ALVARION LTD
Form 20-F
June 09, 2011

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

FORM 20-F

(Mark One)

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

OR

x ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934
For the fiscal year ended December 31, 2010

OR

o TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934
For the transition period from __________ to __________

OR

o SHELL COMPANY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934
Date of event requiring this shell company report _____________

Commission file number 000-30628

Alvarion Ltd.
(Exact name of Registrant as specified in its charter)

Israel
(Jurisdiction of incorporation or organization)

21A HaBarzel Street, Tel Aviv 69710, Israel
(Address of principal executive offices)

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

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

| Title of each class | Name of each exchange on which registered |
| --- | --- |
| Ordinary Shares, NIS 0.01 par value per share | NASDAQ Global Select Market |

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

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

Indicate the number of outstanding shares of each of the issuer's classes of capital or common stock as of the close of the period covered by the annual report.

As of December 31, 2010, there were 62,260,736 Ordinary Shares, NIS 0.01 par value per share, outstanding.

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act.

o Yes x No

If this report is an annual or transition report, indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934.

o Yes x No

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days.

x Yes o No

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files).

o Yes o No

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

Large Accelerated Filer o Accelerated Filer x Non-Accelerated Filer o

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

U.S. GAAP x

International Financial Reporting Standards as issued by the International Accounting Standards Board o

Other o

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

o Item 17 o Item 18

If this is an annual report, indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act).

o Yes x No

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INTRODUCTION

Alvarion Ltd. (the “Company,” “we,” “our” or “us”) concentrates on the wireless broadband market, focusing on two lines of business: (i) the Carrier line of business, which includes top-tier operators, broadband service providers, competitive local exchange carriers (“CLECs”) and regional carriers, and (ii) the Enterprise line of business, which includes government authorities, municipalities, and Wireless Internet Service Providers (“WISPs”) with networks and solutions based on the fourth generation (“4G”) technology, mainly being the Worldwide Interoperability for Microwave Access (“WiMAX”) standard, as well as other wireless broadband solutions. In both lines of business above, we provide the Radio Access Networks (“RAN”) solution. Our solutions are designed to cover the full range of frequency bands with fixed, portable and mobile applications. Solutions for carriers include providing subscribers with home, office and personal broadband connectivity for internet access, social networking, gaming, VoIP, video and other bandwidth-intensive applications. Our solutions also enable government and municipal office connectivity, security and surveillance services, and emerging applications, such as smart power grid and public safety-related communications.

We were incorporated in September 1992 under the laws of the State of Israel. Since our inception, we have devoted substantially all of our resources to the design, development, manufacturing and marketing of wireless products. On August 1, 2001, Floware Wireless Systems Ltd., a company incorporated under the laws of the State of Israel (“Floware”), merged with and into us. As a result of the merger, we continued as the surviving company, and Floware’s separate existence ceased. Upon the closing of the merger, we changed our name from BreezeCOM Ltd. to Alvarion Ltd.

This annual report on Form 20-F (this “Annual Report”) contains forward-looking statements, within the meaning of the Private Securities Litigation Reform Act of 1995 with respect to our business, financial condition and results of operations. Actual results could differ materially from those anticipated in these forward-looking statements as a result of various factors, including all or any of the risks discussed in “Item 3—Key Information—Risk Factors” and elsewhere in this Annual Report.

In some cases, you can identify forward-looking statements by terms such as "may", "might", "will", "should", "could", "would", "expect", "believe", "intend", "plan", "anticipate", "project", "estimate", "predict", "potential" or the negative of these terms, and similar expressions intended to identify forward-looking statements.

These statements reflect our current views with respect to future events, are based on current assumptions, expectations, estimates and projections, and are subject to risks and uncertainties. Given these uncertainties, you should not place undue reliance on these forward-looking statements. Except as required by applicable law, including the securities laws of the United States, we do not undertake any obligation nor intend to update or revise any forward-looking statements, whether as a result of new information, future events or otherwise.

As used in this Annual Report, the terms "we", "us", "our", "our Company", and "Alvarion" mean Alvarion Ltd. and its subsidiaries, unless otherwise indicated. ALVARION, ALVARION & Design, BreezeCOM, BreezeMAX, BreezeACCESS, BreezeNET, BreezeLITE, WALKair, 4Motion and INTERWAVE are registered trademarks or service marks of Alvarion in certain jurisdictions. All other trademarks and trade names appearing in this Annual Report are owned by their respective holders.

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PART I

ITEM 1. IDENTITY OF DIRECTORS, SENIOR MANAGEMENT AND ADVISERS

Not applicable.

ITEM 2. OFFER STATISTICS AND EXPECTED TIMETABLE

Not applicable.

ITEM 3. KEY INFORMATION

A. SELECTED FINANCIAL DATA

The selected financial data, set forth in the table below, have been derived from our audited historical consolidated financial statements as of, and for each of the years ended, December 31, 2006, 2007, 2008, 2009 and 2010. The selected consolidated statement of operations data for the years ended December 31, 2008, 2009 and 2010, and the selected consolidated balance sheet data at December 31, 2009 and 2010, have been derived from our audited consolidated financial statements included elsewhere in this Annual Report. The selected consolidated statement of operations data for the years ended December 31, 2006 and 2007 and the selected consolidated balance sheet data at December 31, 2006, 2007 and 2008, have been derived from our previously published audited consolidated financial statements, which are not included in this Annual Report. We prepare our consolidated financial statements in accordance with accounting principles generally accepted in the United States ("U.S. GAAP"). You should read the selected financial data together with the section of this Annual Report entitled, "Item 5—Operating and Financial Review and Prospects" and our consolidated financial statements and related notes included elsewhere in this Annual Report, and the selected financial data are qualified entirely by reference to such consolidated financial statements and related notes.

| | Year Ended December 31, | | | | |
|---|---|---|---|---|---|
| | 2006(*) | 2007(*) | 2008(*) | 2009(*) | 2010(*) |
| | (in thousands except per share data) | | | | |
| Statement of Operations Data: | | | | | |
| Sales | $181,594 | $236,573 | $281,281 | $245,239 | $205,815 |
| Cost of sales | 80,410 | 114,099 | 144,326 | 128,461 | 128,578 |
| Write-off of excess inventory and provision for inventory purchase commitments | 9,472 | 4,762 | 3,457 | 3,993 | 4,897 |
| Gross profit | 91,712 | 117,712 | 133,498 | 112,785 | 72,340 |
| | | | | | |
| Operating costs and expenses: | | | | | |
| Research and development, gross | 42,042 | 54,967 | 69,952 | 54,674 | 41,744 |
| Less grants and participations | 3,235 | 3,578 | 10,273 | 3,884 | 3,027 |
| Research and development, net | 38,807 | 51,389 | 59,679 | 50,790 | 38,717 |
| Selling and marketing | 44,929 | 55,943 | 60,521 | 52,022 | 43,376 |
| General and administrative | 13,680 | 15,426 | 18,813 | 15,087 | 19,920 |
| | | | | | |
| Amortization of intangible assets | 2,676 | 2,544 | 1,327 | 132 | 130 |
| Impairment of investment | - | - | - | 1,554 | - |
| Impairment of goodwill and intangible assets | - | - | - | - | 57,110 |
| Restructuring and other related expenses | - | - | 2,914 | 2,787 | 3,573 |

| | | | | | |
|---|---|---|---|---|---|
| Total operating costs and expenses | 100,092 | 125,302 | 143,254 | 122,372 | 162,826 |
| Operating profit (loss) | (8,380) | (7,590) | (9,756) | (9,587) | (90,486) |
| Other (loss) income | - | 8,265 | - | 731 | (7,000) |
| Financial income (expenses), net | 3,796 | 6,453 | 4,297 | 1,668 | (99) |
| Income (loss) before tax | (4,584) | 7,128 | (5,459) | (7,188) | (97,585) |
| Taxes on Income | - | - | - | - | 894 |
| Income (loss) from continuing operations | (4,584) | 7,128 | (5,459) | (7,188) | (98,479) |
| Income (loss) from discontinued operations, net | (36,167) | 5,413 | - | - | - |
| Net income (loss) | $(40,751) | $12,541 | $(5,459) | $(7,188) | $(98,479) |
| | | | | | |
| Net earnings (loss) per share: | | | | | |
| Basic: | | | | | |
| Continuing operations | $(0.08) | $0.11 | $(0.09) | $(0.12) | $(1.58) |
| Discontinued operations | (0.59) | 0.09 | - | - | - |
| Total | $(0.67) | $0.20 | $(0.09) | $(0.12) | $(1.58) |
| Weighted average number of shares used in computing basic net earnings (loss) per share | 60,841 | 62,345 | 62,925 | 62,023 | 62,199 |
| Diluted: | | | | | |
| Continuing operations | $(0.08) | $0.11 | $(0.09) | $(0.12) | $(1.58) |
| Discontinued operations | (0.59) | 0.08 | - | - | - |
| Total | $(0.67) | $0.19 | $(0.09) | $(0.12) | $(1.58) |
| Weighted average number of shares used in computing diluted net earnings (loss) per share | 60,841 | 64,626 | 62,925 | 62,023 | 62,199 |

(*) Includes charges for stock-based compensation of approximately $6.9 million, $7.4 million, $7.6 million, $4.2 million and $3.3 million as a result of ASC 718 Compensation – "Stock Compensation" for the years ended December 31, 2006, 2007, 2008, 2009 and 2010, respectively.

| | As of December 31, | | | | |
|---|---|---|---|---|---|
| | 2006 | 2007 | 2008 | 2009 | 2010 |
| | (in thousands) | | | | |
| Working capital | $97,169 | $113,118 | $115,817 | $132,813 | $109,978 |
| Total assets | $280,063 | $313,143 | $338,110 | $301,544 | $214,764 |
| Shareholders' equity | $195,301 | $220,553 | $215,906 | $216,644 | $122,087 |
| Capital Stock | $403,708 | $415,213 | $423,468 | $428,086 | $431,534 |

B. CAPITALIZATION AND INDEBTEDNESS

Not applicable.

C. REASONS FOR THE OFFER AND USE OF PROCEEDS

Not applicable.

D. RISK FACTORS

Our business, financial condition and results of operations could be seriously harmed due to any of the following risks, among others. If we do not successfully address the risks to which we are subject, we could experience a material adverse effect on our business, results of operations and financial condition, and our share price may decline. We cannot assure you that we will successfully address any of these risks.

Risks Related to Our Business and Our Industry

We have incurred significant losses in the past and we may continue to incur losses in the future.

In 2010, our operating loss and net loss were approximately $(90.5) million and $(98.5) million, respectively. Our losses in 2010 were mainly due to the $57.1 million impairment of goodwill that was written-off by us. Due to the global economic downturn that had negatively affected our business and a significant reduction in our market capitalization, we determined that there would be no implied value attributable to our reporting unit goodwill. As of December 31, 2010, we have no goodwill in our balance sheet. Furthermore, our losses in 2010 also resulted from an impairment of a short term investment in an amount of $7.0 million, the global economic slowdown, the limited availability of credit in the global capital markets, the aggressive competition which we face (especially from Chinese vendors), the continued delay in new project launches and delays in allocating spectrum in several countries. Each of the above reasons led to a sequential decline in our gross margin during 2010 and may continue to adversely affect our business and operating results in the future.

In 2009 and 2008, our operating loss was approximately $(9.6) million and $(9.8) million, respectively, and our net loss was approximately $(7.2) million and $(5.5) million, respectively. In addition, we have incurred operating losses in each of our last five fiscal years, and net losses in four of our last five fiscal years (with the exception of 2007). We may continue to incur operating losses and net losses in the future. Further, in the event our recent restructuring plan (as hereinafter described in Item 4) does not reduce costs as expected, it may have an adverse affect on our business and our operations may continue to incur losses. Continuing losses could have a material adverse effect on our business, financial condition and results of operations, and on the value and market price of our ordinary shares.

Continued unfavorable global economic conditions could have a material adverse effect on our business, operating results and financial condition.

The crisis in the financial and credit markets in the United States, Europe and Asia in 2008 and 2009 led to a global economic slowdown, with the economies of the United States and Europe showing significant signs of weakness. If the economies in the countries in which we operate do not improve or weaken further, carriers in such countries may further reduce or postpone their technology spending significantly as well as require aggressive vendor financing. This could result in continued reductions in sales, further decreases in our revenues, longer sales cycles, slower market acceptance of our products and increased price competition. Any of these events would likely harm our

business, operating results and financial condition. If global economic and market conditions, or economic conditions in the United States, Europe or Asia or other key markets do not improve or weaken further, our business, operating results and financial condition may be materially adversely affected.

Adverse conditions in the telecommunications industry and in the telecommunications equipment market may decrease demand for our products and may harm our business, financial condition and results of operations.

Our systems are used by telecom carriers and service providers and within vertical markets, such as municipalities and utility companies. As a result of our customers' tightened spending as well as the limited licenses and substantial capital requirements which limit growth into new markets, our revenues declined in 2010 and may continue to decline and our losses may increase in the future. Some carriers and service providers that use wireless broadband are emerging companies with unproven business models. Adverse market conditions in the past years have also led our customers and potential customers to be conservative in their spending, and this could continue in the future. Due to such conditions, the markets in which we operate may not grow as we expect or may decrease, and our overall expansion plan may be affected. While our goal is to increase our sales by expanding the range of customers that we address, there can be no assurance that we will be successful. Moreover, the number of orders received by carriers and service providers who are our current and potential customers may decrease because of the limited number of licenses granted in each country and the substantial capital requirements involved in establishing networks as well as the fierce competition we face in our business. As a result, our revenues have declined in 2010 and our losses have increased in 2010, and our revenues may continue to decline and our losses may continue to increase.

We may fail to deliver “turn-key” solutions to our customers.

We are experiencing an increasing demand from existing and potential customers within our carrier line of business to provide a complete operational or “turn-key” solution for their deployment needs, where we are responsible for overall project management, including third-party deliverables. These projects require us to integrate third parties' technologies, equipment and services with our own. Relying on third parties increases our responsibilities towards our customers. If we or any of our third parties fail to fully comply with our customers' requirements, or we, as the end-to-end provider, fail to deliver the project in a timely manner and to the satisfaction of our customers, such failure may adversely affect our results of operations.

New markets we attempt to penetrate may not become substantial commercial markets. In addition, if we do not maintain or increase our market share of the wireless broadband equipment market, our business will suffer.

The wireless broadband market, both fixed and mobile, and other new markets we attempt to penetrate may not become substantial commercial markets or may not evolve in a manner that will enable our products to achieve market acceptance. If such markets do not evolve or develop or we do not maintain or increase our market share within these commercial markets, our revenues may continue to decrease. In particular, Mobile WiMAX technology targets 4G services and therefore competes with other technologies such as Long Term Evolution ("LTE"), which is becoming the 4G leading technology and the major competitor of WiMAX for wireless broadband markets. WiMAX market acceptance may be hampered by competing technologies or intellectual property rights disputes. In addition, in order to maintain or increase our market share in the markets in which we operate, we must:

- continue to innovate and differentiate our technology position in designing, developing and manufacturing broadband wireless access products;

- develop and cultivate additional sales channels in addition to our direct sales from which we generate our main revenues today, including regional local partners or other strategic arrangements with leading manufacturers of access equipment, who can market our wireless broadband products to prospective customers, such as local exchange carriers, international cellular operators, Internet and application service providers, municipalities and local telephone companies;

- effectively establish and support relationships with customers, including local exchange carriers, Internet and application service providers, public fixed or mobile telephone service providers and private network operators;

- effectively develop and market our OPEN WiMAX strategy in our broadband mobile solution, together with our current and potential partners; and

- continue to enhance our maintenance and support services.

Our efforts in these markets may not succeed.

Intense competition in the markets for our products may have an adverse effect on our sales and profitability.

The strengthening of Chinese vendors in the past few years affected the competitive landscape of the WiMAX industry as a whole and may continue to negatively affect our sales, revenues and profitability in the future.

Many companies compete with us in the wireless broadband equipment market in which we sell our products, particularly Chinese vendors. Such vendors have substantially increased their market share in the past few years. We expect that competition from large vendors will increase in the future, including with respect to products that we currently offer and products that we intend to introduce in the future. As the market transitions toward standardization and LTE technology, competition becomes increasingly more challenging for us. In addition, some system integrators and other strategic partners to which we sell our wireless broadband products could develop the capability to manufacture systems similar to our wireless broadband products or choose to work exclusively with our competitors. We expect our competitors to continue improving the performance of their current products and to introduce new products or new technologies that may supplant or provide lower cost alternatives to our products or perform better than our products. We also face additional and new competition from large telecommunication equipment vendors, such as Huawei, Nokia Siemens, Samsung and ZTE Corporation and we expect this competition to grow, especially with respect to the mobile WiMAX-based products. Tier One operators, which form the largest and most established group of telecom operators, may prefer to purchase products from these large vendors, as has occurred on a number of occasions. During recent years, there has been a trend of consolidation in the telecommunication equipment market such as Alcatel-Lucent and Motorola with NSN. This trend continued in the past year and may continue in the future and may result in larger competitors with enhanced financial and other resources. This may further intensify the competitive nature of the markets in which we operate.

We expect these competitors to continue improving their technologies and products, which may cause us to lose some of our customers or prevent us from entering into new markets. Some of our existing and potential competitors, including large competitors arising from the continued consolidation in the telecommunications equipment market as well as increased competition of Chinese vendors, have substantially greater resources, including financial, technological, manufacturing and marketing, and distribution capabilities, and enjoy greater market recognition than we do. Increased competition, direct and indirect, has resulted in, and is likely to continue to result in, reductions of average selling prices, shorter product life cycles due to our competitors' launch of innovative products in the market more frequently, reduced gross margins, longer sales cycles and potential loss of market share and, consequently, could adversely affect our sales and profitability.

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We may not be able to differentiate our products from those of our competitors, successfully develop or introduce new products that are less costly, offer better performance than the products of our competitors, or offer our customers payment or other commercial terms as favorable as those offered by our competitors. In addition, we may not be able to offer our products as part of integrated systems or solutions or provide extensive services to the same extent as our competitors. A failure to accomplish one or more of these objectives could materially adversely affect our sales and profitability, harming our financial condition and results of operations.

Some of our standards-compliant WiMAX products may not receive the certification that we expect, which may affect our future business.

We rely on WiMAX technology. Products based on this technology may not receive certification in the time frame we expect, or at all, and may therefore not achieve the wide acceptance that we are seeking. This may harm the sales of our standards compliant products, and consequently, our results of operations.

Technological changes may have an adverse effect on the market acceptance of our products and may adversely affect our results of operations.

The markets for our products and the technologies utilized in the industry in which we operate evolve continuously. We rely on key technologies, including wireless local area network ("LAN"), wireless packet data, orthogonal frequency division multiplexing ("OFDM"), orthogonal frequency division multiple access ("OFDMA"), time division multiplexing, modem and radio technologies as well as WiMAX, multiple-input multiple-output communications ("MIMO"), Sub Channelization, beam forming, high power base station and other technologies. These technologies may be replaced with alternative technologies or may otherwise not achieve the wide acceptance that we are seeking.

