration of the Buy-Sell Period of its election to buy or sell (an "Election Notice"). Such election shall be binding on the Offeree Member and the Offering Member. The failure of the Offeree Member to advise the Offering Member of its election to either buy or sell prior to the expiration of the Buy-Sell Period shall be conclusively deemed as an election by the Offeree Member to sell its Interest to the Offering Member.

(d) Within fifteen (15) days after the receipt of the Election Notice, the selling Member shall execute and deliver to the buying Member all documents necessary or appropriate for an effective transfer of all rights, title and interest of the selling Member's Interest to the buying Member, as reasonably requested by the buying Member, it being understood that the buying Member may elect to have one or more Affiliates pay for or take title to the selling Member's Interests; provided, that in the event any regulatory approvals or clearances, including, but not limited to, from the Surface Transportation Board, are required to be obtained or waiting periods thereunder are required to elapse in connection with such Transfer, such time period shall be extended until all such approvals and clearances have been obtained and such waiting periods have elapsed.

(e) Simultaneously with the execution and delivery of the documents described in subparagraph (c) above, the buying Member shall pay the selling Member an amount equal to the Buy-Sell Purchase Price multiplied by the Percentage Interest represented by the selling Member's Interest, such payment to be made in cash by wire transfer of immediately available funds to the account of the selling Member specified by the selling Member. Any expenses related to the buy-sell shall be paid by the Member that incurred such expense.

(f) Buy-Sell Default; Specific Performance. In the event that the Offering Member or the Offeree Member, as the case may be (the "Buy-Sell Defaulting Member"), shall fail to timely consummate the purchase pursuant to this Section 9.10 in accordance with such provisions, then the Offering Member, in the case of a default by the Offeree Member, and the Offeree Member, in the case of a default by the Offering Member, shall have the right to pursue any other remedy at law or in equity against the Buy-Sell Defaulting Member, including a decree for specific performance. Each of the Members agrees that damages at law are an inadequate remedy for any breach of this Section 9.10 and that, in the event of the Buy-Sell Defaulting Member, the other Member is and shall be, to the fullest extent permitted by applicable law, entitled to obtain a decree or decrees of specific performance entitling it to specifically enforce and require specific performance by such party of the terms and provisions of this Agreement. Each of the Members agrees that, to the fullest extent permitted by applicable law, notice shall be adequate for the entry of a decree of specific performance in respect of any such matter and hereby waives all requirements and demands that the enforcing Member give any greater notice of such hearings and further waives all requirements and demands that the enforcing Member post a bond or other surety arrangement in connection with the issuance of any such decree.

ARTICLE 10. RESIGNATION OF MEMBERS; TERMINATION OF COMPANY; LIQUIDATION AND DISTRIBUTION OF ASSETS

Section 10.1 Resignation of Members.

(a) Except as otherwise specifically permitted in this Agreement, a Member may not resign or withdraw from the Company unless agreed to in writing by the other Member. The Board of Managers shall reflect any such resignation or withdrawal by preparing an amendment to this Agreement, dated as of the date of such resignation or withdrawal, and the resigning or withdrawing Member (or such Member's successors-in-interest) shall have none of

the powers of a Member hereunder and shall only have such rights of an assignee of a limited liability company interest under the Act as are consistent with the other terms and provisions of this Agreement and with no other rights under this Agreement. The remaining Members may, in their sole discretion, cause the Company to distribute to the resigning or withdrawing Member the balance in its Capital Account on the date of such resignation or withdrawal. Upon the distribution to the resigning or withdrawing Member of the balance in his Capital Account, the resigning or withdrawing Member shall have no further rights with respect to the Company. Any Member resigning or withdrawing in contravention of this Section 10.1 shall indemnify, defend and hold harmless the Company, each Manager and the other Member from and against any losses, expenses, judgments, fines, settlements or damages suffered or incurred by the Company or any such other Member arising out of or resulting from such resignation or withdrawal.