In addition, market changes could render our products and technologies obsolete or subject them to intense competition by alternative products or technologies or by improvements in existing products or technologies. For example, the wireless broadband equipment market may stop growing as a result of the deployment of alternative technologies that are constantly improving, such as DSL, cable modem, fiber optic, coaxial cable, satellite systems, Wi-Fi technology, third or fourth generation cellular systems, or high speed packet access ("HSPA") and LTE technologies. New or enhanced products developed by our competitors may be technologically superior to our products, may limit our target markets or may render our products obsolete, and consequently adversely affect our results of operations. New chips introduced may include built-in capabilities which are currently an Alvarion product differentiator, which would lower the barrier for competition.

The success of our technology depends on the following factors, among others:

- acceptance of new and innovative technologies;
- acceptance of standards for wireless broadband products;
- timely availability and maturity of technology from technology suppliers and chip-vendors, such as Sequans, Beceem, Gemtek, Cisco and Tellabs;
- capacity to handle growing demands for faster transmission of increasing amounts of data and voice;
- cost-effectiveness and performance compared to other broadband wireless technologies;
- reliability and security;

- suitability for a sufficient number of geographic regions;
- the availability of sufficient frequencies and site locations for carriers to deploy and install products at commercially reasonable rates; and
- safety and environmental concerns regarding wireless broadband transmissions.

We may experience difficulties or delays in the introduction of new or enhanced products, which could result in reduced sales or unexpected expenses.

The development of new or enhanced products, such as the development of new products in the 4G market, is a complex and uncertain process.  For example, the development of new products in the 4G market is a multi-disciplinary process, which involves hardware design and development, software, integration, and intensive and complicated system design, resulting in a long development cycle.  We are engaged in the development of very advanced technologies. We have experienced and may continue to experience design, manufacturing, marketing and other difficulties due to delays in our development or delays by third party vendors, and these delays could continue to cause difficulties or prevent our development, introduction or marketing of new products or product enhancements and intensified competition. Such difficulties could result in reduced sales, unexpected expenses or delays in the launch of new or enhanced products or our inability to timely introduce to the market our products, any of which may adversely affect our results of operations. Also, such delays could lead sales partners and distributors to turn to competing vendors.

We engaged and may continue to engage in mergers and acquisitions which could harm our business, results of operations and financial condition, and dilute our shareholders' equity.

We have pursued and, subject to market conditions, may continue to pursue, growth opportunities through internal growth and acquisition of complementary businesses, products and technologies. We are unable to predict whether or when any prospective acquisitions will be completed.  The process of integrating an acquired business may be prolonged due to unforeseen difficulties and may require a disproportionate amount of our resources and management's attention.  We cannot assure you that we will be able to successfully identify suitable acquisition candidates, complete acquisitions, integrate acquired businesses into our operations, or expand into new markets.  Further, once integrated, acquisitions may not achieve comparable levels of revenues, profitability or productivity as our existing business or otherwise perform as expected.  The occurrence of any of these events could harm our business, financial condition or results of operations.  Past and future acquisitions may require substantial capital resources, which may require us to seek additional debt or equity financing, and could result, without limitation, in the following, any of which could seriously harm our results of operations or the price of our ordinary shares:

- issuance of equity securities that would dilute our current shareholders;
- large write-offs;
- the incurrence of debt and contingent liabilities;
- difficulties in the assimilation and integration of operations, personnel, technologies, products and information systems of the acquired companies;
- diversion of management's attention from other business concerns;
- contractual disputes;
- risks of entering geographic and business markets in which we have limited or no prior experience;
- loss of key employees of acquired organizations; and
- negative impact on our cash reserve.

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We have experienced in the past, and may experience in the future, quarterly and annual fluctuations in our results of operations which may cause volatility in the market price of our ordinary shares.

We have experienced, and may continue to experience, significant fluctuations in our quarterly and annual results of operations, in particular, in light of intense competition, especially from Chinese vendors as outlined earlier and hereinafter, the continuing effects of the global slowdown and the continued limited availability of credit in the global capital markets. Any fluctuations may cause our results of operations to decrease below the expectations of securities analysts and investors. This would likely affect the market price of our ordinary shares.

Our quarterly and annual results of operations may vary significantly in the future for a variety of reasons, many of which are outside of our control, including the following:

- the uneven pace of spectrum licensing to carriers and service providers;
- purchasing patterns of our customers, the size and timing of orders and the timing of large scale deployments;
- the fulfillment of all revenue recognition criteria;
- customer deferral of orders in anticipation of new products, product features or price reductions;
- the introduction of our new products or enhancements or those of our competitors or of providers of complementary products;
- seasonality, including the relatively low level of general business activity in the first and third quarters of each year;
- disruption or changes in the quality of our sources of supply;
- changes in the mix of products sold by us;
- mergers or acquisitions, by us, our competitors and existing and potential customers, if any;
- one-time charges such as asset impairment and restructuring charges;
- fluctuations in the exchange rate of the New Israeli Shekel (the “NIS”) against the United States dollar;
- general economic conditions, including the unfavorable global economic conditions; and
- network approval process dependencies.

Our customers ordinarily require the delivery of products promptly after their orders are accepted. Historically, our business does not have a significant backlog of accepted orders. Consequently, revenues in any quarter depend primarily on orders that are received and accepted in that quarter. The deferral of the placing and acceptance of any large order from one quarter to another could materially and adversely affect our results of operations for the former quarter. Our revenue recognition is complex and dependent on various parameters and milestones. If revenues from our business in any quarter remain in the same level or decline in comparison to any previous quarter, our results of operations could be harmed.

In addition, our operating expenses may increase significantly. If revenues in any quarter do not increase correspondingly or at a higher rate, or if we do not reduce our expenses in a timely manner in response to lower level

or declining revenues, our results of operations for that quarter would be materially adversely affected. Because of the variations that we have experienced in our quarterly results of operations, we do not believe quarter-to-quarter comparisons of our results of operations are necessarily meaningful and you should not rely on results of operations in any particular quarter as an indication of future performance.

Our products have long and unpredictable sales cycles which could adversely impact our revenues and results of operations.

The sales cycle for most of our products encompasses significant technical evaluation and testing by each potential purchaser and a commitment of significant cash and other resources. The sales cycle can extend for more than one year and sometimes even two years from initial contact with a carrier to receipt of a purchase order. This time frame may be extended due to, among other reasons, a carrier's desire to ensure that the systems work for a long period with increased number of subscribers' coverage and capacity, a carrier's need to obtain financing or other means of collateral to purchase systems incorporating our products, the regulatory authorization of competition in local services, delays in the licensing of spectrum for these services and other regulatory hurdles.

As a result of the length of these sales cycles, revenues from our products may fluctuate from quarter to quarter and fail to correspond with associated expenses, which are largely based on anticipated revenues. In addition, the delays inherent in the sales cycles of our products raise additional risks of customers canceling or changing their product plans. Our revenues will be adversely affected if a significant customer, or a significant potential customer, reduces, delays or cancels orders during the sales cycle or chooses not to deploy networks incorporating our products. Any such fluctuation in revenue or cancellation of orders may have an adverse effect on our business and may affect the market price of our ordinary shares. In addition, the global economic financial recession may continue to have an adverse effect on the length of our sales cycle.

Our business is dependent upon the success of our distributors, system integrators and other partners, who are under no obligation to purchase our products.

A portion of our revenues is derived from sales to our independent partners, such as distributors and system integrators. Our distributors resell our products to others, who further resell our products to end users. Changes in the distribution and sales channels of our products, a loss of a major distributor or a major distributor's loss of a major end-user, or our inability to establish effective distribution and sales channels for new products may impact our ability to sell our products and result in a loss of revenues. Additionally, sales through our distributors and system integrator channels expose our business to a number of risks, each of which could result in a reduction in the sales of our products. For example, some of these distributors and system integrators may terminate their relationships with us, consolidate or face financial problems, as well as promote competing products or emphasize alternative technologies, which may turn them into our competitors rather than our partners, all of which may result in a decline in the purchase of our products.

We are dependent upon the acceptance of our products by the market through our partners' efforts in marketing and sales. In some cases, arrangements with our partners do not prevent them from selling competitive products and some of the arrangements do not contain minimum sales or marketing performance requirements. In addition, our efforts to increase sales may suffer from the lack of brand visibility resulting from the integration of these products into more comprehensive systems by distributors and system integrators. Changes in the financial condition, business or marketing strategies of our partners could have a material adverse effect on our results of operations. Any of these changes could occur suddenly and rapidly.

If our revenues decrease and our days- sales-outstanding ("DSO") increase, we may suffer from a cash shortfall.

Our DSOs decreased to 87 days in 2010. However, we expect that over time our DSOs may increase and we expect our DSOs will range between 90 to 120 days during 2011, mainly due to our customers requesting more favorable payment terms from us as part of increased competition, as well as the limited availability of credit in the capital markets, which may also affect our inability to collect our customers' debts in a timely manner or at all. In addition, we may experience an increase in DSOs if we fail to timely collect revenues from our customers.

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We may experience a continuing decrease in our gross margin levels in the future, which may adversely affect our financial results.

We believe that several market developments have caused, and may continue to cause, a decline in our gross margin, mainly due to (a) the fact that our revenue mix contained a high proportion of third party equipment, combined with the continued aggressive competition as described hereinabove and hereinafter, (b) the delay in new project launches and (c) the continued economic slowdown, all of which resulted in a low level of revenue which led to a large sequential decline in gross margin as evidenced in our 2010 results. Such developments include the following: (i) increased competition in the regions in which we currently operate; (ii) changes in the mix of our products, such as an increase in the volume of sales of lower-margin Customer Premise Equipment ("CPEs"); (iii) the entry of new, large vendors into our markets; (iv) changes in the market demand of some of our existing and potential products; (v) our engaging in "turn-key" projects, which involve lower margins on third party equipment and services; and (vi) our entry into new geographical markets with lower margins, such as India. We expect this decline in gross margin to continue over time. If our revenues do not increase and our operating expenses remain the same or increase, the decline in gross margin will have a negative impact on our results of operations.

Our products are complex and may have errors or defects that are detected only after deployment in complex networks.

Some of our products are highly complex and are designed to be deployed in complex networks. Although our products are tested during manufacturing and prior to deployment, our customers may discover errors after the products have been fully deployed. If we are unable to fix errors or other problems that may be identified in full deployment, including problems related to the site survey, radio planning and other problems that are not necessarily related to product functionality but to the associated services, or unable to correct the errors in a timely manner, we could experience:

- costs associated with remediation;
- loss of or delay in revenues;
- loss of customers;
- failure to achieve market acceptance and loss of market share;
- diversion of deployment resources;
- diversion of research and development resources to fix errors in the field;
- increased service and warranty costs;
- legal actions or demands for compensation by our customers; and
- increased insurance costs.

In addition, our products are often integrated with other network components. There may be incompatibilities between these components and our products that could significantly harm service providers or their subscribers. Product problems in the field could require us to incur costs or divert resources and may subject us to liability for damages caused by the problems or delay research and development projects because of the diversion of resources. These problems could also harm our reputation and competitive position in the industry.

We could be subject to warranty claims and product recalls, which could be very expensive and harm our financial condition.

Products like ours sometimes contain undetected errors. These errors can cause delays in product introductions or require design modifications. In addition, we are dependent on unaffiliated suppliers for key components incorporated into our products. Defects in systems in which our products are deployed, whether resulting from faults in our products or products supplied by others, from faulty installation or from any other cause, may result in customer dissatisfaction. Additionally, we are continually marketing several new products. The risk of errors in these new products, as in any new product, may be greater than the risk of errors in established products. The warranties for our products permit customers to return for repair or replacement, within a period ranging from 12 to 24 months of purchase, any defective products. Any failure of a system in which our products are deployed (whether or not our products are the cause), any product recall and any associated negative publicity could result in the loss of, or delay in, market acceptance of our products and could harm our business, financial condition and results of operations. Although we attempt to limit our liability for product defects to product replacements, we may not be successful, and customers may sue us or claim liability for defective products and for related claims arising therefrom. A successful product liability claim could result in substantial cost or divert management’s attention and resources, which could have a negative impact on our financial condition and results of operations.

Our dependence on limited sources for key components of our products may lead to disruptions in the delivery and increased cost of our products, harming our business and results of operations.

We currently obtain key components for our products from a limited number of suppliers, and in some instances from a single supplier. In addition, some of the components that we purchase from single suppliers are custom-made. We cannot be sure that we will not experience increased costs or disruptions in the delivery of our product components. In addition, there is a global demand for some electrical components that are used in our systems and that are supplied by relatively few suppliers. Our dependence on these limited sources for key components for our products presents the following potential risks:

- delays in delivery or shortages of components, especially for custom-made components or components with long delivery lead times, could interrupt and delay manufacturing and result in cancellations of orders for our products;
- suppliers could increase component prices significantly and with immediate effect on the manufacturing costs of our products;
- due to the global financial recession, some of our suppliers may cease to exist or face financial difficulties which could affect the supply chain;
- we may not be able to develop alternative sources for product components;
- suppliers could discontinue the manufacture or supply of components used in our products which may require us to modify our products and which may cause delays in product shipments, increased manufacturing costs and increased product prices;
- we may be required to hold more inventory for longer periods of time than we otherwise might in order to avoid problems from shortages or discontinuance; and
- due to the political situation in the Middle East and the fact that our headquarters are located in Israel, we may not be able to import necessary components from different countries world-wide.

Our dependence on third party equipment embedded in our products and complementary systems may impact our business.

We rely on third party software and hardware embedded in our solution. If our licensors fail to support the software or hardware embedded in our solution we may suffer difficulties in supporting our customers and delivering our equipment. We are also dependent on complementary systems such as CPEs, and Access Service Networks Gate Ways, or ASN- GW, which are part of our solution. Failure by our vendors to deliver such products or discontinue production of such products may cause difficulties to, and may have adverse effect, on our business.

Changes within these vendors' environment can influence our business results. For example, the consolidation among chip vendors that has taken place in 2010 may influence price levels or change the partners' roadmap in a way that could harm our business.

In addition, in the past, we experienced delays and shortages in the supply of components on more than one occasion. We may experience such delays in the future, harming our business and results of operations.

We must be able to manage expenses and inventory risks associated with meeting the demands of our customers.

To ensure that we are able to meet customer demand for our products, we place orders with our subcontractors and suppliers based on our estimates of future sales. If actual sales differ materially from these estimates, our inventory levels may be too high, and inventory may become obsolete and/or over-stated on our balance sheet. This result would require us to write off inventory, which could adversely affect our results of operations. In 2008, 2009 and 2010, we wrote off inventory in the amounts of $3.5 million, $4.0 million and $4.8 million, respectively.

In addition, we are required to place manufacturing orders well in advance of the time we expect to sell products, and this may result in us ordering a larger or smaller number of these products than required. In the event that we order the manufacture of a greater or lesser amount of these products than necessary, we may be required to purchase the surplus products or to forego or delay the sale or delivery of the products that we did not order in advance. In either case, our business and results of operations may be adversely affected.

The limited manufacturing capacity of a number of subcontractors we depend on may prevent us from filling orders in the timeframe and with the quality specifications our customers demand, which may harm our business and results of operations.

We currently depend on a number of contract manufacturers with limited manufacturing capacity to manufacture our products. The assembly of certain of our finished products, and the manufacture of custom printed circuit boards utilized in electronic subassemblies and related services are also performed by these independent subcontractors. In addition, we rely on third-party "turn-key" manufacturers to manufacture certain sub-systems for our products. Reliance on third-party manufacturers exposes us to significant risks, including risks resulting from:

- potential lack of manufacturing capacity;
- limited control over delivery schedules;
- quality assurance and control;
- manufacturing yields and production costs;
- voluntary or involuntary termination of their relationship with us;
- difficulty in, and timeliness of, substituting any of our contract manufacturers, which could take as long as six months or more;
- the economic and political conditions in their environments; and
- their financial strength.

If the operations of our contract manufacturers are halted, even temporarily, or if our contract manufacturers are unable to operate at full capacity for an extended period of time, we may experience business interruption, increased costs, loss of goodwill and loss of customers.

Any of these risks could result in manufacturing delays or increases in manufacturing costs and expenses. If we experience manufacturing delays, we could lose orders for our products and, as a result, lose customers. There may be an adverse effect on our profitability and, consequently, on our results of operations, if we incur increased costs.

Regulation by governments or other public authorities may increase our costs of doing business, limit our potential markets or require changes to our products that may be difficult and costly.

Our business is premised on the availability of certain radio frequencies for two-way broadband communications. Radio frequencies are subject to extensive regulation under international treaties and local laws, which differ by country. Some of our products operate in license-free bands in the radio spectrum, while others operate in licensed bands. The regulatory environment in which we operate is subject to significant change, the results and timing of which are uncertain.

In some cases, the continued validity of licenses may be conditioned on the licensee complying with various conditions. Since WiMAX technologies evolve and enable new applications, such as mobile services, in some countries the regulators may not permit an operator to use the spectrum previously allocated according to its full technology potential and its latest technological evolution. The regulators in some countries may avoid granting WiMAX spectrum to protect owners of other spectrums previously allocated or they may wait until new technologies such as LTE become available before starting the frequency allocation process. In addition to regulation of available frequencies, our products must conform to a variety of national and international regulations that require compliance with administrative and technical requirements as a condition to the operation or marketing of devices that emit radio frequency energy.

The regulatory environment in which we sell our products subjects us to several risks, including the following:

- Our customers may not be able to obtain sufficient frequencies for their planned uses of our wireless broadband products;

- Failure by the regulatory authorities to allocate suitable and sufficient radio frequencies in a timely manner could deter potential customers from ordering our wireless broadband products. Also, frequency licenses and other regulations may include terms that affect the desirability of using our products;

- The process of establishing new regulations for wireless broadband frequencies and allocating these frequencies to operators is complex and lengthy, and delays in this process may postpone the commercial deployment of our products;

- If our products operate in the license-free bands, Federal Communications Commission ("FCC") rules and similar rules in other countries require operators of radio frequency devices, such as our products, to cease operation of a device if its operation causes interference with authorized users of the spectrum and to accept interference caused by other users;

- If the use of our products interferes with authorized users, or if users of our products experience interference from other users, market acceptance of our products could be adversely affected;

- Regulatory changes, including changes in the allocation of frequency spectrum, may significantly impact our operations by rendering our current products obsolete or non-compliant, restricting the applications and markets served by our products, or requiring us to modify our products;

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- Regulatory changes and restrictions imposed due to environmental concerns, such as restrictions imposed on the location of outdoor antennas;

- Spectrum technology neutrality or specific technology allocation may be changed by regulatory authorities towards other competing technologies or to fit specific competitive solutions. Spectrum allocation may specify a particular technology, such as 3G, LTE or WiMAX rather than enabling the spectrum owner to determine the technology; and

- Export control laws and regulations which are applicable to all of our products and technology may become more stringent in the future.

We are subject to certain European directives like the directive on Waste Electrical and Electronic Equipment and the directive on the Restriction of the Use of Certain Hazardous Substances in Electrical and Electronic Equipment and may also be subject to other similar legislation in other parts of the world.

Our proprietary technology is difficult to protect, and its unauthorized use by third parties may impair our ability to compete effectively.

Our success and ability to compete depends and will continue to depend, to a large extent, on maintaining our proprietary rights and the rights that we currently license or will license in the future from third parties. We rely primarily on a combination of patents, trademarks, trade secrets and copyright law and on confidentiality, non-disclosure and assignment-of-inventions agreements to protect our proprietary technology. We have obtained several patents and have several patent applications pending that are associated with our products. We also have several trademark registrations associated with our name and some of our products.

These measures may not be sufficiently adequate to protect our technology from third-party infringement. Our competitors may independently develop technologies that are substantially equivalent or superior to our technology. Third-party patent applications filed earlier may block our patent applications or receive broader claim coverage. In addition, any patents issued to us, if issued at all, may not provide us with significant commercial protection. Third parties may also invalidate, circumvent, challenge or design around our patents or trade secrets, and our proprietary technology may otherwise become known, or similar technology may be independently developed by competitors. Additionally, our products may be sold in foreign countries that provide less protection to intellectual property than that provided under U.S. or Israeli laws. Failure to successfully protect our intellectual property from infringement may damage our ability to compete effectively and harm our results of operations.

We could become subject to litigation regarding intellectual property rights, which could seriously harm our business.

From time to time we receive letters alleging that we have infringed upon a patent, trademark or other proprietary right. As the Broadband Wireless Access market transitions toward standardization, we are more exposed to intellectual property litigation by third parties who claim to hold intellectual property rights related to such standards. In addition, based on the size and sophistication of our competitors and the history of rapid technological change in our industry, it is possible that several competitors may have intellectual property rights that could relate to our products. Therefore, we may need to litigate to defend against claims of infringement or to determine the validity or scope of the proprietary rights of others. Similarly, we may need to litigate to enforce or uphold the validity of our patent, trademarks and other intellectual property rights. Other actions may involve ownership disputes over our intellectual property or the misappropriation of our trade secrets or proprietary technology. As a result of these actions, we may have to seek licenses to third-parties' intellectual property rights, which may not be able to be successfully integrated into our products. These licenses may not be available to us on reasonable terms or at all. In addition, litigation could be expensive and time consuming and could result in court orders preventing us from selling our then-current products or from operating our business. Any infringement claim, even if not meritorious, could

result in the expenditure of significant financial and managerial resources and harm our business, financial condition and results of operations. We have no assurance that any such allegation will not have a material adverse effect on our business, financial condition or results of operations.

If we are unable to maintain licenses to use certain technologies, we may not be able to develop and sell our products.

We receive licenses from third party companies for certain technologies we use in connection with some of our technologies. The loss of these licenses could impair our ability to develop and market our products. If we are unable to obtain or maintain the licenses that we need, we may be unable to develop and market our products or processes, or we may need to obtain substitute technologies of lower quality or performance characteristics or at greater cost. We cannot assure you that we can maintain these licenses or obtain additional licenses, if we need them in the future, on commercially reasonable terms or at all. Also, some of our products utilize open source technologies. These technologies are licensed to us on varying license structures. These licenses and others like them pose a potential risk to products should they be inappropriately used.

We depend on key personnel and several members of our senior management have been recently appointed.

Our future success depends, in part, on the continued service of key personnel. Most members of our senior management team are new to their positions. They may need time to acquire the requisite knowledge of our company and the specific skills necessary to successfully carry out the tasks required of them, which could adversely affect our results of operations.

Five of the eight members of our senior management, including our chief executive officer and the presidents of our two largest divisions, were only appointed to their present positions in 2009 and another was only appointed in October 2010, while the chief financial officer was appointed on January 1, 2011. Some of these individuals had little or no previous experience of working for Alvarion. Our chief executive officer joined Alvarion in December 2009 and our chief financial officer joined Alvarion in September 2008 as the vice president of our financial division, and became chief financial officer on January 1, 2011. Two other members have previously served in other positions at Alvarion with more limited responsibilities. Should any members of senior management fail to perform as expected, or should they or other new key managerial appointees fail to acquire the requisite knowledge and skills in a timely manner, our operations may be disrupted and this might adversely affect our results of our operations.

Further, if certain of our key technical, sales or senior management personnel terminate their employment and we are unable to retain qualified replacements, our business and results of operations could be harmed.

We may be classified as a passive foreign investment company.

As a result of the combination of our substantial holdings of cash, cash equivalents and securities and the decline in the market price of our ordinary shares from its historical highs, there is a risk that we could be classified as a passive foreign investment company ("PFIC") for United States federal income tax purposes. However, based upon our market capitalization during 2010, we do not believe that we were a PFIC for 2010. In addition, based upon our valuation of our assets as of the end of each quarter of 2002 and 2003 and an independent valuation of our assets as of the end of each quarter of 2001, we do not believe that we were a PFIC for 2001, 2002 or 2003, despite the relatively low market price of our ordinary shares during some of those years. We cannot assure you, however, that the United States Internal Revenue Service or the courts would agree with our conclusion if they were to consider our situation. There is no assurance that we will not become a PFIC in 2011 or in subsequent taxable years. If we were classified as a PFIC, U.S. taxpayers that own our ordinary shares would be subject to additional taxes upon certain distributions by us or upon gains recognized after a sale or disposition of our ordinary shares unless they appropriately elect to treat us as a "qualified electing fund" or to make a "mark to market election" under the U.S. Internal Revenue Code. Our classification as a PFIC could also adversely affect the market price of our ordinary shares. For more information, see "Item 10—Additional Information—Taxation—United States Federal Income Tax Considerations with Respect to the Acquisition, Ownership and Disposition of our Ordinary Shares—Passive Foreign Investment Company Status".

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The price of our ordinary shares is subject to volatility.

The price of our ordinary shares has experienced significant volatility in the past and may continue to do so in the future. Since our initial public offering in March 2000, the price of our ordinary shares on the NASDAQ Global Select Market has ranged from a high of $53.12 to a low of $1.55. On December 31, 2010 and March 31, 2011, the closing price of our ordinary shares on the NASDAQ Global Select Market was $2.42 and $1.90, respectively. We may continue to experience significant volatility in the future, based on the following factors, among others:

- general economic conditions;
- our prospects;
- actual or anticipated fluctuations in our sales and results of operations;
- variations between our actual or anticipated results of operations and the published expectations of analysts;
- general conditions in the wireless broadband products industry and general conditions in the telecommunications equipment industry;
- announcements by us or our competitors of significant technical innovations, acquisitions, strategic partnerships, joint ventures and capital commitments;
- introduction of technologies or product enhancements or new industry substitute standards that reduce the need for our products;
- the effect of general political conditions on our operations and results; and
- departures of key personnel.

We may be named as a defendant in securities class action lawsuits, or in other time consuming and expensive litigation that requires extensive management attention and resources and which may be expensive, lengthy and disruptive.

In the future, we may be named as a defendant in securities class action lawsuits or in other time consuming and expensive litigation. Legal proceedings can be expensive, lengthy and disruptive to normal business operations, and can require extensive management attention and resources, regardless of their merit. Moreover, we cannot predict the results of such legal proceedings, and an unfavorable outcome of a lawsuit or proceeding could materially and adversely affect our business, results of operations and financial condition.

Operating in international markets exposes us to risks, which could cause our sales to decline and our operations to suffer and could expose us to various legal, business, political and economic risks.

While we are headquartered in Israel, approximately 99% of our sales in recent years were generated globally, outside of Israel. Our products are marketed internationally and we are, therefore, subject to certain risks associated with international sales, including the following:

- trade restrictions, tariffs, and technology import and export license requirements, which may restrict our ability to export our products or may make our products less price-competitive;
- effects of economic conditions and credit availability;
- adverse tax consequences;
- greater difficulty in safeguarding intellectual property;
- difficulties in managing our overseas subsidiaries and staffing multiple offices and multiple research and development centers, and the increased travel, infrastructure and legal compliance costs associated with multiple international locations;
- difficulties in enforcing contracts and implementing our accounts receivable function, which introduces revenue recognition, translation, proximity and cultural challenges;
- political and economic instability, particularly in emerging markets;
- reduced protection for intellectual property rights in some countries where we may seek to expand our sales in the future;
- laws and business practices favoring local companies;
- differing labor standards;
- costs of localizing our products for foreign countries and the lack of acceptance of localized products in foreign countries; and
- fluctuations in currency exchange rates and the implications on our financial statements.

We may encounter significant difficulties with the sale of our products in international markets as a result of one or more of these factors. As we expand our business globally, our success will depend, in large part, on our ability to anticipate and effectively manage these risks. Our failure to manage any of these risks successfully could harm our international operations and reduce our international sales, adversely affecting our business, operating results and financial condition.

There may be health and safety risks related to wireless products.

In recent years, there has been publicity regarding the potentially negative direct and indirect health and safety effects of electromagnetic emissions from cellular telephones and other wireless equipment sources, including allegations that these emissions may cause cancer. Our wireless communications products emit electromagnetic radiation. Health and safety issues related to our products may arise that could lead to litigation or other actions against us, or to additional

regulation of our products. We may be required to modify our technology and may not be able to do so. We may also be required to pay damages that may reduce our profitability and adversely affect our financial condition. Even if these concerns prove to be baseless, the resulting negative publicity could affect our ability to market our products and, in turn, could harm our business and results of operations.

Risks Related to Our Location in Israel

Conducting business in Israel entails special risks.

We are incorporated under Israeli law and our principal offices and the majority of our manufacturing and research and development facilities are located in the State of Israel. Political, economic and military conditions in Israel and in the Middle East directly affect our operations. We could be harmed by any major hostilities involving Israel, the interruption or curtailment of trade between Israel and its trading partners or a significant downturn in the economic or financial condition of Israel. In the event of war, we and our Israeli subcontractors and suppliers may cease operations which may cause delays in the development, manufacturing or shipment of our products. In recent years, there has been an escalation in violence among Israel, Hamas, the Palestinian Authority and other groups, as well as extensive and continued hostilities along Israel's border with the Gaza Strip, which resulted in missiles being fired from the Gaza Strip into southern Israel since December 2008 and throughout 2010. There have been extensive hostilities along Israel’s border with the Gaza Strip since June 2007 when Hamas effectively took control of the Gaza Strip. Following seizing control over the Gaza Strip, Hamas has launched hundreds of missiles from the Gaza Strip against Israeli population centers, disrupting day-to-day civilian life in southern Israel. This led to an armed conflict between Israel and Hamas during December 2008 and January 2009, and at the beginning of 2011, a party identified with the Hezbollah took control over the Lebanese government. In addition, Iran has threatened to attack Israel and is widely believed to be developing nuclear weapons. Furthermore, since the beginning of 2011 Egypt has witnessed an increased instability of its government and deterioration of its control over Egypt's internal affairs. This and further deterioration could have an adverse effect on the relations between Israel and Egypt, which have been parties to a peace treaty since the late 1970s. Ongoing violence between Israel and the Palestinians, as well as tension between Israel and terror organizations and other countries in the Middle East, combined with political instability which we evidence in the Middle East such as in Egypt, Libya, Syria, and Lebanon, may have a material adverse effect on our business, financial condition and results of operations.

Furthermore, several countries, principally some of those in the Middle East, still restrict business with Israel and Israeli companies. These restrictive laws and policies may seriously limit our ability to offer our services to customers in these countries.

Our results of operations may be negatively be affected by the obligation of our personnel to perform military service.

Many of our officers and employees in Israel are obligated to perform annual military service duty until they reach age 45 and, in the event of a military conflict could be called to active duty. Our operations could be disrupted by the absence of a significant number of our employees due to military service or the absence for extended periods of one or more of our key employees due to military service. A disruption could materially and adversely affect our business, operating results and financial condition.

We currently benefit from local government programs as well as international programs and local tax benefits that may be discontinued or reduced.

We have received grants from the Government of Israel through the Office of the Chief Scientist of the Ministry of Industry, Trade and Labor (“OCS”) for the financing of a portion of our research and development expenditures in Israel, pursuant to the provisions of The Encouragement of Industrial Research and Development Law, 1984, referred to as the “Research and Development Law”. Pursuant to our current arrangement with the OCS, the OCS finances up to 20% of our research and development expenses by reimbursing us for up to 66% of the approved expenses related to our generic research and development projects. In addition, we obtain other grants from the OCS to partially fund certain other research and development projects. These programs currently restrict our ability to manufacture

particular products or transfer particular technology outside of Israel. The Research and Development Law and related regulations permit the OCS to approve the transfer of manufacturing rights outside Israel subject to an approval of the research committee and in exchange for payment of higher royalties, for royalty-bearing programs. Under these programs we need to comply with certain conditions. If we fail to comply with these conditions, the benefits received could be canceled and we could be required to refund any payments previously received under these programs or pay additional amounts with respect to the grants received under these programs. If the Government of Israel discontinues or modifies these programs and potential tax benefits, our business, financial condition and results of operations could be materially and adversely affected.

In addition, we have been granted “Approved Enterprise” status under the Law for the Encouragement of Capital Investments, 1959 (the “Investment Law”) for our production facilities in Israel. Such status enables us to obtain certain tax relief for a definitive period upon compliance with the Investment Law regulations. On April 1, 2005, an amendment to the Investment Law came into effect which significantly changed the provisions of the Investment Law. The amendment revised the criteria for investments qualified to receive tax benefits. An eligible investment program under the amendment will qualify for benefits as a “Privileged Enterprise” (rather than the previous terminology of Approved Enterprise). Among other things, the amendment provides tax benefits to both local and foreign investors and simplifies the approval process. However, the amendment provides that terms and benefits included in any certificate of approval granted prior to December 31, 2004 will remain subject to the provisions of the law as they were on the date of such approval. We believe that we are currently in compliance with these requirements. However, if we fail to comply with these conditions in the future, the tax benefits received could be canceled and we could be required to pay increased taxes in the future.

We also received grants from the European Union, Romania and Spain for the financing of a portion of our research and development expenditures in those countries through various European programs. Under these programs we need to comply with certain conditions. If we fail to comply with these conditions, the benefits received could be canceled and we could be required to refund any payments previously received under these programs or pay additional amounts with respect to the grants received under these programs. If the European Union, and/or the Government of Spain and/or the Government of Romania discontinues or modifies these programs and potential tax benefits, our business, financial condition and results of operations could be materially and adversely affected.

We are adversely affected by the devaluation of the U.S. dollar against the New Israeli Shekel and could be adversely affected by the rate of inflation in Israel.

Substantially all of our revenues are generated in U.S. dollars. A significant portion of our expenses, primarily salaries, building leases and related personnel expenses is currently incurred in NIS, and we anticipate that a significant portion of our expenses will continue to be denominated in NIS.

As a result, inflation in Israel and/or the devaluation of the U.S. dollar in relation to the NIS has and may continue to have the effect of increasing the cost in U.S. dollars of these expenses; hence, our dollar-measured results of operations are and may continue to be adversely affected. In order to manage the risks imposed by foreign currency exchange rate fluctuations, from time to time we enter into currency forward contracts and put and call options to hedge some of our foreign currency exposure. We can provide no assurance that our hedging arrangements will be effective. In addition, if we wish to maintain the dollar-denominated value of our products in non-U.S. markets, devaluation in the local currencies of our customers relative to the U.S. dollar may cause our customers to cancel or decrease orders or default on payment.

Provisions of Israeli law and our Articles of Association may delay, prevent or make difficult a merger or an acquisition of us, which could prevent a change of control and therefore depress the market price of our ordinary shares.

Our Articles of Association contain certain provisions that may delay or prevent a change of control, including a classified board of directors. In addition, the Israeli Companies Law regulates acquisitions of shares through tender offers and mergers, requires special approvals for transactions involving directors, officers or significant shareholders, and regulates other matters that may be relevant to these types of transactions. These provisions of Israeli law could have the effect of delaying or preventing a change of control of us, may make it more difficult for a third party to acquire us, even if doing so would be beneficial to our shareholders, and may limit the price that investors may be willing to pay in the future for our ordinary shares. Furthermore, Israeli tax considerations may make potential acquisition transactions unappealing to us or to some of our shareholders.

It may be difficult to effect service of process and enforce U.S. judgments against our directors and officers in Israel or to assert U.S. securities laws claims in Israel.

We are incorporated in Israel. Our executive officers and a majority of our directors are not residents of the United States, and a substantial portion of our assets and the assets of these persons are located outside the United States. Therefore, it may be difficult to obtain a judgment in the United Stated or collect or get an Israeli court to enforce a judgment obtained in the United States against us or any of those persons. Furthermore, it may be difficult to assert U.S. securities laws claims in original actions instituted in Israel.

As a foreign private issuer whose shares are listed on the NASDAQ Global Select Market, we may follow certain home country corporate governance practices instead of certain NASDAQ requirements.

As a foreign private issuer whose shares are listed on the NASDAQ Global Select Market, we are permitted to follow certain home country corporate governance practices instead of certain requirements of the NASDAQ Marketplace Rules.

We do not comply with the NASDAQ requirement that we obtain shareholder approval for certain dilutive events, such as for the establishment or amendment of certain equity-based compensation plans. Instead, we follow Israeli law and practice in accordance with which the establishment or amendment of certain equity-based compensation plans is approved by our board of directors.

As a foreign private issuer listed on the NASDAQ Global Select Market, we may also follow home country practice with regard to, among other things, executive officer compensation, director nomination, composition of the board of directors and quorum at shareholders' meetings. In addition, we may follow our home country law, instead of the NASDAQ Marketplace Rules, which require that we obtain shareholder approval for an issuance that will result in a change of control of the company, certain transactions other than a public offering involving issuances of a 20% or more interest in the company and certain acquisitions of the stock or assets of another company. Accordingly, our shareholders may not be afforded the same protection as provided under NASDAQ's corporate governance rules.

ITEM 4. INFORMATION ON THE COMPANY

A. HISTORY AND DEVELOPMENT OF THE COMPANY

We were incorporated in September 1992 under the laws of the State of Israel. Since our inception, we have devoted substantially all of our resources to the design, development, manufacturing and marketing of wireless products.

On August 1, 2001, Floware merged with and into us. As a result of the merger, we emerged as the surviving company and Floware's separate existence ceased. Upon the closing of the merger, we changed our name from BreezeCOM Ltd. to Alvarion Ltd. On April 1, 2003, we completed an acquisition of most of the assets and the assumption of related liabilities of InnoWave. In December 2004, we completed the amalgamation of interWAVE , and the interWAVE operations became our CMU. In November 2006, we completed the sale of our CMU to LGC Wireless, Inc. ("LGC"), a privately-held supplier of wireless networking solutions in exchange for promissory and convertible notes of LGC. In September 2007, LGC converted our convertible notes into LGC shares and thus we became a shareholder of LGC. In November 2007, ADC acquired LGC and we sold our LGC shares to ADC for approximately $7.3 million.