(b) Upon the dissolution, resignation or resignation in contravention of Section 10.1, or the bankruptcy of a Member (the "Withdrawing Member"), the Company shall have the right to treat such Member's successor(s)-in-interest as assignee(s) of such Member's Interest in the Company, with none of the powers of a Member hereunder and with only such rights of an assignee under the Act as are consistent with this Agreement. For purposes of this Section 10.1(b), if a Withdrawing Member's Interest in the Company is held by more than one Person ("Assignees"), the Assignees shall appoint one Person with full authority to accept notices and distributions with respect to such Interest in the Company on behalf of the Assignees and to bind them with respect to all matters in connection with the Company or this Agreement.

Section 10.2 Dissolution of Company.

(a) The Company shall be dissolved, wound up and terminated as provided herein upon the first to occur of the following:

- (i) a decree of dissolution of the Court of Chancery of the State of Delaware pursuant to Section 18-802 of the Act;
- (ii) the determination of all of the Members to dissolve the Company; or
- (iii) the occurrence of any other event that would make it unlawful for the business of the Company to be continued.

Except as expressly provided herein or as otherwise required by the Act, the Members shall have no power to dissolve the Company.

(b) In the event of the dissolution of the Company for any reason, the Board of Managers or a liquidating agent or committee appointed by the Board of Managers shall act as a liquidating agent (the Board of Managers or such liquidating agent or committee, in such capacity, is hereinafter referred to as the "Liquidator") and shall commence to wind up the affairs of the Company and to liquidate the Company assets as promptly as is consistent with obtaining the fair value thereof. The Members shall continue to share all income, losses and distributions during the period of liquidation in accordance with Articles 4 and 5. The Liquidator shall have full right and unlimited discretion to determine the time, manner and terms of any sale or sales of Company assets pursuant to such liquidation, giving due regard to the activity and condition of the relevant market and general financial and economic conditions.

(c) The Liquidator shall have all of the rights and powers with respect to the assets and liabilities of the Company in connection with the liquidation and termination of the Company that the Board of Managers would have with respect to the assets and liabilities of the Company during the term of the Company, and the Liquidator is hereby expressly authorized and empowered to execute any and all documents necessary or desirable to effectuate the liquidation and termination of the Company and the transfer of any Company assets.

(d) Notwithstanding the foregoing, a Liquidator which is not a Member shall not be deemed a Member and shall not have any of the economic interests in the Company of a Member; and such Liquidator shall be compensated for its services to the Company at normal, customary and competitive rates for its services to the Company, as reasonably determined by the Board of Managers.

Section 10.3 Distribution in Liquidation. The Company's assets shall be applied in the following order of priority:

(a) first, to pay the costs and expenses of the winding up, liquidation and termination of the Company;

(b) second, to creditors of the Company, including Members that are creditors, in the order of priority provided by law, including fees, indemnification payments and reimbursements payable to the Members or their Affiliates, but not including those liabilities (other than liabilities to the Members for any expenses of the Company paid by the Members or their Affiliates, to the extent the Members are entitled to reimbursement hereunder) to the Members in their capacity as Members;

(c) third, to establish reserves reasonably adequate to meet any and all contingent or unforeseen liabilities or obligations of the Company; provided, however, that at the expiration of such period of time as the Liquidator may deem advisable, the balance of such reserves remaining after the payment of such contingencies or liabilities shall be distributed as hereinafter provided; and

(d) fourth, the remainder to the Members in accordance with Section 5.1.

If the Liquidator, in its sole discretion, determines that Company assets other than cash are to be distributed, then the Liquidator shall cause the Value of the assets not so liquidated to be determined (with any such determination normally made by the Board of Managers in accordance with the definition of "Value" being made instead by the Liquidator). Such assets shall be retained or distributed by the Liquidator as follows:

(i) the Liquidator shall retain assets having a value, net of any liability related thereto, equal to the amount by which the cash net proceeds of liquidated assets are insufficient to satisfy the requirements of clauses (a), (b), and (c) of this Section 10.3; and

(ii) the remaining assets shall be distributed to the Members in the manner specified in clause (d) of this Section 10.3.

If the Liquidator, in its sole discretion, deems it not feasible or desirable to distribute to each Member its allocable share of each asset, the Liquidator may allocate and distribute specific assets to one or more Members as the Liquidator shall reasonably determine to be fair and equitable, taking into consideration, *inter alia*, the Value of such assets and the tax consequences of the proposed distribution upon each of the Members (including both distributees and others, if any). Any distributions in-kind shall be subject to such conditions relating to the disposition and management thereof as the Liquidator deems reasonable and equitable.