Our principal executive offices are located at 21A HaBarzel Street, Tel Aviv 69710, Israel, and our telephone number is 972-3-645-6262. In 1995, we established a wholly-owned subsidiary in the United States, Alvarion, Inc., a Delaware corporation. Alvarion, Inc. is located at 6701 Democracy Blvd. Suite 300, Bethesda, Maryland. We also have an additional office in Sunnyvale, California located at N. Mathilda Avenue, Suite 210, Sunnyvale, California 94043, and its telephone number is 408-773-7200. Alvarion, Inc. serves as our agent for service of process.

We also have several wholly owned subsidiaries worldwide that handle local support, promotion, sales and developing activities. For a discussion of our capital expenditures and divestitures, see "Item 5—Operating and Financial Review and Prospects—Liquidity and Capital Resources."

B. BUSINESS OVERVIEW

General

We concentrate our resources on the broad industry of wireless broadband. As a wireless broadband pioneer, we have been driving and delivering innovation for more than 15 years, from developing core technology to creating and promoting industry standards. Through leveraging our key roles in the Institute of Electrical and Electronic Engineers ("IEEE") and HiperMAN standards committees and having experience in extensive development and deployment of OFDM technology -based systems, we have been at the forefront of the WiMAX Forum™ in its focus on increasing the widespread adoption of standards-based products in the wireless broadband market and in leading the industry to adopt mobile WiMAX networks. The WiMAX standard is the outcome of the standardization work done by the WiMAX Forum™, widely based on the IEEE 802.16 standard working group.

Our primary business is to provide solutions based on the wireless broadband infrastructure solutions for two main categories of customers, operating a wide variety of applications:

Carriers:

Solutions for Carriers include the fourth generation ("4G") wireless networks for fixed, nomadic and mobile subscribers, providing subscribers with home, office and personal broadband connectivity for internet access, social networking, gaming, VoIP, video and other broadband applications. Our solutions enable operators in both developed and emerging markets, to offer broadband services to subscribers anytime, anywhere where the WiMAX network is

deployed, through the use of a variety of devices, such as laptops, PDAs and smart handsets which have undergone interoperability testing with our WiMAX system. In the Carriers category, we continue to offer standard products, which are growing in sales.

Enterprise:

Solutions for our Enterprise category include broadband wireless applications for a variety of vertical markets, providing owners and operators of public networks, private networks, utility companies and municipalities, with broadband connectivity and applications that fulfill each organization's own communication needs. Examples of such applications include government and municipal office connectivity, security and surveillance services, campus-to-campus broadband connectivity, oil & gas and mining company applications, emerging Smart Power Grid and Public Mobile Radio ("PMR") applications. In this market, we sell both WiMAX and non-WiMAX solutions, primarily in the license-exempt frequency bands.

Restructuring and new strategic initiatives position the company to achieve profitability in the future

At the beginning of 2011, we executed an organizational restructuring in order to improve our business results while re- sizing the organization to a level appropriate to the carrier and enterprise opportunities. As a result of the restructuring, we expect to decrease our expenses, including through headcount reductions, by approximately 30%, over the entire year of 2011.

INDUSTRY DYNAMICS

WiMAX Technology, Applications and Industry Advantages

Mobile WiMAX is a technology based on the IEEE 802.16e air interface standard and the ETSI HiperMAN wireless metropolitan area network (“MAN”) standard. WiMAX is the worldwide standard for wireless broadband access and personal mobile broadband applications. Solutions based on WiMAX technology enable fixed-line, cable, and mobile operators and challengers to compete with each other in the anticipated market for higher Average Revenue Per User (“ARPU”) services.  WiMAX technology has the capacity to deliver sufficient bandwidth to enable value-added broadband applications, including live video broadcasting, high-speed data, toll-quality voice and multimedia content. Most importantly, the WiMAX (IEEE 802.16) standards were developed based on the concept of an "all-IP Network". A complete set of IP-based functions and interfaces allows for high quality service delivery, while keeping end-to-end Quality of Service (“QoS”) and minimizes investment and operating costs for operators with its distributed architecture and efficient, packet-based air interface.

WiMAX offers two technological advantages to the operators relative to the existing commercial technologies: (i) a superior radio access technology; and (ii) an open IP-based access network infrastructure.

Superior radio access technology: WiMAX benefits from advanced Non-Line-of-Sight (“NLOS”) radio and antenna technologies, such as MIMO, Beam Forming, and Spatial Division Multiple Access (“SDMA”). These new technologies can be used in fixed, portable and mobile WiMAX networks and facilitate high spectral efficiency and obstacle penetration (e.g., walls) resulting in best network coverage, capacity, low latency and improved user experience. As a result, WiMAX offers lower infrastructure costs and reduced cost per subscriber for the operator, compared to any other wireless technology.

Utilizing its built-in strong QoS mechanisms, WiMAX technology has the capacity to deliver maximum service quality under the subscriber's Service Level Agreement ("SLA") to enable rich value-added applications, including high-speed data and Internet, live video multicasting, toll-quality voice and multimedia content in both download and streaming formats. These capabilities enable toll-quality delivery of differentiating services, coupled with an enhanced subscriber quality of experience ("QoE").

Open IP-based access network infrastructure: The WiMAX (IEEE 802.16) standard was developed based on the concept of an open "all-IP Network," which allows WiMAX to leverage the vast IP-based telecom and enterprise industries. WiMAX, as an IP-based connectivity standard, is able to easily and smoothly interface with any IP-based equipment, device or network. This approach, following the success of the World-Wide-Web Internet adoption, (a) minimizes investment in introducing new applications, thereby creating new interfaces and interoperability connections, (b) enjoys the low prices and abundance of information and know-how of the IP-based equipment world and (c) may significantly reduce the operator's capital and operational expenditures when deploying such service networks. Therefore, the advantage of WiMAX over other mobile networks is in offering a complete OPEN IP architecture. The formation of an industry based on OPEN IP architecture can leverage on best-of-breed IP network equipment and IP-based consumer electronics devices, thus creating an open Internet model of wireline data over the new wireless WiMAX network.

The WiMAX standards are defined by the WiMAX Forum™. The WiMAX Forum™ is a non-profit organization focused on increasing the widespread adoption of standards-based products in the wireless broadband market and leading the industry to mobile WiMAX solutions. The WiMAX Forum™ members work to promote the interoperability of multiple vendors' products in the wireless broadband market. Since its establishment, the WiMAX Forum™ members, working together with the IEEE, have established the first standards on which wireless broadband systems operate, namely the IEEE 802.16d-2004 standard and IEEE 802.16e-2005 standard. These standards fully support fixed and nomadic broadband wireless applications.

The WiMAX Forum™ defines the following types of access to a wireless network:

- fixed access, at a single stationary location for the duration of the network subscription;
- nomadic access, at multiple stationary locations, allowing the user to change locations between sessions;
- portability, at multiple locations at walking speed, within a limited network coverage area, with hard handoffs between cells;
- simple mobility, at multiple locations at low vehicular speed, within a network coverage area, with hard handoffs between cells, enabling non-real time applications; and
- mobility, at multiple locations at high vehicular speed, within network coverage area, with guaranteed handoffs between cells, enabling service continuity for all applications.

The Evolution of Wireless Broadband

The wireless broadband market has grown over the last decade due to the acceptance of wireless equipment as a high performance, cost-efficient alternative to wireline infrastructure for broadband connectivity.

In developed countries, government financial support encourages operators to complete broadband coverage in rural and suburban areas with low-density populations, where the business model for wired infrastructure is less cost-effective. In developing countries, government financial support is provided to encourage operators to offer basic

telephony services and Internet access based on wireless broadband infrastructure in order to meet the demand, mainly in urban and suburban areas.

The worldwide success of broadband connectivity and services creates demand for additional broadband networks mainly in regions where broadband was not widely available. The accelerated proliferation of broadband services and networks around the world as well as commoditization of broadband devices and services has generated more demand for broadband in developing regions, often referred to as the world's emerging markets. In these regions, wireline infrastructure is often non-existent, resulting in an accelerated widespread adoption of wireless broadband networks.

Government Deregulation Creates Demand

Global telecom deregulation is opening up the telecommunications industry to competition from new players. Wireless technologies require the use of frequencies contained within a given spectrum to transfer voice, multimedia and other data services. Usually, governments allocate a specific range of that spectrum, either licensed or license-exempt ("unlicensed") bands, to carriers, operators, ISPs and other service providers, enabling them to launch a variety of broadband initiatives based exclusively on wireless networking solutions. During 2010, additional licensed and unlicensed spectrums were allocated around the world and we expect this trend to continue in the future. Increased availability of licensed and unlicensed spectrums enables operators to address increasing demand for wireless broadband.

Additional Factors in the Widespread Adoption of Wireless Broadband

Over the last few years, wireless broadband networks have increasingly grown in popularity, due in part to the inability of wired infrastructure to meet demand, but also because of the following factors:

- competition among various types of telecommunications players to offer multiple services using a single network;
- growing trend of public access providers to build infrastructures owned by municipalities;
- rapid progression of standardization by international authorities, such as the WiMAX Forum™, combined with the wide adoption of these standards by equipment vendors and carriers;
- attractiveness of the business model offered to operators that use high performance standardized and interoperable products;
- convergence of fixed and mobile services;
- increasing availability of 4G ecosystem products, leading to reduction in the capital expenditures (CAPEX) and operating expenses (OPEX) of network deployment and the promotion of 4G operators' competitiveness; and
- proliferation of user-friendly, Internet-centric end user devices which encourage the use of bandwidth thirsty applications.

4G for Mobile Broadband Services and Applications

Mobile broadband promotes convergence of the fixed and mobile spheres, offering subscribers a combination of high-speed broadband and mobile services that are available anywhere, anytime, using any device. Mobile broadband offers always-on, high-speed and all- IP-based connectivity, providing direct access to the mobile Internet and creating a dynamic market for various services and applications.

Mobile broadband capabilities are already embedded in a wide range of computing, telephony and consumer electronics devices that aim to optimize personal lifestyle and professional productivity. These new mobile broadband

capabilities would enhance traditional service provider business models and create opportunities for new entrants to penetrate the market with alternative business models.

However, for mobile broadband services to be adopted widely by consumers and businesses, vendors must offer interoperable diverse and innovative applications with the right devices to utilize the applications.

We believe that WiMAX as well as LTE are currently the technologies that are the most advanced and well-suited to cost-effectively meet the requirements of personal broadband.

COMPANY STRENGTHS

For more than 15 years, our primary business activity has been focused on fulfilling the growing demand for IP wireless broadband in the telecom industry by providing solutions and services to build wireless broadband networks. In addition, we have deployed through our customers fixed wireless broadband solutions for applications, such as toll quality telephony service, mobile base station feeding, hotspot coverage extension, municipal and community interconnection, utility company metering and monitoring applications, as well as public safety communications. Our key strengths include:

Market Leadership and Brand Recognition: We believe that we are a worldwide leading 4G (based on WiMAX technology) vendor with a single business focus in broadband wireless access equipment and networks, and we enjoy a strong brand identity.

Customer Base: We have a broad customer base, with over 280 WiMAX commercial deployments.

Technology: We have over 15 years of experience in end-to-end broadband wireless IP and we believe we have been a leader in the broadband wireless access market for more than a decade. In addition, we have continued our leadership in the relevant standardization organizations (IEEE 802.16, WiMAX Forum™).

Execution Capabilities:

We have the ability to deliver and deploy a complete solution in terms of product, technology, and full end-to-end network deployments and to build long-term customer satisfaction.

We believe that we have the ability to compete with any other player in this industry, while keeping our flexibility and technology differentiators according to customer demands and needs.

Strategic Relationships: We are actively partnering with industry and market leaders to create go-to-market strategic relationships and best-of-breed wireless broadband networks.

Experience in Wireless Broadband

Our experience in wireless broadband enabled us to identify the potential of WiMAX in early 2002, ahead of most equipment vendors. As a result of early strategic decisions, in 2007 we led the market in the number of deployed WiMAX–based networks. We have been at the forefront of developments with WiMAX technology since its inception, at a company and industry level. Examples of our active involvement include major roles in the standardization process through our work in the WiMAX Forum™ as a charter board member. In addition, our employees are active in other related technology organizations, such as Wireless Communications Association, IEEE 802.16, ETSI BRAN-HiperMAN and ITU standards.

GROWTH STRATEGY

Our growth strategy is focused on providing complete integrated 4G networks (based on WiMAX technology) and broadband wireless solutions, maintaining our current leadership position and growing along with market demand for converged applications. We have accomplished significant milestones in terms of product development, agreements with third parties to integrate their products into our complete solution, enhancement of know-how and execution of turn-key projects in order to offer a complete WiMAX network to telecommunication operators. We intend to leverage these investments in both of our lines of business, the Carrier and the Enterprise. We further plan to place specific focus on our enterprise line of business with additional investment in product development, channel recruitments and go-to-market activities in new vertical/domains.

Additionally, we aim to leverage our extensive know-how and expertise in broadband wireless access technology to aid mobile operators as they deal with the capacity crunch they now face. As a broadband wireless pioneer, we believe Alvarion is well positioned to help mobile operators achieve the levels of broadband coverage they need in order to provide a satisfactory QoE.

Opportunities for Providing Solutions Based on an Open Architecture

The inherent, open architecture characteristics of WiMAX offer many opportunities for our company as a major global WiMAX end-to-end network provider. We continually strive to be at the forefront of exploring and maximizing the benefits of WiMAX in order to create a new operator-centric model based on best-of-breed solutions from a variety of OPEN WiMAX ecosystem partners.

The WiMAX Transformation to Open Architecture

The dynamics of WiMAX create an all-IP open architecture, removing barriers to entry and facilitating rapid innovation. Designed from the start as an open standardized interoperable technology, OPEN WiMAX is a network strategy that enables a complete ecosystem, including radio access network equipment, core network equipment, consumer electronics, service offerings and applications. This strategy enables communication service providers to choose the combination of vendors and partners that best fit their specific requirements.

OPEN WiMAX is designed to enable multiple telecom vendors to build a best-of-breed telecom access network in an open standard architecture. It creates a telecom operator-centric offering, concept or culture as opposed to a vendor-centric approach, historically used in large telecom projects.

OPEN WiMAX is highly scalable and suitable for large, medium or small deployments, assisting operators to optimize their WiMAX network deployment costs and to fit the expenditures to the desired services-centric network – both in terms of capital expenditures and operating expenses during the operation of the network. This “mix and match” multi-vendor approach helps promote competition, which drives prices down and enhances the product offering. Innovative products, services and applications for WiMAX, such as mobile TV and mobile gaming for personal use and virtual private network and file transfer for business use, enable vendors to distinguish themselves from the competition.

Open networks in general, and OPEN WiMAX in particular, promote the long-term success of service providers in the highly competitive markets of broadband services, by offering the following:

- Superior performance combination (i.e., “best-of-breed”) of network equipment to meet service providers’ requirements;
- Wide variety of subscriber service and openness to enable future services and applications;

- Increased purchasing power to promote service providers' business models; and
- Improved risk management, including sustainability against possible changes in vendors’ strategy, products and services, as a service provider is not limited to a single or only a few vendors.

WiMAX is based on open IP networks; therefore, the OPEN WiMAX strategy is a direct implementation of one of the strong WiMAX innovation fundamentals. We believe that adopting our OPEN WiMAX strategy differentiates us from our competitors and provides us with a competitive advantage over large telecom vendors, as we offer a best-of-breed one stop-shop, rather than a single offering from a single vendor.

PRODUCTS

BreezeMAX Platforms - WiMAX Solutions for converged applications

Our WiMAX-based BreezeMAX Frequency Division Duplex ("FDD") and Time Division Duplex ("TDD") (“BreezeMAX”) platforms are designed from the ground-up according to the IEEE 802.16 standard. BreezeMAX platforms feature advanced OFDM and OFDMA technologies to support non-line-of-sight ("NLOS") operation, adaptive modulation up to QAM64 and the highest spectral efficiency available. Currently commercially available and operating in the 2.3, 2.3WCS, 2.5, 3.3, 3.5, 3.6 and 5.2 GHz licensed frequency bands, BreezeMAX meets the immediate customer demand for cost-effective, next generation broadband wireless systems with a platform designed around the implementation of the IEEE 802.16 and HiperMAN standards by the WiMAX Forum™. The BreezeMAX carrier-class design supports broadband speeds and QoS to enable carriers to offer quadruple play (meaning broadband data, voice, mobility and multi-media) services to thousands of subscribers in a single-base station.

BreezeMAX has quickly become a popular solution for operators offering fixed high-bandwidth, VoIP and data services to evolve their networks to industry-standard solutions with improved outdoor and indoor customer premises equipment ("CPE") economics. This platform includes an enhanced offering of primary voice services and allows an operator to leverage legacy voice infrastructure. The system’s features and cost-effective, versatile subscriber units make BreezeMAX a preferred broadband wireless solution for service providers that are interested in improving their business model.

In 2007, the BreezeMAX indoor Si CPE opened the door for personal broadband and primary broadband WiMAX standard-based solutions and enabled nomadic services via quick deployments based on a plug-and-play installation. In addition, the BreezeMAX indoor Si CPE enabled centrally provisioned, portable connectivity for subscribers to use the CPE in various points within the network coverage and reconnect to the service after moving from one location to another. The BreezeMAX’s FDD platform was designed according to the IEEE 802.16-2004 standard, and was partially certified by the WiMAX Forum™ during 2006 for fixed and nomadic networks, for both Base Stations and CPEs. In early 2007, we introduced our TDD pre-certified IEEE 802.16-2005 platform that was designed for fixed and nomadic networks. Our BreezeMAX platform, which is part of our 4Motion solution, provides support for fixed, nomadic and mobile WiMAX, and has been designed according to the IEEE 802.16e-2005 standard for portable and mobile networks.

BreezeMAX Macro Outdoor is a Carrier-class, all outdoor, broadband wireless access platform. Based on the BreezeMAX Macro Indoor base station, BreezeMAX Macro Outdoor is a modular, scalable and reliable all outdoor base station which features flexible installation capabilities. The Outdoor Access Unit ("ODU") is a high power remote radio unit that connects to an external antenna, and provides high system gain and interference robustness by utilizing high transmit power and low noise figure. Supporting up to 20 MHz bandwidth, the ODU is scalable for future options such as increased capacity through carrier multiplexing or wider frequency bandwidths. The BreezeMAX Macro Outdoor base station offers a range of ODUs featuring diverse configurations and streamlining 2nd and 4th order diversity.

BreezeMAX Extreme 5000 is the first wireless broadband solution to bring WiMAX 16e technology to the 5 GHz license-exempt market. A highly integrated, all outdoor base station, BreezeMAX Extreme 5000 is designed for ease-of deployment and reduced total cost of ownership. Built with the customer in mind this solution offers easy configuration and a self sustained ecosystem, ideally suited for Wireless Internet Service Providers (WISPs), municipalities, utilities, enterprises and public safety networks.

BreezeMAX Extreme 3650 is an all outdoor zero footprint WiMAX 16e wireless broadband solution for rural America.

IEEE 802.16e-2005 compliant technology enables portable and mobile networks to be IP-based, with a focus on open standards, end users and consumer devices. Portable access is defined according to the WiMAX Forum™ to apply to handsets, PDA, laptop Personal Computer Memory Card International Association ("PCMCIA") or mini cards at multiple locations, at least at walking speed, and enables a hard handoff of devices, in which the subscriber terminal is disconnected from one base station before connecting to the next base station. Mobile access ranges in scope from low to high vehicular speeds but adds PDAs and smart-phone devices, multiple locations and enables a soft handoff, in which the subscriber maintains a simultaneous connection with two or more base stations for a seamless handoff to the base station with the highest quality connection. Both consumer and business users have driven the demand for this technology that has resulted from the convergence of fixed broadband networks and mobile voice networks towards mobile broadband communications.

4Motion™ Solution

Our mobile WiMAX solution, 4Motion™, was introduced to the market during the second half of 2006 and was commercially deployed in the market in mid 2008. 4Motion™ is an end-to-end mobile WiMAX solution designed to comply with the IEEE 802.16e-2005 standard.  The solution is a software defined radio base and as such allows migration to other OFDMA technologies. The solution portfolio was developed in conjunction with leading providers of core network and IP technology, devices and integration services and its evolution is under continuous development. 4Motion™ offers an open, end-to-end, carrier-class, scalable and cost-effective mobile broadband data solution that delivers personal broadband services of several Mbps per subscriber or more. Offering the benefits of the OPEN WiMAX approach to network strategy, our 4Motion™ solution provides operators with the flexibility to choose best-of-breed multi-vendor partners to add third-party IP services, while controlling costs.

The 4Motion™ solution includes Radio Access Network ("RAN") and includes both Alvarion's and third parties' core network, radio and IP networking elements, end-user devices and subscriber applications. The 4Motion™ as a whole is optimized to provide full mobility in line with the IEEE 802.16e-2005 standard.

Our Wireless Broadband Access Solutions (Non-WiMAX)

Although our primary focus is to provide solutions based on the WiMAX standard, we also continue to sell our non-WiMAX products to a variety of markets. We provide a broad range of integrated wireless broadband solutions, addressing different markets and frequency bands, designed for the various business models of carriers, service providers and private network owners such as municipalities, businesses, utilities and more.  Our products address point-to-point and point-to-multipoint architectures for a wide scope of end-user profiles, including residential, small office/home office ("SOHO"), small/medium enterprises ("SME"), multi-tenant/multi-dwelling units (MTU/MDU) and large enterprises (corporate). Our products operate in licensed and license-free bands, ranging from 900 MHz to 28 GHz and comply with various industry standards. Our core technologies include spread spectrum radio, linear radio, digital signal processing, modems, media access control, IP-based mobile switches, networking protocols and very large systems integration ("VLSI").

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Most of our non-WiMAX wireless broadband solutions are based on OFDM technology with NLOS capabilities, creating more possibilities to cover a wireless access network.

Many applications can be deployed over wireless broadband systems. Data, voice and video applications can be utilized by telecom operators, service providers and regional carriers based on the needs of their regions of operation.

In addition to data and voice, applications such as video surveillance are deployed over our networks in municipalities and other markets such as mining, oil & gas, campus deployments and more.

Wireless broadband solutions are implemented in a modular infrastructure, enabling swift, cost-effective roll-out as needed. Sectorized base stations are deployed to provide radio coverage to the targeted area, and frequency channels are reused in non-adjacent base station sectors, making the most efficient use of the available spectrum. Base stations are connected to the operator's central office, or point-of-presence, using wired or wireless point-to-point solutions. End users are provided with CPE, typically consisting of an outdoor unit with a radio and an antenna connected to an indoor unit or indoor self-installed unit, which present voice and data interfaces to the customer network.

BreezeACCESS Products (BreezeACCESS 4900, 900,VL,OFDM, Wi2)

BreezeACCESS enables fixed high-speed data and voice, point-to-multipoint wireless broadband applications. BreezeACCESS products operate in several frequency bands to meet the needs of our customers worldwide. The BreezeACCESS product family consists of base stations, including access units, controllers and subscriber units. The latter operates optimally when connected to computers or computer networks utilizing the Internet Protocol. The subscriber units include subscriber units for data applications and subscriber units for data and telephony applications. BreezeACCESS is modular in design, allowing for a low initial investment, and is scalable to enable future growth.

BreezeACCESS OFDM products support an extended coverage range in the 4.9, 5 GHz frequencies and the license-exempt 900 MHz frequency bands and features embedded security mechanisms with hardware-based encryption to ensure consistently secure wireless links that do not degrade performance

BreezeACCESS 4900 is a critical communications tool for the United States public safety sector. Deployable in point-to-point and point-to-multipoint configurations, the solution provides secure and reliable wireless connectivity in any terrain, environment and climate. The 50 MHz licensed spectrum in the 4.940 GHz-4.990 GHz, reserved for public safety and homeland security use, assists local municipal groups to provide license-protected, secure access for public safety, medical, emergency, government security and surveillance applications with superior capacity, range and scalability.

Operating in the license-exempt 902-928 MHz band, BreezeACCESS 900 is a cost-effective Broadband Wireless Access solution that enables service providers to deliver high-speed, wireless data and voice services for fixed and mobile applications. BreezeACCESS 900 enables the reliable delivery of services in NLOS, foliage-dense environments.

BreezeACCESS VL is an OFDM based carrier-class, point-to-multipoint solution for wireless broadband outdoor connectivity and the delivery of high-quality data, voice and video services in urban and rural environments. BreezeACCESS VL lets WISPs, municipalities, governments, enterprises and utilities providers deliver an array of broadband wireless applications in urban and rural deployments. It provides enhanced QoS capabilities to enable the allocation of the necessary bandwidth and priority in line with application and user needs. BreezeACCESS VL supports an extended coverage range in the 4.9, 5 GHz frequencies and the license-exempt 900 MHz frequency bands, and features embedded security mechanisms with hardware-based encryption to ensure consistently secure wireless links that do not degrade performance. BreezeACCESS VL is a field-proven, flexible platform that enables diverse product configurations and power feeding options to match varying deployment needs. The solution adheres to Alvarion's "pay-as-you-grow" business model to ensure maximum scalability and supports a wide range of subscriber units to offer an affordable, optimized solution for top performance.

BreezeACCESS Wi2 combines the advantages of Wi-Fi access with the capabilities of BreezeACCESS VL systems to provide cost-effective solutions for personal broadband services today. BreezeACCESS Wi2 solutions can be deployed almost anywhere to provide personal broadband to standard IEEE 802.11 b/g end user devices such as laptops, PDAs, smart-phones and portable gaming devices. BreezeACCESS Wi2 solutions are ideal for operators, municipalities and communities looking to build metropolitan broadband networks or to integrate Wi-Fi hot zone capabilities into their existing broadband wireless access networks. These solutions provide personal broadband services ranging from public Internet access to public safety and Intranet applications.

OFDM technology, on which BreezeACCESS and BreezeACCESS VL are based, enables higher data rates of up to 12 Mbps and up to 54 Mbps, respectively, by utilizing the available radio spectrum in an efficient manner. In addition, OFDM technology enables NLOS operation with robust resistance to interference. OFDM-based products enable carriers to use the technology in applications where a high data rate is required, including serving medium to large enterprises and high-speed backbone applications.

BreezeNET B Products

Our BreezeNET B products are designed to provide highly reliable, backhaul, building-to-building bridging solutions, support mobile connectivity and provide individuals or small groups of users with wireless access to a LAN.

BreezeNET B products function as a wireless bridge system that provides high-capacity and high-speed point-to-point connectivity.

The BreezeNET B system operates in the unlicensed 2.4, 4.9-5.8 GHz bands and has flexible rate options: B10, B14, B28, B100, B300 delivering up to 250 Mbps with symmetric or fully symmetric, fixed or dynamically adjusted allocation reaching up to 60 km.

BreezeNET B operates in NLOS environments, such as buildings, foliage or ridgelines. The system also features adaptive modulation for automatic selection of modulation schemes to maximize data rate and improve spectral efficiency. BreezeNET B supports security sensitive applications through optional use of authentication and data encryption. The system supports Virtual Local Networks (“VLANs”), which enable secure operation, and VPN services, which allow workers in remote locations or remote offices to conveniently access their enterprise network.

WALKair Products

The WALKair system is a wireless broadband system that enables carriers to provide high-speed Internet access, other data services and voice services primarily to SMEs. WALKair's high spectral efficiency, dynamic bandwidth allocation, effective frequency reuse plan and high coverage capacity enable carriers to connect last-mile business subscribers to their network in an efficient and cost-effective manner.

Our WALKair products consist of WALKair 1000 that operates in the 3.5, 10.5 and 26 GHz licensed bands, and WALKair 3000 that operates in the 3.5, 10.5, 26 and 28 GHz bands.

WALKair products are based on time division multiplexing technology.  WALKair systems support a complement of value-added classes of services including VPN, VLAN and QoS, based on per-user allocation of committed data rate and maximum data rate.

WALKair 3000 accommodates carriers' requirements for broader bandwidth, primarily driven by the growing use of data-intensive Internet applications.  It also enables carriers to efficiently connect multiple subscribers in multi-tenant buildings by a single terminal station.  WALKair 3000 supports significantly broader bandwidth for each customer and increased capacity for each cell, increasing the peak speed of transmission of each terminal station to up to 36 Mbps.  WALKair 3000 integrates smoothly with WALKair 1000, which enables carriers to deploy both systems on the same base station, serving a variety of subscribers with different needs for communication services, within the same cell.

Network Management Solutions

We provide advanced management applications for our wireless solutions. Our network management applications are equipped with graphical user interfaces and provide a set of tools for configuring, monitoring and effectively managing our wireless broadband networks.  The Star Management Suite, our flagship carrier-class Network Management System, is fully compliant with Telecommunications Management Network (TMN) standards and simplifies network deployment and maintenance for networks of every scale. The Star Management Suite is designed specifically for WiMAX deployments and helps service providers to cost-effectively manage WiMAX deployments, roll out new services and maintain high service levels. The Star Management Suite is made up of specific management tools that cover the entire WiMAX service life-cycle - from initial installation to full service provision, and all monitoring, reporting and troubleshooting tasks required for efficient network operation. The Star Management Suite can be deployed gradually, module by module, in accordance with network needs. The Star Management Suite is made up of four modules:

AlvariStar is a carrier-class, field-proven Network Management System ("NMS") for managing Alvarion's WiMAX base stations in mobile and fixed deployments.

StarACS automatic configuration server is a scalable solution for unified management of various WiMAX CPEs including; residential gateways ("RGWs") and devices with WiFi, Data and VoIP capabilities as well as any fixed or nomadic TR-069-supported devices.

StarQuality is a network performance and traffic monitoring system that helps operators optimize WiMAX network usage, maximize traffic capacity, maintain high level, quality services and comply with maintenance service license agreements.

StarReport provides a quick and efficient way to generate network inventory reports for a full, accurate and easy to understand status of the entire network.

Accessories Offered by Alvarion

In order to support our products and provide comprehensive solutions to our customers, we provide a family of accessories designed to extend the range of our BreezeMAX, 4Motion, BreezeACCESS, WALKair and BreezeNET solutions.  These accessories include antennas, cables, surge arrestors, amplifiers and other components.

Our Geographic Markets

Our network installations can typically be found in developing regions in developed countries and in emerging markets. In addition we are in the process of penetrating metropolitan centers of developed countries.



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Within developed countries there are rural or suburban regions with low-density populations, often extending over vast distances that have limited telecommunications infrastructures. WiMAX and wireless broadband have made inroads in these areas due to the business opportunities, robust equipment, extensive coverage and non line-of-sight capabilities. In addition, government assistance in "closing the digital divide" in these countries has served as an incentive for alternative operators to consider WiMAX systems for providing broadband services. Examples of these markets are found in various parts of the world, including in North America, Western and Eastern Europe, Asia Pacific and South America. Alvarion currently serves all of these markets.

We believe that wireless broadband service providers in emerging markets have found that deploying wireless broadband and new WiMAX solutions where there is a lack of telecommunication coverage due to poor infrastructure is an affordable means to provide broadband and telephony services. Emerging markets are countries where basic voice services combined with broadband data remain scarce. Examples of these locations are in Africa, Eastern Europe, Latin America, Central America and Asia Pacific. Alvarion is serving all of these markets.

Geographic Breakdown of Our Revenue

| | 2008 | | 2009 | | 2010 | |
|---|---|---|---|---|---|---|
| | In thousands | | | | | |
| North America | $ 42,683 | 15.2 % | $ 23,242 | 9.5 % | $ 47,517 | 23.1 % |
| Latin America | 53,183 | 18.9 % | 45,369 | 18.5 % | 26,875 | 13.1 % |
| Europe, Middle East and Africa | 156,201 | 55.5 % | 148,738 | 60.7 % | 109,909 | 53.3 % |
| Asia Pacific | 29,214 | 10.4 % | 27,890 | 11.3 % | 21,514 | 10.5 % |
| | $ 281, 281 | 100.0 % | $ 245,239 | 100.0 % | $ 205,815 | 100.0 % |

General – Industry Market Segments and Players

The operators in the wireless broadband market fall within the following categories, as determined by the industry:

Communications Service Providers: Tier One and Tier Two Operators

Tier One and Tier Two operators form the largest and most established group of telecom operators, with nationwide or global presence, serving tens of million of users. These operators are a primary focus for our WiMAX equipment since they have a strong, strategic interest in deploying WiMAX in their networks. Tier One and Tier Two carriers are looking for technology that will enable them to maintain their position at the front line of communications business within their home countries, as well as to quickly expand their business by providing telecommunications services in neighboring countries. Examples of Tier One and Tier Two carriers that have publicly indicated their strategy include: Telkom South Africa Ltd., France Telecom, Bharti and Telefonos de Mexico S.A. de C.V, Orange and Safaricom.

Broadband Service Providers

Broadband service providers build their business model primarily on converged WiMAX solutions, while providing in many cases improved services compared to legacy telecommunication operators. Broadband service providers are expected to constitute a greater portion of the WiMAX market in the future. Examples of service providers in to this category include Bolloré Telecom (France), Digital-Bridge Communications (USA), Open Range (USA), Enforta (Russia), Free (France), Iberbanda in Spain (a subsidiary of Telefonica de Espana), and Ertach (Argentina).

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CLECs & Regional Carriers

Competitive Local Exchange Carriers ("CLECs") seek to compete effectively with the Incumbent Local Exchange Carriers ("ILECs"). Wireless broadband is an attractive and cost-effective last-mile alternative to wired access solutions. CLECs are deploying our products to provide voice and broadband services in rural and suburban areas where wire line infrastructure does not exist or does not support the demand. In addition, in the areas of landline infrastructure in developed countries, wireless broadband systems offer carriers the ability to reach otherwise inaccessible customers, while providing increased bandwidth flexibility and service differentiation, surpassing the inherent limitations in wire line infrastructure.

CLECs have constituted an important part of our focus in our fixed wireless access product line and have increasingly exhibited an interest in our technology. The reduced installation costs, rapid roll-out potential and modular architecture, coupled with high network capacity and coverage and enhanced service options, present an appealing alternative to service providers and regional carriers seeking to supply their customers with reliable comprehensive data and voice solutions. Examples of these operators include VMAX (Taiwan), Wisper (USA), Elro (Denmark), Linkem (Italy), Czech on line,), KDN (Kenya), Millicom, and Barret Xplore Inc. (Canada).

Government, Municipalities, Communities and Private Network Operators

Private and government sectors that operate private networks for business management and operations are in constant need of deploying technologies to support their operational requirements. Examples of such requirements are enterprises that require leased line replacement for cost-effective connectivity to provide VoIP and data services; metropolitan area networks for broadband connectivity; metering and monitoring applications used by utility companies to collect information and supervise operations; and cost-effective access within communities, municipalities and educational institutions. Another area that has leveraged broadband wireless very effectively has been surveillance, public safety and municipal applications. Government authorities and private organizations with government sponsored funds have begun to deploy broadband wireless systems to support remote video surveillance, traffic flow management, back-up for disaster recovery, leased line replacement, various forms of backhaul and other public safety uses.  Examples may be found in various U.S. communities such as Houston, Texas, Richardson, Texas and many others.

2010 Partial Customer List for WiMAX and Other Fixed Wireless Broadband Systems

Telecom carriers and service providers using our products include, among others:

ACCESS KENYA

ADAM INTERNET, AUSTRALIA

ARIA, ITALY

BARRET XPLORE INC, CANADA

BHARTI TELE-VENTURES LIMITED ( AIRTEL ENTERPRISE SERVICES), INDIA

CIELUX, DRC

CLEARWIRE, SPAIN

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DIGICEL, CARIBBEAN

DIGITAL BRIDGE COMMUNICATIONS, USA

EASPNET, TAIWAN

ELRO, DENMARK

ERTACH SA (FORMERLY MILLICOM), ARGENTINA

HAFSLUND, NORWAY

IBERBANDA, S.A, SPAIN

ICE COSTA RICA

KDN, KENYA

LINKEM, ITALY

MTN UGANDA, UGANDA

NETIA SA, POLAND

NGI, ITALY

OPEN RANGE, USA

ORANGE BOTSWANA

RACSA, COSTA RICA

SAFARICOM, KENYA

TELECOM NAMIBIA, NAMIBIA

TELKOM SOUTH AFRICA LTD., SOUTH AFRICA

VMAX, TAIWAN

TECHNOLOGIES UNDERLYING OUR PRODUCTS

We use internally developed core technologies and continue to invest heavily in augmenting our expertise in networking, radio, digital signal processing (“DSP”) modem technologies, Media Access Control ("MAC") technologies and Radio Resource Management ("RRM") technologies.  We also participate as active members in international standards committees.

Networking Technology

To support the OPEN WiMAX concept and our 4Motion™ solution as well as the BreezeMAX platform and other products, we have developed or otherwise acquired, and continue to invest in, networking expertise in the areas of IP Access and Mobile IP that is particularly adapted for mobile WiMAX networks, Access Service Networks Gate Ways (“ASN-GW”), Point-to-Point Protocol Over Ethernet (“PPPoE”) tunneling, VPN and VoIP, based on industry standards, such as H.323, SIP and MGCP, and other Internet standards and protocols.  To support the SentieM™ technologies embedded in our 4Motion™ solution as well as in the BreezeMAX platform and other products, we have developed or otherwise acquired, and continue to invest in, distributed radio architecture and hierarchical ASN-GW network architecture. We have also developed, and are continuing to develop, know-how to satisfy market requirements with respect to quality of service, classes of services, committed information rate, maximum information rate, virtual LAN management and prioritization. We are developing access technology based on the IEEE 802.16-2004 and the IEEE 802.16e-2005  standards, as well as the WiMAX Forum™ technical specifications for both radio access and networking to further support the needs of customers using WiMAX. We have also developed a network management system that provides network surveillance, monitoring and configuration capabilities for all our products.