Section 10.4 Final Reports. Within a reasonable time following the completion of the liquidation of the Company's assets, the Liquidator shall deliver to each of the Members a statement which shall set forth the assets and liabilities of the Company as of the date of complete liquidation and each Member's portion of distributions pursuant to Section 10.3.

Section 10.5 Rights of Members. Each Member shall look solely to the Company's assets for all distributions with respect to the Company and such Member's Capital Contribution (including return thereof), and such Member's share of profits or losses thereon, and shall have no recourse therefor (upon dissolution or otherwise) against any other Member or the Board of Managers. No Member shall have any right to demand or receive property other than cash upon dissolution and termination of the Company.

Section 10.6 Deficit Restoration. Notwithstanding any other provision of this Agreement to the contrary, upon liquidation of a Member's Interest in the Company (whether or not in connection with a liquidation of the Company), no Member shall have any liability to restore any deficit in its Capital Account. In addition, no allocation to any Member of any loss, whether attributable to depreciation or otherwise, shall create any asset of or obligation to the Company, even if such allocation reduces the Capital Account of any Member or creates or increases a deficit in such Capital Account; it is also the intent of the Members that no Member shall be obligated to pay any such amount to or for the account of the Company or any creditor of the Company. No creditor of the Company is intended as a third-party beneficiary of this Agreement nor shall any such creditor have any rights hereunder.

Section 10.7 Termination. The Company shall terminate when all property owned by the Company shall have been disposed of and the assets shall have been distributed as provided in Section 10.3. The Liquidator shall then execute and cause to be filed a Certificate of Cancellation of the Company, upon which the existence of the Company shall cease, except as otherwise provided in the Act.

ARTICLE 11. NOTICES AND VOTING

Section 11.1 Notices. All notices, demands or requests required or permitted under this Agreement must be in writing, and shall be made by hand delivery, certified mail, overnight courier service, electronic mail or facsimile to the address, electronic mail address or facsimile number set forth below such Member's name on the signature page hereto, but any party may designate a different address, electronic mail address or facsimile number by a notice similarly given to the Company. Any such notice or communication shall be deemed given when delivered by hand, if delivered on a Business Day, the next Business Day after

delivery by hand if delivered by hand on a day that is not a Business Day; four Business Days after being deposited in the United States mail, postage prepaid, return receipt requested, if mailed; on the next Business Day after being deposited for next day delivery with Federal Express or a similar overnight courier; when receipt is acknowledged, whether by facsimile confirmation or return electronic mail, if sent by facsimile or electronic mail on a Business Day; and the next Business Day following the day on which receipt is acknowledged whether by facsimile confirmation or return electronic mail, if sent by facsimile or electronic mail on a day that is not a Business Day.

Section 11.2 Voting. Any action requiring the affirmative vote of Members under this Agreement, unless otherwise specified herein, may be taken by vote at a meeting or, in lieu thereof, by written consent of Members holding the requisite Percentage Interest or, where expressly required by this Agreement or by applicable law, by all of the Members.

ARTICLE 12. AMENDMENT OF AGREEMENT

Section 12.1 Amendments. Amendments to this Agreement which do not adversely affect the right of any Member in any material respect may be made by the Board of Managers without the consent of any Member if those amendments are: (i) of an inconsequential nature (as reasonably determined by the Board of Managers); (ii) for the purpose of admitting Substituted Members or Additional Members as permitted by this Agreement; (iii) necessary to maintain the Company's status as a partnership according to Section 7701(a)(2) of the Code that is not a "publicly traded partnership" pursuant to Section 7704 of the Code; (iv) necessary to preserve the validity of any and all allocations of income, gain, loss or deduction pursuant to Section 704(b) of the Code; or (v) contemplated by this Agreement. Amendments to this Agreement other than those described in the foregoing sentence may be made only if embodied in an instrument signed by a Majority-in-Interest of the Members; provided, however, that unless otherwise specifically contemplated by this Agreement, this Agreement shall not be amended in any manner that materially, adversely and disproportionately affects the rights and obligations of one or more Members relative to the rights and obligations of the other Members without the prior written consent of each Member materially, adversely and disproportionately affected thereby. The Company shall send to each Member a copy of any amendment to this Agreement.