Radio Technology

We have in-house radio development capabilities to address the diverse frequency bands and modulation methods of our products. The frequency bands include, among others, 900 MHz, 2.4 GHz, 2.3, 2.5-2.7 GHz, or MMDS, 3.3-3.8 GHz, 4.9-6 GHz, 10.5 GHz and 26 and 28 GHz. The modulation methods include Frequency Hopping Spread Spectrum (FHSS), Gaussian Frequency Shift Keying (GFSK), Direct Sequence Spread Spectrum (DSSS), Single Carrier QAM and OFDM and OFDMA. Our products include both TDD and FDD radios.

Our radio teams specialize in low cost, mass-production oriented radio design.  The system level capability is software-assisted radio auto-calibration, which allows for reduced manufacturing costs and compensates for components’ parameter spread and instability, temperature-related changes and aging of components.

Our internal radio expertise enables us to attract customers by addressing promptly new needs, such as new frequency bands.

We have developed or otherwise acquired, and continue to invest in, radio technology expertise, specifically high efficiency, high power radios and new interfaces between the modem and the remote radio heads.

Digital Signal Processing ("DSP") Modem Technology

We maintain strong expertise in DSP and in modem design. Our capabilities include a hardware oriented design, as well as programmable DSP oriented design. Our modem design hinges on the Software Defined Radio paradigm. The extensive configurability of our base station modems, through Field Programmable Gate-Array (FPGA) and DSP reprogramming, allows us to readily introduce advanced features to our products and to follow amendments to emerging standards, including capability to upgrade deployed networks by downloading only software. Similarly, our CPE designs allow for upgradeability through over the air software download, simplifying our customers' operations.

We have developed the BreezeMAX base station platform, which is designed to support the WiMAX (IEEE 802.16 and HIPERMAN) air interface specification. The platform supports the multiple antenna elements per sector to exploit the smart-antenna signal processing techniques for improved coverage and network capacity. The programmable DSP-based architecture of the BreezeMAX platform enables us to support the IEEE 802.16d-2004 standard, as well as the IEEE 802.16e-2005 standard for mobile broadband communications, while enjoying the benefits of OFDMA and smart-antenna processing. The base station architecture and capabilities are closely aligned and synchronized with the CPE application-specific integrated circuit ("ASIC") and reference design developed by Intel resulting from our collaboration, which began in 2003, to ensure optimum performance in future WiMAX deployments. We are working closely with additional mobile WiMAX user terminal system on a chip (SoC) silicon providers to ensure proper interoperation of our base station equipment with their devices.

To support the SentieM™ technologies embedded in our 4MotionTM solution, as well as the BreezeMAX platform and other products, we have developed or otherwise acquired, and continue to invest in MIMO, Beam Forming and SDMA technologies.

We have also developed mixed signal ASICs containing DSP cores. Inclusion on-chip of analog-digital converters is instrumental to both cost reduction and power consumption reduction. First generation ASIC supports our IEEE 802.11-based FH-GFSK products, with the above-standard capability of delivering 3 Mbps, with automatic fall back to 2 Mbps and 1 Mbps as necessary. Our second generation ASIC is optimized for OFDM modulation, as used by the IEEE 802.11a/g standards and the recently approved IEEE 802.16a standard. This ASIC is based on proprietary programmable “very long instruction word” DSP architecture. The programmable architecture allows us to implement numerous beyond-standard capabilities, such as OFDMA extensions to the baseline OFDM mode. This system-on-a-chip ASIC has been used as a key component of our BreezeACCESS-OFDM products. An additional ASIC developed in-house supports our WALKair products, with a full duplex point-to-multipoint single carrier trellis-coded 64QAM modem. MAC and RRM Technologies

We have developed or otherwise acquired, and continue to invest in, MAC and RRM technology expertise that support channel aware rate adaptation and power control technology (part of the SentieM™ suite) technologies as well as advanced packet data scheduling and OFDMA frame building technologies embedded in the BreezeMAX platform and 4Motion™ solution. Additional features developed or otherwise acquired are MAC and RRM support for MIMO transmissions in the downlink, collaborative MIMO reception in the uplink and beam-forming in the downlink.

IOT Labs and Activities

To support our OPEN WiMAX strategy and enable a strong ecosystem habited by top industry vendors we have created our IOT lab which we continue to develop and maintain, and which tests a variety of products for interoperability on an ongoing basis, with the goal of ensuring that customer specific configurations, including CPE's and frequencies, are fully supported. The IOT Center is tasked with testing both various forms of CPE's, including dongles, PCCards, USB's, notebooks, laptops and standalones, and testing a range of core products, including ASN-GW's, AAA's and Home Agents. All of the products tested in our IOT labs are from a variety of vendors, and are tested in an Alvarion network environment using Alvarion Base-Stations and may also use an Alvarion ASN-GW, depending on the customer configuration. In addition, the IOT lab also performs scheduled maintenance for product versions which have already undergone IOT. Our IOT center can additionally engage in provisioning activities which enable end-to-end integration of a full solution per customer requirements.

Participation in International Standards Committees

As part of our strategy to become a technology leader and influence the industry in specific areas, we have, since our inception, been active members in standardization committees.

We are a principal founder of the WiMAX Forum™, a non-profit organization whose members work to promote adoption of the IEEE 802.16 OFDM/OFDMA standard and to certify interoperability of compliant equipment. Our representative on the board of directors of the WiMAX Forum™ is Dr. Mohammad Shakouri, Corporate Vice President of Marketing at Alvarion, who holds the position of Vice President of the WiMAX Forum™.

The scope of the IEEE 802.16-based standard is the Wireless MAN, supporting larger range fixed/nomadic/mobile broadband access networks with more performance and dedicated high-end services. Our engineers actively participate in the technical group for defining inter-operability profiles and tests. Our representative, Dr. Vladimir Yanover, holds the position of Vice Chair of WiMAX Forum™'s Technical Working Group (TWG), which is responsible for defining the interoperability profiles and the interoperability and conformance tests for the IEEE802.16e-2005 standard.

We actively participate in the IEEE 802.16's Broadband Wireless Access work group. Similarly, we are part of the WiMAX Forum™'s groups that define and improve the OFDM/OFDMA mode for both fixed and mobile broadband applications and that improve the ability of the IEEE 802.16 standard to increase its market footprint in license-exempt applications.

Mariana Goldhamer, Director for Strategic Technologies at Alvarion, chaired the IEEE 802.16h, which targets Improved Coexistence in License-Exempt deployment. She also was ETSI BRAN (Broadband Radio Access Networks) Vice-Chair and HiperMAN Chair. ETSI HiperMAN has adopted the IEEE 802.16 OFDM mode and has recently embraced the OFDMA mode.

Ms. Goldhamer has led

***Net Cash Provided by/(Used in) Investing Activities***

Net cash flows provided by/(used in) investing activities decreased by $10.0 million, to $8.2 million used in investing activities in the year ended December 31, 2018 compared to $1.8 million provided by investing activities in the year ended December 31, 2017. The decrease mainly reflects $6.2 million in net proceeds from the sale of securities in the year ended December 31, 2017 that did not recur in the year ended December 31, 2018 and a $3.8 million increase in cash used in connection with vessel additions and advances for vessels additions in the year ended December 31, 2018 compared to the year ended December 31, 2017.

Net cash flows provided by/(used in) investing activities increased by $11.2 million, to $1.8 million provided by investing activities in the year ended December 31, 2017 compared to $9.4 million used in investing activities in the year ended December 31, 2016. The increase reflects mainly $6.2 million of net proceeds from sale of securities in the year ended December 31, 2017 compared to $5.1 million of net proceeds from sale of vessels in the year ended December 31, 2016 and nil cash used for investments in affiliates in the year ended December 31, 2017 compared to $10.0 million cash used for investments in affiliates in the year ended December 31, 2016.

***Net Cash Used in Financing Activities***

Net cash flows used in financing activities decreased by $40.8 million, to $148.9 million used in financing activities in the year ended December 31, 2018 compared to $189.7 million used in financing activities in the year ended December 31, 2017 mainly due to debt payments of $441.0 million partially

paid with new loan facilities drawdowns of $325.9 million, deferred finance costs of $35.0 million relating to certain of our new loan agreements in connection with our debt refinancing, payments of accumulated accrued interest of $8.6 million and share issuance costs of $0.2 million, which were partially offset by paid-in capital of $10.0 million in the year ended December 31, 2018 compared to $189.7 million of debt payments in the year ended December 31, 2017.

Net cash flows used in financing activities decreased by $61.4 million, to $189.7 million in the year ended December 31, 2017 compared to $251.1 million in the year ended December 31, 2016, as a result of a decrease in repayments of long-term debt.

***Non-GAAP Financial Measures***

We report our financial results in accordance with U.S. generally accepted accounting principles (GAAP). Management believes, however, that certain non-GAAP financial measures used in managing the business may provide users of this financial information additional meaningful comparisons between current results and results in prior operating periods. Management believes that these non-GAAP financial measures can provide additional meaningful reflection of underlying trends of the business because they provide a comparison of historical information that excludes certain items that impact the overall comparability. Management also uses these non-GAAP financial measures in making financial, operating and planning decisions and in evaluating our performance. See the table below for supplemental financial data and corresponding reconciliation to GAAP financial measures. Non-GAAP financial measures should be viewed in addition to, and not as an alternative for, our reported results prepared in accordance with GAAP.

***EBITDA and Adjusted EBITDA***

EBITDA represents net income before interest income and expense, taxes, depreciation, as well as amortization of deferred drydocking & special survey costs, amortization of deferred realized losses of cash flow interest rate swaps, amortization of deferred finance costs and finance costs accrued. Adjusted EBITDA represents net income before interest income and expense, taxes, depreciation, amortization of deferred drydocking & special survey costs, amortization of deferred realized losses of cash flow interest rate swaps, amortization of deferred finance costs and finance costs accrued, impairment losses, stock based compensation, (gain)/loss on sale of vessels, unrealized (gain)/loss on derivatives, realized loss on derivatives, bad debt expense, gain on debt extinguishment, refinancing professional fees, loss on sale of securities and accelerated amortization of accumulated other comprehensive loss. We believe that EBITDA and Adjusted EBITDA assist investors and analysts in comparing our performance across reporting periods on a consistent basis by excluding items that we do not believe are indicative of our core operating performance. EBITDA and Adjusted EBITDA are also used: (i) by prospective and current customers as well as potential lenders to evaluate potential transactions; and (ii) to evaluate and price potential acquisition candidates. Our EBITDA and Adjusted EBITDA may not be comparable to that reported by other companies due to differences in methods of calculation.

EBITDA and Adjusted EBITDA have limitations as analytical tools, and should not be considered in isolation or as a substitute for analysis of our results as reported under U.S. GAAP. Some of these limitations are: (i) EBITDA/Adjusted EBITDA does not reflect changes in, or cash requirements for, working capital needs; and (ii) although depreciation and amortization are non-cash charges, the assets being depreciated and amortized may have to be replaced in the future, and EBITDA/Adjusted EBITDA do not reflect any cash requirements for such capital expenditures. In evaluating Adjusted EBITDA, you should be aware that in the future we may incur expenses that are the same as or similar to some of the adjustments in this presentation. Our presentation of Adjusted EBITDA should not be construed as an inference that our future results will be unaffected by unusual or non-recurring items.

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Because of these limitations, EBITDA/Adjusted EBITDA should not be considered as principal indicators of our performance.

***Net Income/(loss) Reconciliation to EBITDA and Adjusted EBITDA***

| | Year ended December 31, 2018 | Year ended December 31, 2017 | Year ended December 31, 2016 |
|---|---|---|---|
| | | (In thousands) | |
| Net income/(loss) | $ (32,936) | $ 83,905 | $ (366,195) |
| Depreciation | 107,757 | 115,228 | 129,045 |
| Amortization of deferred drydocking & special survey costs | 9,237 | 6,748 | 5,528 |
| Amortization of deferred realized losses of cash flow interest rate swaps | 3,694 | 3,694 | 4,028 |
| Amortization of finance costs and debt discount | 14,957 | 11,153 | 12,652 |
| Finance costs accrued (Exit Fees under our Bank Agreements) | 2,059 | 3,169 | 3,447 |
| Interest income | (5,781) | (5,576) | (4,682) |
| Interest expense | 70,749 | 75,403 | 70,314 |
| **EBITDA** | **169,736** | **293,724** | **(145,863)** |
| Gain on debt extinguishment | (116,365) | | |
| Refinancing professional fees | 51,313 | 14,297 | |
| Loss on sale of securities | | 2,357 | 12,906 |
| Impairment loss | 210,715 | | 415,118 |
| Impairment loss on securities | | | 29,384 |
| Impairment loss component of equity loss on investments | | | 14,642 |
| Bad debt expense | | | 15,834 |
| Accelerated amortization of accumulated other comprehensive loss | 1,443 | | 7,706 |
| Stock based compensation | 1,006 | | 76 |
| Loss on sale of vessels | | | 36 |
| Realized loss on derivatives | | | 5,397 |
| Unrealized gain on derivatives | | | (4,649) |
| **Adjusted EBITDA** | **$ 317,848** | **$ 310,378** | **$ 350,587** |

EBITDA decreased by $124.0 million, to $169.7 million in the year ended December 31, 2018, from $293.7 million in the year ended December 31, 2017. This decrease was attributed to a $210.7 million impairment loss and a related accelerated amortization of accumulated other comprehensive loss of $1.4 million in the year ended December 31, 2018 compared to nil in the year ended December 31, 2017, by a $34.7 million increase in net other expenses mainly due to refinancing-related professional fees and a $0.9 million increase in operating expenses, which were partially offset by a $116.4 million gain on debt extinguishment, a $7.0 million increase in operating revenue and a $0.4 million improvement in operating performance on our equity investments in the year ended December 31, 2018 compared to the year ended December 31, 2017.

Adjusted EBITDA increased by $7.4 million, to $317.8 million in the year ended December 31, 2018 from $310.4 million in the year ended December 31, 2017. The increase was attributable mainly to a $7.0 million increase in operating revenue and a $0.4 million improvement in operating performance on our equity investments in the year ended December 31, 2018 compared to the year ended December 31, 2017.

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EBITDA increased by $439.6 million, to $293.7 million in the year ended December 31, 2017, from $(145.9) million in the year ended December 31, 2016. The increase was attributable to a decrease in impairment losses by $459.1 million, a $15.8 million decrease in bad debt expense, a $10.5 million decrease in loss on sale of securities, a $8.5 million decrease in unrealized and realized losses on derivatives, a $3.1 million decrease in operating expenses, an $2.6 million operating performance improvement on equity investments and a $0.7 million decrease in other expenses in the year ended December 31, 2017 compared to the year ended December 31, 2016. This increase was partially offset by a $46.6 million decrease in operating revenues and an $14.1 million increase in other expenses mainly due to refinancing professional fees in the year ended December 31, 2017 compared to the year ended December 31, 2016.

Adjusted EBITDA decreased by $40.2 million, to $310.4 million in the year ended December 31, 2017 from $350.6 million in the year ended December 31, 2016. The decrease was attributable to a $46.6 million decrease in operating revenues, which was partially offset by a $3.1 million decrease in operating expenses, a $2.6 million operating performance improvement on equity investments and a $0.7 million decrease in other expenses in the year ended December 31, 2017 compared to the year ended December 31, 2016.

**2018 Refinancing and New 2018 Credit Facilities**

We entered into a debt refinancing agreement with certain of our lenders holding debt of $2.2 billion maturing by December 31, 2018, for a debt refinancing, which we refer to as the "2018 Refinancing", which was consummated on August 10, 2018, which we refer to as the 2018 Refinancing Closing Date, that superseded, amended and supplemented the terms of each of our then-existing credit facilities (other than the Sinosure-CEXIM-Citibank-ABN Amro credit facility which is not covered thereby). The 2018 Refinancing provided for, among other things, the issuance of 99,342,271 new shares of common stock to certain of our lenders (which represented 47.5% of our outstanding common stock immediately after giving effect to such issuance and diluted existing shareholders ratably), a principal amount debt reduction of approximately $551 million, revised amortization schedules, maturities, interest rates, financial covenants, events of defaults, guarantees and security packages and $325.9 million of new debt financing from one of our lenders Citibank (the "Citibank New Money"). Our largest stockholder, DIL, contributed $10 million to the Company on the 2018 Refinancing Closing Date, for which DIL did not receive any shares of common stock or other interests in the Company. The maturities of the new loan facilities covered by this debt refinancing were extended by five years to December 31, 2023 (or, in some cases, June 30, 2024).

In addition, we agreed to make reasonable efforts to source investment commitment for new shares of common stock for not less than $50 million in net proceeds no later than 18 months after the 2018 Refinancing Closing Date (up to $10 million of which is to be underwritten by DIL as set out in the Backstop Agreement (See "Item 7. Major Shareholders and Related Party Transactions Related Party Transactions Backstop Agreement")).

As part of the 2018 Refinancing we entered into new credit facilities for an aggregate principal amount of approximately $1.6 billion due December 31, 2023 (or, in some cases as noted below, June 30, 2024) through an amendment and restatement or replacement of existing credit facilities. The following are the new term loan credit facilities (the "New 2018 Credit Facilities"):

(i) a $475.5 million credit facility provided by the Royal Bank of Scotland (the "RBS Facility"), which refinanced the prior Royal Bank of Scotland credit facilities

(ii) a $382.5 million credit facility provided by HSH Nordbank AG Aegean Baltic Bank Piraeus Bank (the "HSH Facility"), which refinanced the prior HSH Nordbank AG Aegean Baltic Bank Piraeus Bank credit facilities

(iii) a $114.0 million credit facility provided by Citibank (the "Citibank $114 mil. Facility"), which refinanced the prior Citibank credit facility

(iv) a $171.8 million credit facility provided by Credit Suisse (the "Credit Suisse $171.8 mil. Facility"), which refinanced the prior Credit Suisse credit facility

(v) a $37.6 million credit facility provided by Citibank Eurobank (the "Citibank Eurobank $37.6 mil. Facility)"), which refinanced the prior Citibank Eurobank credit facility

(vi) a $206.2 million credit facility provided by Citibank Credit Suisse Sentina (the "Club Facility $206.2 mil."), which refinanced the prior EnTrustPermal Credit Suisse CitiGroup Club facility

(vii) a $120.0 million credit facility provided by Citibank (the "Citibank $120 mil. Facility"), which refinanced the prior ABN Amro Bank of America Merrill Lynch Burlington Loan Management National Bank of Greece facilities

(viii) a $123.9 million credit facility provided by Citibank (the "Citibank $123 mil. Facility"), which refinanced the prior Deutsche Bank facility

***Interest and Fees***

The interest rate payable under the New 2018 Credit Facilities (which does not include the Sinosure-CEXIM-Citibank-ABN Amro credit facility) is LIBOR+2.50% (subject to a 0% floor), with subordinated tranches of two credit facilities incurring additional PIK interest of 4.00%, compounded quarterly, payable in respect of $282 million principal related to the RBS Facility and HSH Facility, which tranches have maturity dates of June 30, 2024.