Section 12.2 Amendment of Certificate. In the event that this Agreement shall be amended pursuant to this Article 12, the Board of Managers shall amend the Certificate to reflect such change if the Board of Managers deems such amendment of the Certificate to be necessary or appropriate.

ARTICLE 13. MISCELLANEOUS

Section 13.1 Confidentiality. Each Member hereto agrees that, except with the prior written consent of the Board of Managers, it shall at all times keep confidential and not divulge, furnish or make accessible to any Person any confidential information, knowledge or data concerning or relating to the business or financial affairs of the other parties,

the Company or any direct or indirect subsidiary of the Company to which such party has been or shall become privy by reason of this Agreement, discussions or negotiations relating to this Agreement or the relationship of the parties contemplated hereby; provided, however, that each Member may disclose confidential information to another Member, such Member's Managers, partners, officers, employees, advisors, financing sources, accountants, attorneys, other advisors or representatives; provided, that (1) such Managers, partners, officers, employees, advisors, financing sources, accountants, attorneys, other advisors or representatives of such Member will be informed by such Member of the confidential nature of such information and shall be directed by such Member to keep such information confidential in accordance with the contents of this Agreement and (2) each Member will be liable for any breaches of this Section 13.1 by any of its Managers, partners, officers, employees, advisors, financing sources, accountants, attorneys, other advisors or representatives. The confidentiality obligations of this Section 13.1 do not apply to any information, knowledge or data (i) which is publicly available or becomes publicly available through no act or omission of the party wishing to disclose the information, knowledge or data; or (ii) to the extent that it is required to be disclosed by any applicable law, regulation or legal process or by the rules of any stock exchange, regulatory body or governmental authority. The provisions of this Section 13.1 shall survive termination of this Agreement.

Section 13.2 Entire Agreement. This Agreement constitutes the entire agreement among the parties with respect to the subject matter hereof. It supersedes any prior agreement or understandings among them with respect to the subject matter hereof, and it may not be modified or amended in any manner other than as set forth herein.

Section 13.3 Governing Law. This Agreement and the rights of the parties hereunder shall be governed by and interpreted in accordance with the law of the State of Delaware, without giving effect to its principles or rules of conflict of laws to the extent such principles or rules are not mandatorily applicable by statute and would require or permit the application of the laws of another jurisdiction.

Section 13.4 Severability. If any term or other provision of this Agreement is invalid, illegal or incapable of being enforced as a result of any rule of law or public policy, all other terms and other provisions of this Agreement shall nevertheless remain in full force and effect so long as the economic or legal substance of the transactions contemplated by this Agreement is not affected in any manner materially adverse to any party. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in an acceptable manner to the end that the transactions contemplated by this Agreement are fulfilled to the greatest extent possible.

Section 13.5 Effect. Except as herein otherwise specifically provided, this Agreement shall be binding upon and inure to the benefit of the parties and their legal representatives, successors and permitted assigns.

Section 13.6 Captions. Captions contained in this Agreement are inserted only as a matter of convenience and in no way define, limit or extend the scope or intent of this Agreement or any provision hereof.

Section 13.7 Counterparts. This Agreement may contain more than one counterpart of the signature page and this Agreement may be executed by the affixing of the signatures of each of the Members to one of such counterpart signature pages. All of such counterpart signatures pages shall be read as though one, and they shall have the same force and effect as though all of the signers had signed a single signature page.

Section 13.8 No Third Party Beneficiaries. It is understood and agreed among the Members that this Agreement and the covenants made herein are made expressly and solely for the benefit of the Members hereto, and that no other Person, other than an officer, agent or employee pursuant to Section 8.7 or Indemnified Party pursuant to Section 8.10, shall be entitled or be deemed to be entitled to any benefits or rights hereunder, nor be authorized or entitled to enforce any rights, claims or remedies hereunder or by reason hereof.