We were required to pay a cash amendment fee of $69.2 million in the aggregate, out of which $23.9 million was paid in cash before December 31, 2018 and the remaining portion will be paid in instalments. Of the unpaid portion of the amendment fee, $30.5 million was accrued under "Other current liabilities" and $14.8 million under "Other long-term liabilities" in the consolidated balance sheet as of December 31, 2018. Of the cash amendment fee, $17.2 million was deferred and will be amortized over the life of the respective credit facilities with the effective interest method and $52.0 million was expensed to the consolidated statement of operations.

We were also required to issue 14.7 million shares of common stock as part of the amendments fees on the 2018 Refinancing Closing Date, or $25.0 million fair value in the aggregate. Of this amount, recognition of $18.1 million was deferred and will be amortized over the life of the respective credit facilities with the effective interest method and $6.9 million was expensed in the accompanying consolidated statements of operations. The fair value of the shares issued at the 2018 Refinancing Closing Date are based on a Level 1 measurement of the share's price, which was $1.70 as of August 10, 2018.

We incurred $51.3 million and $14.3 million of professional fees related to the refinancing discussions with our lenders reported under "Other income/(expenses), net" in the accompanying consolidated statements of operations for the year ended December 31, 2018 and 2017, respectively. Additionally, we deferred $11.7 million of professional fees related to the Citibank facilities, which will be amortized over the life of the respective credit facilities.

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***Covenants, Events of Defaults, Collaterals and Guarantees***

The New 2018 Credit Facilities contain financial covenants set at levels with which we were in compliance as of December 31, 2018 and that requires us to maintain:

(i) minimum collateral to loan value coverage on a charter-free basis increasing from 57.0% as of December 31, 2018 to 100% as of September 30, 2023 and thereafter,

(ii) minimum collateral to loan value coverage on a charter-attached basis increasing from 69.5% as of December 31, 2018 to 100% as of September 30, 2023 and thereafter,

(iii) minimum liquidity of $30 million throughout the term of the New 2018 Credit Facilities,

(iv) maximum consolidated net leverage ratio, declining from 7.50x as of December 31, 2018 to 5.50x as of September 30, 2023 and thereafter,

(v) minimum interest coverage ratio of 2.50x throughout the term of the New 2018 Credit Facilities and

(vi) minimum consolidated market value adjusted net worth increasing from negative $510 million as of December 31, 2018 to $60 million as of September 30, 2023 and thereafter.

The New 2018 Credit Facilities contain certain restrictive covenants and customary events of default, including those relating to cross-acceleration and cross-defaults to other indebtedness, non-compliance, or repudiation of security documents, material adverse changes to our business, the Company's common stock ceasing to be listed on the NYSE (or another recognized stock exchange), foreclosure on a vessel in our fleet, a change in control of the Manager, a breach of the management agreement by the Manager and a material breach of a charter by a charterer or cancellation of a charter (unless replaced with a similar charter acceptable to the lenders) for the vessels securing the respective New 2018 Credit Facilities. Each of the new credit facilities are collateralized by first and second preferred mortgages over the vessels financed, general assignment of all hire freights, income and earnings, the assignment of their insurance policies, as well as any proceeds from the sale of mortgaged vessels, our investments in ZIM and Hyundai Merchant Marine securities, stock pledges and benefits from corporate guarantees.

In connection with the 2018 Refinancing, we have also undertaken to seek to refinance two of our 13,100 TEU vessels, the *Hyundai Honour* and the *Hyundai Respect*. The net proceeds are to be applied pro rata to repay the new credit facilities secured by mortgages on such vessels.

For the purpose of these covenants, the market value of our vessels will be calculated, except as otherwise indicated above, on a charter-inclusive basis (using the present value of the "bareboat-equivalent" time charter income from such charter) so long as a vessel's charter has a remaining duration at the time of valuation of more than 12 months plus the present value of the residual value of the relevant vessel (generally equivalent to the charter free value of an equivalent a vessel today at the age such vessel would be at the expiration of the existing time charter). The market value of any newbuilding vessels would equal the lesser of such amount and the newbuilding vessel's book value.

***Exit Fee***

As of December 31, 2018, the Company has an accrued Exit Fee of $21.6 million relating to its debt facilities and is reported under "Long-term debt, net" in the consolidated Balance Sheet. The payment of the exit fees accrued under the long-term debt prior to the debt refinancing shall be postponed on the earlier of maturity, acceleration or prepayment or repayment in full of the amended facilities or the relevant facility refinancing. The exit fees will accrete in the consolidated statement of operations of the Company over the life of the respective facilities covered by the 2018 Refinancing

(which does not include the Sinosure-CEXIM-Citibank-ABN Amro credit facility) up to the agreed full exit fees payable amounting to $24.0 million.

***Accounting for the Refinancing Agreement***

We performed an accounting analysis on a lender by lender basis to determine which accounting guidance applied to each of the amendments to our Existing Credit Facilities. The following guidance was used to perform the analysis:

(i) As set forth in ASC 470-60, "*Accounting by Debtors and Creditors for Troubled Debt Restructurings*" troubled debt restructuring ("TDR") accounting is required when the debtor is experiencing financial difficulty and the creditor has granted a concession. A concession is granted when the effective borrowing rate on the restructured debt is less than the effective borrowing rate on the original debt. The application of TDR accounting requires a comparison of the recorded value of each debt instrument prior to restructuring to the sum of the undiscounted future cash flows to be received by a creditor under the newly restructured debt instrument. Interest expense in future periods is determined by the effective interest rate required to discount the newly restructured future cash flows to equal the recorded value of the debt instrument without regard to how the parties allocated these cash flows to principal and interest in the restructured agreement. In cases in which the recorded value of the debt instrument exceeds the sum of undiscounted future cash flows to be received under the restructured debt instrument, the recorded value is reduced to the sum of undiscounted future cash flows, and a gain is recorded. In this instance, no future interest expense will be recorded on the affected facilities, as the adjusted recorded value and the undiscounted future cash flows are equal and the effective interest rate is zero.

(ii) For lenders on which we concluded that the above changes to the terms of long-term debt do not constitute a troubled debt restructuring as no concession has been granted, we applied the guidance in ASC 470-50, Modifications and Extinguishments. The accounting treatment is determined by whether (1) the lender (creditor) remains the same and (2) terms of the new debt and original debt are substantially different. The new debt and the old debt are considered "substantially different" pursuant to ASC 470-50 when the present value of the cash flows under the terms of the new debt instrument is at least 10% different from the present value of the remaining cash flows under the terms of the original instrument. If the original and new debt instruments are substantially different, the original debt is derecognized and the new debt should be initially recorded at fair value, with the difference recognized as an extinguishment gain or loss.

Based on the analysis, we concluded for the lenders that participated in both the Existing Credit Facilities and the New 2018 Credit Facilities, the following accounting:

***Troubled Debt Restructuring***

Prior to the finalization of the 2018 Refinancing, we concluded that we were experiencing financial difficulty and that certain of our lenders granted a concession (as part of the 2018 Refinancing). We were experiencing financial difficulty primarily as a result of the projected cash flows not being sufficient to service the balloon payment due as of December 31, 2018 without restructuring and we were not able to obtain funding from sources other than existing creditors at an effective interest rate equal to the current market interest rate for similar debt. As a result, the following accounting has been applied at the 2018 Refinancing Closing Date:

(i) As of the 2018 Refinancing Closing Date, the outstanding balance of HSH Facility was $639.2 million. In exchange for reduction of principal of $251.0 million, the lenders received a total of 49.4 million shares of common stock with a fair value of $83.9 million, resulting in a

net concession of $167.1 million. Accumulated accrued interest of $129.3 million was recognized using the Libor rate of 2.34% as of August 10, 2018. The TDR accounting guidance requires us to record the value of the new debt to its restructured undiscounted cash flows over the life of the loan, including cash flows associated with the remaining scheduled interest and principal payments. In cases in which the recorded value of the debt instrument exceeds the sum of undiscounted future cash flows to be received under the restructured debt instrument, the recorded value is reduced to the sum of undiscounted future cash flows, and a gain is recorded. For the HSH Facility, the total undiscounted future cash flows total $518.6 million, which results in a gain of $36.6 million. The amendment fees to be paid to HSH Facility lenders of $9.5 million were recorded in the consolidated statement of operations and reduced the net gain on debt extinguishment.

(ii) As of the 2018 Refinancing Closing Date, the outstanding balance of RBS Facility was $660.9 million. In exchange for reduction of principal of $179.2 million, the lender received a total of 35.2 million shares of common stock with a fair value of $59.9 million, resulting in a net concession of $119.3 million and accumulated accrued interest of $119.3 million as of August 10, 2018. The TDR accounting guidance requires us to record the value of the new debt to its restructured undiscounted cash flows over the life of the loan, including cash flows associated with the remaining scheduled interest and principal payments not to exceed the carrying amount of the original debt. For the RBS Facility, the undiscounted cash flows exceed the recorded value of the modified debt, and as such, the modified and new debt will be accreted up to its maturity value using the effective interest rate inherent in the restructured cash flows. The amendment fees to be paid to RBS of $9.3 million were deferred and recognized through the consolidated statement of operations using the effective interest method.

Following the issuance of the shares of common stock, HSH and RBS are considered related parties. The fair value of the shares issued at the 2018 Refinancing Closing Date are based on a Level 1 measurement of the share's price, which was $1.70 as of August 10, 2018.

***Modification and Extinguishment Accounting***

Based on the accounting analysis performed, we concluded that:

(i) As of the 2018 Refinancing Closing Date, the outstanding balance for the Credit Suisse Facility, the Credit Suisse and Sentina portions of the New Club Facility and the Eurobank portion of the Citibank Eurobank Facility was $173.5 million, $125.6 million and $7.2 million, respectively. The present value of the cash flows under the Credit Suisse facilities and Sentina portion of the New Club Facility and Eurobank portion of the Citibank Eurobank Facility, as amended by the debt refinancing, were not substantially different from the present value of the remaining cash flows under the terms of the original instruments prior to the debt refinancing, and, as such, were accounted for the debt refinancing as a modification. Accordingly, no gain or loss was recorded and a new effective interest rate was established based on the carrying value of the long-term loan prior to the debt refinancing becoming effective and the revised cash flows pursuant to the debt refinancing, including the fair value of the shares issued to the lender as part of the amendment fees. Total amendment fees paid in cash and shares to the Credit Suisse Facility, New Club Facility and Eurobank portion of the Citibank Eurobank Facility were $15.1 million, $10.9 million and $0.1 million, respectively, and are deferred over the life of the facilities and recognized through the new effective interest method.

(ii) The present value of the cash flows for all of the Existing Citibank facilities amounting to $152.9 million plus the Citibank New Money amounting to $325.9 million, was substantially

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different from the present value of the remaining cash flows under the terms of the original instrument prior to the debt refinancing, and, as such, accounted for the debt refinancing as an extinguishment. Accordingly, we derecognized the carrying value of the prior Citibank debt facilities and recorded the refinanced debt at fair value totaling $448.2 million. Total new fees of $49.5 million were recorded directly in the consolidated statement of operations under the gain on debt extinguishment. The fair value of the new Citibank facilities was determined by the Company through an independent valuation using an issue date, risk adjusted market interest rate of 7.15% per annum, similar to the market yield for unsecured high yield bonds to the shipping companies, and considered to be a Level 2 input in the ASC 820 fair value hierarchy.

The outstanding principal and related exit fee payable for the Deutsche Bank Facility, the EnTrustPermal portion of the Club Facility and the ABN Amro Bank of America Merrill Lynch Burlington Loan Management National Bank of Greece Facility ("Other facilities") totaling $450.8 million were extinguished with the proceeds from the Citibank New Money amounting to $325.9 million and with corporate cash amounting to $12.0 million, resulting in a net gain on debt extinguishment of $89.3 million.

**Sinosure-CEXIM-Citibank-ABN Amro Credit Facility**

On February 21, 2011, we entered into an agreement with Citibank, acting as agent, ABN Amro and the Export-Import Bank of China ("CEXIM") for a senior secured credit facility (the "Sinosure-CEXIM-Citibank-ABN Amro Credit Facility") of $203.4 million for the newbuilding vessels, the *CMA CGM Tancredi*, the *CMA CGM Bianca* and the *CMA CGM Samson*, securing such tranche for post-delivery financing of these vessels. We took delivery of the respective vessels in 2011. The China Export & Credit Insurance Corporation, or Sinosure, covers a number of political and commercial risks associated with each tranche of the credit facility.

***Principal and Interest Payments***

Borrowings under the Sinosure-CEXIM-Citibank-ABN Amro Credit Facility bear interest at an annual interest rate of LIBOR plus a margin of 2.85% payable semi-annually in arrears. We are required to repay principal amounts drawn in consecutive semi-annual installments over a ten-year period commencing from the delivery of the respective newbuilding.

***Covenants, Events of Default and Other Terms***

On the 2018 Refinancing Closing Date we amended and restated the Sinosure-CEXIM-Citibank-ABN Amro Credit Facility, dated as of February 21, 2011, as amended, primarily to align its financial covenants with those contained in the New 2018 Credit Facilities and provide second lien collateral to the lenders under certain of the New 2018 Credit Facilities.

***Collateral***

The Sinosure-CEXIM-Citibank-ABN Amro Credit Facility is secured by customary shipping industry collateral relating to the financed vessels, the *CMA CGM Tancredi*, the *CMA CGM Bianca* and the *CMA CGM Samson*, securing the respective tranche.

**Kexim-ABN Amro Credit Facility**

On June 27, 2018, the Company gave notice to the lenders under the KEXIM-ABN Amro credit facility and fully repaid the $17.5 million outstanding under this facility on July 20, 2018.

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**Scheduled Principal Payments**

The Sinosure-Cexim-Citibank-ABN Amro Credit Facility provides for semi-annual amortization payments and the New 2018 Credit Facilities provide for quarterly fixed and variable amortization payments, together representing approximately 85% of actual free cash flows from the relevant vessels securing such credit facilities, subject to certain adjustments. The New 2018 Credit Facilities have maturity dates of December 31, 2023 (or in some cases as indicated below, June 30, 2024). After giving effect to the debt refinancing consummated on August 10, 2018, scheduled debt maturities of total long-term debt subsequent to December 31, 2018 are as follows (in thousands):

| Payments due by period ended | Fixed principal repayments | Final payments* | Total principal payments |
|---|---|---|---|
| December 31, 2019 | $ 113,777 | | $ 113,777 |
| December 31, 2020 | 119,674 | | 119,674 |
| December 31, 2021 | 119,603 | | 119,603 |
| December 31, 2022 | 89,773 | | 89,773 |
| December 31, 2023 | 77,194 | $ 864,118 | 941,312 |
| Thereafter | | 286,499 | 286,499 |
| **Total long-term debt** | **$ 520,021** | **$ 1,150,617** | **$ 1,670,638** |

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* The final payments include the unamortized remaining principal debt balances under the New 2018 Credit Facilities, as such amount will be determinable following the fixed amortization. As mentioned above, we are also subject to quarterly variable principal amortization based on actual free cash flows, which are included under "Final payments" in this table.

**Credit Facilities**

We, as guarantor, and certain of our subsidiaries, as borrowers, have entered into a number of credit facilities in connection with financing the acquisition of certain vessels in our fleet and the 2018 Refinancing, which are described in Note 10 to our consolidated financial statements included in this annual report. The following summarizes certain terms of our credit facilities:

| Credit Facility | Outstanding Principal Amount (in millions)(1) | Collateral Vessels |
|---|---|---|
| The Royal Bank of Scotland $475.5 mil. Facility(2) | $ 474.7 | The *Progress C (ex Hyundai Progress)*, the *Highway*, the *Bridge*, the *Zim Monaco*, the *Express Argentina*, the *Express France*, the *Express Spain*, the *CMA CGM Racine,* the *America (ex CSCL America)*, the *CMA CGM Melisande,* the *Maersk Enping*, the *Express Berlin,* the *Le Havre (ex CSCL Le Havre)* and the *Derby D* |

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| Credit Facility | Outstanding Principal Amount (in millions)(1) | | Collateral Vessels |
|---|---|---|---|
| HSH Nordbank Aegean Baltic Bank Piraeus Bank $382.5 mil. Facility(2) | $ | 379.8 | The *Vladivostok*, the *Advance*, the *Stride*, the *Future*, the *Sprinter*, the *Amalia C*, the *MSC Zebra*, the *Danae C*, the *Dimitris C,* the *Performance,* the *Europe,* the *Dimitra C (ex Priority),* the *Maersk Exeter*, the *Express Rome*, the *CMA CGM Rabelais*, the *Pusan C (ex CSCL Pusan)* and the *ANL Tongala (ex Deva)* |
| Citibank $114 mil. Facility | $ | 110.6 | The *CMA CGM Moliere*, the *CMA CGM Musset* , the *Hyundai Honour* and the *Hyundai Respect* |
| Citibank $123.9 mil. Facility | $ | 122.5 | The *Zim Rio Grande*, the *Zim Sao Paolo* and the *Zim Kingston,* the *Hyundai Honour* and the *Hyundai Respect* |
| Citibank $120 mil. Facility(2) | $ | 116.0 | The *Colombo*, the *YM Seattle*, the *YM Vancouver*, the *Singapore* and the *Express Athens* |
| Citibank Eurobank $37.6 mil. Facility | $ | 35.6 | The *MSC Ambition* |
| Club Facility $206.2 mil. | $ | 202.4 | The *Zim Dalian*, the *Express Brazil,* the *YM Maturity*, the *Express Black* |
| | | | *Sea*, the *CMA CGM Attila,* the *Hyundai Honour* and the *Hyundai Respect* |
| Credit Suisse $171.8 mil. Facility | $ | 168.0 | The *Zim Luanda*, the *CMA CGM Nerval*, the *YM Mandate,* the *Hyundai Honour* and the *Hyundai Respect* |
| Sinosure-Cexim-Citibank-ABN Amro $203.4 mil. Facility | $ | 61.0 | The *CMA CGM Tancredi*, the *CMA CGM Bianca* and the *CMA CGM Samson* |

(1) As of December 31, 2018.

(2) These credit facilities are also secured by a second priority lien on the *CMA CGM Tancredi*, the *CMA CGM Bianca*, the *CMA CGM Samson* and the *MSC Ambition.*

As of December 31, 2018, there was no remaining borrowing availability under any of our credit facilities.

The weighted average interest rate on our borrowings for the years ended December 31, 2018, 2017 and 2016 was 4.3%, 3.1% and 2.6%, respectively.