Section 13.9 Specific Performance. Each Member agrees that the Company and the other Member(s) would be irreparably damaged if any of the provisions of this Agreement are not performed in accordance with their specific terms and that monetary damages may not provide an adequate remedy in such event. Accordingly, it is agreed that, in addition to any other remedy to which the Company and the non-breaching Member(s) may be entitled, at law or in equity, the Company and the nonbreaching Member(s) are entitled to injunctive relief to prevent breaches of the provisions of this Agreement and to specifically enforce the terms and provisions hereof in any action instituted in any court of the United States or any state thereof having subject matter jurisdiction thereof.

Section 13.10 Waiver of Partition. The Members hereby agree that the Company assets are not and will not be suitable for partition. Accordingly, each of the Members hereby irrevocably waives any and all rights (if any) that such Member may have to maintain any action for partition of any of such assets.

Section 13.11 Waiver of Trial by Jury. TO THE EXTENT PERMITTED BY APPLICABLE LAW, EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES ALL RIGHT OF TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTER-CLAIM, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR ANY MATTER ARISING HEREUNDER.

Section 13.12 Waiver of Judicial Dissolution. The Board of Managers and each Member agrees that irreparable damage would occur if the Board of Managers or any Member should bring or have brought on its behalf an action for judicial dissolution of the Company. Accordingly, the Board of Managers and each Member accepts the provisions under this Agreement as such Member's sole entitlement on dissolution of the Company and waives and renounces all rights to seek or have sought for such Member a court decree of dissolution or to seek the appointment by a court of a liquidator for the Company.

[Signature Pages Follow]

DATED AS OF: September 1, 2017

AMENDED AND RESTATED
LIMITED LIABILITY COMPANY AGREEMENT OF
GOLFO DE MÉXICO RAIL FERRY HOLDINGS LLC

IN WITNESS WHEREOF, the undersigned Member has caused this counterpart signature page to the Amended and Restated Limited Liability Company Agreement of Golfo de México Rail Ferry Holdings LLC, dated as of September 1, 2017, to be duly executed as of the date first above written.

INTERNATIONAL SHIPHOLDING
CORPORATION

By: 
Name: Bruce Weins
Title: Vice President

Address for Notices:

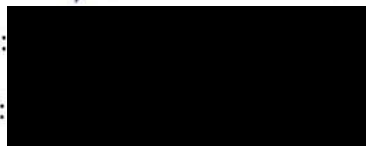
2200 Fuller Drive
Fort Lauderdale, FL
33316

Attn: Corporate Secretary

Phone:

Fax:

e-mail:



Initial Capital Contribution: \$1

Initial Capital Account Balance: \$1

DATED AS OF:

AMENDED AND RESTATED
LIMITED LIABILITY COMPANY AGREEMENT OF
GOLFO DE MÉXICO RAIL FERRY HOLDINGS LLC

IN WITNESS WHEREOF, the undersigned Member has caused this counterpart signature page to the Amended and Restated Limited Liability Company Agreement of Golfo de México Rail Ferry Holdings LLC, dated as of _____, to be duly executed as of the date first above written.

G&W AGAVE HOLDINGS INC.

By: _____
Name: Hoffman R. Lijeron
Title: Vice President and Treasurer

Address for Notices:

c/o Genesee & Wyoming Inc.
20 West Avenue
Darien, CT 06820
Attn: General Counsel
Phone: [REDACTED]
Fax: [REDACTED]
e-mail: [REDACTED]

with a copy to:

Simpson Thacher & Bartlett LLP
425 Lexington Avenue
New York, New York 10017
Attn: [REDACTED]
Phone: [REDACTED]
Fax: [REDACTED]
E-mail: [REDACTED]

Initial Capital Contribution:

Initial Capital Account Balance:

Schedule 1

Initial Capital Contributions

<u>Party</u>	<u>Capital Contributions (\$)</u>
International Shipholding Corporation	\$1
G&W Agave Holdings Inc.	\$1

Schedule 2

Reserved Matters

- (a) Any change in the scope of the business of the Company or any of its subsidiaries as described in Section 1.3 of this Agreement;
- (b) Any approval of, or material change or addition to, or deletion or deviation from, the Annual Budget;
- (c) Any capital expenditure by the Company or any of its subsidiaries in excess of \$ [REDACTED], as an individual expenditure, or \$ [REDACTED] in the aggregate, that is not contemplated by the Annual Budget;
- (d) Any Capital Contributions required from the Members in accordance with Section 3.1 of this Agreement;
- (e) Entering into any contract or transaction, or any material amendment or modification thereto, by the Company or any of its subsidiaries, outside of the ordinary course of business of the Company involving the payment of more than \$ [REDACTED], as an individual expenditure, or \$ [REDACTED] in the aggregate;
- (f) The selection, removal or replacement of any auditor of the Company;
- (g) The creation or dissolution of any direct or indirect subsidiary of the Company;
- (h) The admission of Additional Members of the Company in accordance with Section 8.13 of this Agreement;
- (i) From the date of this Agreement to the date that is the two year anniversary of this Agreement, any Transfer of Interests of the Company by any Member (excluding any Permitted Transfer);
- (j) Issuing additional Interests of the Company or equity interests in any subsidiary of the Company, or designating the rights, preferences and obligations of one or more class or series of Interests in the Company or equity interests in any subsidiary, other than in connection with an employee compensation arrangement approved by the Board of Managers;
- (k) Redeeming, purchasing, repurchasing or otherwise acquiring for value all or any portion of any Interests of the Company or equity interests of any subsidiary of the Company, other than in connection with an employee compensation arrangement approved by the Board of Managers;
- (l) Entering into, or permitting the Company or any of its subsidiaries to enter into, any merger into or consolidation with any other Person, or any sale, transfer, lease or other disposition of (in one transaction or in a series of transactions) all or substantially all of the assets of the Company and its subsidiaries (taken as a whole), or any similar transaction;

(m) The incurrence, assumption or guarantee, by the Company or any of its subsidiaries, of any indebtedness or the grant of security interests, liens or other encumbrances on the assets of the Company or any of its subsidiaries, in an amount that exceeds \$ [REDACTED];

(n) Making distributions (other than tax distributions) or returns on capital, whether in the form of cash, equity or otherwise;

(o) Entering into, appointing, modifying (including promoting or demoting) or terminating any employment or consulting arrangement with, or the approval or modification of any other compensation, bonus or benefit arrangements, or plans for officers or those employees of the Company or any of its subsidiaries whose annual compensation exceeds \$ [REDACTED];

(p) Causing the Company or any of its subsidiaries to commence a liquidation or bankruptcy proceeding or any other insolvency-related action;

(q) Entering into, modifying or terminating any material contract involving the Company or any of its subsidiaries;

(r) Any acquisitions of, or investments in, by the Company or any of its subsidiaries, any business, partnership, company, strategic alliance or other third party, whether by purchase of equity or otherwise;

(s) Any sale, transfer, lease or other disposition of assets of the Company or any of its subsidiaries in excess of \$ [REDACTED], individually, or \$ [REDACTED] in the aggregate;

(t) Any commencement or settlement of litigation, arbitration or other proceeding with an expected value in excess of \$ [REDACTED] or that would include material non-monetary relief, remedies or admissions;

(u) Entering into any contract or transaction, or amendment or modification thereto, or providing consent or waiver with respect to any contract or transaction, in each case between the Company or any of its subsidiaries on the one hand, and any Affiliate of any Member on the other hand, other than the Services Agreements;

(v) Establishing or amending any material accounting policies or methods of the Company or any of its subsidiaries;

(w) Any changes to the organizational documents of the Company or any of its subsidiaries;

(x) Pursuit of a CG Business Opportunity by the Company, any of its subsidiaries or a Member;

(y) Any amendment or modification to the Services Agreements, including termination thereof (other than for default), or providing consent or waiver with respect thereto, including any termination or modification of the services provided thereunder;

(z) Entering into any contract, or amendment or modification thereto, or providing consent or waiver with respect to any contract, between either of the Company or any of its subsidiaries on the one hand, and Rail Ferry Vessel Holdings LLC or any of its subsidiaries on the other hand; and

(aa) Entering into a new time charter involving the Company or any of its subsidiaries, amending or modifying the terms of the existing time charter or any such new time charter, providing consent or waiver with respect thereto or exercising any vessel purchase option thereunder.

Schedule 3

Committee Members

1. [REDACTED]
2. [REDACTED]

Schedule 4

Initial Officers

1. [REDACTED]