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**Interest Rate Swaps**

In the past, we entered into interest rate swap agreements converting floating interest rate exposure into fixed interest rates in order to hedge our exposure to fluctuations in prevailing market interest rates, as well as interest rate swap agreements converting the fixed rate we paid in connection with certain of our credit facilities into floating interest rates in order to economically hedge the fair value of the fixed rate credit facilities against fluctuations in prevailing market interest rates. All of these interest rate swap agreements have expired and we do not currently have any outstanding interest rate swap agreements. See "Item 11. Quantitative and Qualitative Disclosures About Market Risk" and " Factors Affecting our Results of Operations Unrealized gain/(loss) and realized loss on derivatives."

**Warrants**

In 2011, we issued an aggregate of 15,000,000 warrants to our lenders under our 2011 bank agreement with those lenders and the January 2011 Credit Facilities to purchase, solely on a cash-less exercise basis, an aggregate of 15,000,000 shares of our common stock, which warrants had an exercise price of $7.00 per share. All of these warrants expired, without being exercised, on January 31, 2019.

**Contractual Obligations**

Our contractual obligations as of December 31, 2018 were:

| | Payments Due by Period | | | | |
|---|---|---|---|---|---|
| | Total | Less than 1 year (2019) | 2 - 3 years (2020 - 2021) | 4 - 5 years (2022 - 2023) | More than 5 years |
| | in thousands of Dollars | | | | |
| Long-term debt obligations of contractual fixed debt principal repayments(1) | $ 1,670,638 | $ 113,777 | $ 239,277 | $ 1,031,085 | $ 286,499 |
| Accumulated accrued interest(2) | $ 236,357 | $ 35,835 | $ 67,660 | $ 61,770 | $ 71,092 |
| Interest on long-term debt obligations(3) | $ 187,412 | $ 49,881 | $ 80,460 | $ 54,386 | $ 2,685 |
| Capital expenditure(4) | $ 16,649 | $ 16,649 | | | |
| Payments to our manager(5) | $ 21,954 | $ 21,954 | | | |
| **Total** | $ 2,133,010 | $ 238,096 | $ 387,397 | $ 1,147,241 | 360,276 |

(1) These long-term debt obligations reflect our existing debt obligations as of December 31, 2018, including the quarterly fixed principal payments we are required to make under the New 2018 Credit Facilities and do not include any variable amortization amounts, which are payable under the New 2018 Credit Facilities in order to equal a certain percentage of our actual free cash flow from vessels mortgaged thereunder, subject to certain adjustments, each quarter. The last payment, due by June 2024, will also include the unamortized remaining principal debt balances, as such amounts will be determinable following the fixed and variable amortization. These long-term debt obligations also include contractual amortization payments of our Sinosure-CEXIM-Citibank-ABN Amro Credit Facility.

(2) Accumulated accrued interest reflects the interest expense related to the future periods on certain debt facilities giving effect to the 2018 Refinancing as a result of the troubled debt restructuring accounting using a fixed LIBOR rate of 2.34%. The calculation of interest is based on outstanding debt balances as of December 31, 2018, amortized by the contractual fixed amortization payments. The actual amortization and LIBOR we pay may differ from management's estimates, which would result in different interest payment obligations.

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(3)
The interest payments in this table reflect our existing debt obligations as of December 31, 2018 giving effect to the 2018 Refinancing and new credit facilities under which we are required to make quarterly principal payments in fixed amounts. The calculation of interest is based on outstanding debt balances as of December 31, 2018 amortized by the contractual fixed amortization payments and exclude payments of accumulated accrued interest described under (2) above. The interest payments in this table are based on an assumed LIBOR rate of 3.21% in 2019, 3.29% in 2020 and up to a maximum of 3.31% thereafter. The actual amortization we pay may differ from management's estimates, which would result in different interest payment obligations.

(4)
The capital expenditure reflects the expected payments for contractual additions to our vessels related to scrubbers.

(5)
Under our management agreement with Danaos Shipping, the management fees are a fee of $850 per day, a fee of $425 per vessel per day for vessels on bareboat charter and $850 per vessel per day for vessels on time charter. As of December 31, 2018, we had a fleet of 55 containerships, out of which 51 are on time charter and 4 on bareboat charter. In addition, we also will pay our manager a fee of 1.25% of the gross freight, demurrage and charter hire collected from the employment of our ships, 0.5% of the contract price of any vessels bought or sold on our behalf and $725,000 per newbuilding vessel, if any, for the supervision of any newbuilding contracts. We expect to be obligated to make the payments set forth in the above table under our management agreement in the year ending December 31, 2019, based on our revenue, as reflected above under " Factors Affecting Our Results of Operations Operating Revenues," and our currently anticipated vessel acquisitions and dispositions and chartering arrangements described in this annual report. No interest is payable with respect to these obligations if paid on a timely basis, therefore no interest payments are included in these amounts.

**Research and Development, Patents and Licenses**

We incur from time to time expenditures relating to inspections for acquiring new vessels that meet our standards. Such expenditures are insignificant and they are expensed as they are incurred.

**Trend Information**

Our results of operations depend primarily on the charter hire rates that we are able to realize. Charter hire rates paid for containerships are primarily a function of the underlying balance between vessel supply and demand and respective charter-party details. The demand for containerships is determined by the underlying demand for goods which are transported in containerships.

After a sharp decrease in charter rates for containerships in the middle of 2015, in many cases to a level below operating costs, charter rates for containerships have generally improved, albeit modestly and unevenly. In 2018, the time charter rate index on a full year average basis was up by 28% relative to 2017, however, time charter rates in December 2018 were at the same level as at the end of 2017. The global demand for seaborne transportation of containerized cargoes is estimated to have increased modestly overall in 2018 mainly due to growth in Transpacific trade as well as Far East-Europe trade and is expected to continue to rise in 2019 subject to heightened risks from the global economy. Containership fleet capacity also grew significantly, by an estimated 5.6% in 2018, due to new deliveries, with an increasing proportion accounted for by very large containerships, and is expected to grow by a further 2.9% in 2019. As such, container freight rates and containership charter rates are expected to remain under pressure. Overall, global containership demand is currently expected to slightly exceed supply growth in 2019 and 2020, while differing across different trade lanes and vessel sizes. In particular, the relative weakness of the main trade lanes, which utilize larger vessels, has

resulted in cascading of larger containerships for use on shorter trades, with such cascading expected to continue.

The idle containership fleet at the end of 2018 stood at approximately 2.5% of global fleet capacity and the average idle capacity recorded in full year 2018 came to 1.9%, relatively improved compared to the averages of 3.5% and 6.4% recorded in 2017 and 2016, respectively.

Earnings improved with the guideline rate for a 4,400 TEU Panamax reaching $9,000 per day at the end of 2018 compared to $8,000 and $4,150 per day at the end of 2017 and 2016, respectively. Containership newbuilding orders totaled 1.2 million TEU in 2018 compared to 0.7 million TEU ordered in 2017, although still representing a subdued annual level compared to that seen in 2015. The size of the order book compared to global fleet capacity remained stable at approximately 13% as of the end of 2018 and 2017, down from record high levels in 2008 but still relatively high compared to historical averages. In particular, larger containerships of greater than 10,000 TEU represent a significant majority of the order book with approximately 1.0 million TEU of vessels of over 10,000 TEU scheduled to be delivered between 2019 and 2021. The "slow-steaming" of services since 2009, particularly on longer trade routes, enabled containership operators to both moderate the impact of high bunker costs, while absorbing additional capacity. This has proved to be an effective approach and it currently appears likely that this will remain in place in the coming year. A number of liner companies, including some of our customers, reported substantial losses in recent years, with Hanjin Shipping filing for bankruptcy in 2016, as well as having entered into consolidating mergers or formed cooperative alliances as part of efforts to reduce the size of their fleets to better align fleet capacity with the demand for marine transportation of containerized cargo, all of which may decrease the demand for chartered-in containership tonnage.

**Off-Balance Sheet Arrangements**

We do not have any other transactions, obligations or relationships that could be considered material off-balance sheet arrangements.

**Critical Accounting Policies**

We prepare our consolidated financial statements in accordance with U.S. GAAP, which requires us to make estimates in the application of our accounting policies based on our best assumptions, judgments and opinions. We base these estimates on the information currently available to us and on various other assumptions we believe are reasonable under the circumstances. Actual results may differ from these estimates under different assumptions or conditions. Following is a discussion of the accounting policies that involve a high degree of judgment and the methods of their application. For a further description of our material accounting policies, please refer to Note 2, Significant Accounting Policies, to our consolidated financial statements included elsewhere in this annual report.

***Purchase of Vessels***

Vessels are stated at cost, which consists of the contract purchase price and any material expenses incurred upon acquisition (improvements and delivery expenses), less accumulated depreciation. Subsequent expenditures for conversions and major improvements are also capitalized when they appreciably extend the life, increase the earning capacity or improve the efficiency or safety of the vessels. Otherwise we charge these expenditures to expenses as incurred. Our financing costs incurred during the construction period of the vessels are included in vessels' cost.

We acquired certain vessels in the secondhand market in prior years, all of which were considered to be acquisitions of assets. Certain vessels in our fleet that were purchased in the secondhand market were acquired with existing charters. We determined that the existing charter contracts for these vessels did not have a material separate fair value and, therefore, we recorded such vessels at their fair value,

which equaled the consideration paid. The adoption of ASU 2017-01 "Business Combinations (Topic 805)" on January 1, 2018 did not have any effect on our business as we have not acquired any vessels in 2018, however it might have in the future if any vessel acquisition in secondhand market will constitute a business or not. When substantially all of the fair value of the gross assets acquired is concentrated in a single identifiable asset or group of similar identifiable assets, the set is not a business. The following assets will be considered as a single asset for the purposes of the evaluation (i) a tangible asset that is attached to and cannot be physically removed and used separately from another tangible assets (or an intangible asset representing the right to use a tangible asset); (ii) in place lease intangibles, including favorable and unfavorable intangible assets or liabilities, and the related leased assets.

The determination of the fair value of acquired assets and assumed liabilities requires us to make significant assumptions and estimates of many variables, including market charter rates, expected future charter rates, future vessel operating expenses, the level of utilization of our vessels and our weighted average cost of capital. The use of different assumptions could result in a material change in the fair value of these items, which could have a material impact on our financial position and results of operations.

***Revenue Recognition***

Our revenues and expenses are recognized on the accrual basis. Revenues are generated from bareboat hire and time charters. Bareboat hire revenues are recorded over the term of the hire on a straight-line basis. Time charter revenues are recorded over the term of the charter as service is provided. Unearned revenue includes revenue received in advance, and the amount recorded for an existing time charter acquired in conjunction with an asset purchase.

***Special Survey and Drydocking Costs***

We follow the deferral method of accounting for special survey and drydocking costs. Actual costs incurred are deferred and are amortized on a straight- line basis over the period until the next scheduled survey, which is two and a half years. If special survey or drydocking is performed prior to the scheduled date, the remaining unamortized balances are immediately written-off.

Major overhauls performed during drydocking are differentiated from normal operating repairs and maintenance. The related costs for inspections that are required for the vessel's certification under the requirement of the classification society are categorized as drydock costs. A vessel at drydock performs certain assessments, inspections, refurbishments, replacements and alterations within a safe non-operational environment that allows for complete shutdown of certain machinery and equipment, navigational, ballast (keep the vessel upright) and safety systems, access to major underwater components of vessel (rudder, propeller, thrusters anti-corrosion systems), which are not accessible during vessel operations, as well as hull treatment and paints. In addition, specialized equipment is required to access and maneuver vessel components, which are not available at regular ports.

***Troubled Debt Restructuring and Accumulated Accrued Interest***

Prior to the finalization of the 2018 Refinancing, we concluded that we were experiencing financial difficulty and that certain of our lenders granted a concession (as part of the 2018 Refinancing). We were experiencing financial difficulty primarily as a result of the projected cash flows not being sufficient to service the balloon payment due as of December 31, 2018 without restructuring and we were not able to obtain funding from sources other than existing creditors at an effective interest rate

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equal to the current market interest rate for similar debt. As a result, the accounting guidance for troubled debt restructuring ("TDR") was applied at the 2018 Refinancing Closing Date:

(i) As of the 2018 Refinancing Closing Date, the outstanding balance of HSH Facility was $639.2 million. In exchange for reduction of principal of $251.0 million, the lenders received a total of 49.4 million shares of common stock with a fair value of $83.9 million, resulting in a net concession of $167.1 million. Accumulated accrued interest of $129.3 million was recognized using the Libor rate of 2.34% as of August 10, 2018. The TDR accounting guidance requires us to record the value of the new debt to its restructured undiscounted cash flows over the life of the loan, including cash flows associated with the remaining scheduled interest and principal payments. In cases in which the recorded value of the debt instrument exceeds the sum of undiscounted future cash flows to be received under the restructured debt instrument, the recorded value is reduced to the sum of undiscounted future cash flows, and a gain is recorded. For the HSH Facility, the total undiscounted future cash flows total $518.6 million, which results in a gain of $36.6 million. The amendment fees to be paid to HSH Facility lenders of $9.5 million were recorded in the consolidated statement of operations and reduced the net gain on debt extinguishment.

(ii) As of the 2018 Refinancing Closing Date, the outstanding balance of RBS Facility was $660.9 million. In exchange for reduction of principal of $179.2 million, the lender received a total of 35.2 million shares of common stock with a fair value of $59.9 million, resulting in a net concession of $119.3 million and accumulated accrued interest of $119.3 million as of August 10, 2018. The TDR accounting guidance requires us to record the value of the new debt to its restructured undiscounted cash flows over the life of the loan, including cash flows associated with the remaining scheduled interest and principal payments not to exceed the carrying amount of the original debt. For the RBS Facility, the undiscounted cash flows exceed the recorded value of the modified debt, and as such, the modified and new debt will be accreted up to its maturity value using the effective interest rate inherent in the restructured cash flows. The amendment fees to be paid to RBS of $9.3 million were deferred and recognized through the consolidated statement of operations using the effective interest method.

In the future, when interest rates change, actual cash flows will differ from the cash flows measured on the Refinancing date. The accounting treatment for changes in cash flows due to changes in interest rates depends on whether there is an increase or a decrease from the spot interest rate used in the initial TDR accounting ("threshold interest rate"). Fluctuations in the effective interest rate after the Refinancing from changes in the interest rate or other cause are accounted for as changes in estimates in the periods in which these changes occur. Upon an increase in the interest rates from the threshold interest rate used to calculate accumulated accrued interest payable, we recognize additional interest expenses in the period the expense is incurred. The additional interest expense is calculated by multiplying the difference between the current interest rate and the threshold interest rate with the current carrying value of the debt. A gain due to decrease in interest rates ('interest windfall') will not be recognized until the debt facilities have been settled and there are no future interest payments. In case there are subsequent increases in interest rates above the threshold interest rate after a previous decrease in interest rates, the carrying amount of the accumulated accrued interest will be reduced by the interest payments in excess of the threshold interest rate until the prior interest windfall due to decrease in the interest rates is recaptured on a cumulative basis.

The Paid-in-kind interest ("PIK interest") related to each period will increase the carrying value of the loan facility and correspondingly decrease the carrying value of the accumulated accrued interest. PIK interest in excess of the amount recognized in the accumulated accrued interest is expensed in the period the expense is incurred.

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***Vessel Lives and Estimated Scrap Values***

Our vessels represent our most significant assets and we state them at our historical cost, which includes capitalized interest during construction and other construction, design, supervision and predelivery costs, less accumulated depreciation. We depreciate our containerships on a straight-line basis over their estimated remaining useful economic lives. We estimate the useful lives of our containerships to be 30 years in line with the industry practice. Depreciation is based on cost less the estimated scrap value of the vessels. Should certain factors or circumstances cause us to revise our estimate of vessel service lives in the future or of estimated scrap values, depreciation expense could be materially lower or higher. Such factors include, but are not limited to, the extent of cash flows generated from future charter arrangements, changes in international shipping requirements, and other factors many of which are outside of our control.

We have calculated the residual value of the vessels taking into consideration the 10 year average and the five year average of the scrap. We have applied uniformly the scrap value of $300 per ton for all vessels. We believe that $300 per ton is a reasonable estimate of future scrap prices, taking into consideration the cyclicality of the nature of future demand for scrap steel. Although we believe that the assumptions used to determine the scrap rate are reasonable and appropriate, such assumptions are highly subjective, in part, because of the cyclical nature of future demand for scrap steel.

***Impairment of Securities***

With regard to our equity securities in ZIM, which were initially recognized at cost of $28.7 million, we evaluate if any event or change in circumstances has occurred in the reporting period that may have a significant adverse effect on the fair value of our investment. If an event or change that causes an adverse effect on the fair value of our investment occurs, as evidenced by the presence of an impairment indicator, the fair value of our investment should be estimated. In 2016, ZIM experienced significant deterioration of its financial results, reported significant operating losses, negative equity and negative working capital mainly as a result of the adverse change in the general containership market conditions. As a result of these adverse conditions, we estimated the fair value of our equity investment in ZIM at nil, therefore we recorded an impairment loss amounting to $28.7 million as of December 31, 2016, which was recognized under "Other income/(expenses), net" in the Consolidated Statements of Operations.

With regard to our debt securities in ZIM and HMM, we originally recognized these securities as held to maturity based on our positive intent and ability to hold these securities to maturity. These securities were initially recognized at amortized costs, net of other than temporary impairment losses. We evaluate these securities for other than temporary impairment at each reporting date. Debt securities are considered impaired if the fair value of the investment is less than its amortized costs. In our evaluation we consider the following (i) if we intend to sell these debt securities, (ii) it is more likely than not that we will be required to sell these securities before the recovery of their entire amortized cost basis or (iii) if a credit loss exists, which means that we do not expect to recover the entire amortized cost basis of these securities. With regard to ZIM debt securities, as a result of the deterioration of ZIM's financial results in 2016, as described above, we do not expect the present value of future cash flows to be collected to exceed their amortized cost basis due to a change in the timing of these expected cash flows. Thus other than temporary impairment, a credit loss, has occurred as of December 31, 2016 amounting to $0.7 million, which was recognized under "Other income/(expenses), net" in the Consolidated Statements of Operations.

On March 28, 2017, we sold $13.0 million principal amount of HMM notes carried at amortized costs of $8.6 million for gross cash proceeds on sale of $6.2 million, which were used to repay related outstanding debt obligations. The loss on sale of $2.4 million was recognized under "Other income/(expenses), net" in the Consolidated Statements of Operations for the year ended December 31, 2017.

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The sale of these notes resulted in a transfer of all remaining held to maturity HMM notes and ZIM notes into the available for sale securities at fair value and unrealized losses amounting to $36.4 million and $26.6 million as of December 31, 2018 and 2017, respectively, were recognized in other comprehensive loss. As of December 31, 2018, we do not intend to sell these debt securities and we evaluate that it is not more likely than not that we will be required to sell these debt securities before the recovery of their amortized cost basis. No other than temporary impairment loss was identified with regard to HMM and ZIM debt securities as of December 31, 2018.

***Impairment of Vessels***

We evaluate the net carrying value of our vessels for possible impairment when events or conditions exist that cause us to question whether the carrying value of the vessels will be recovered from future undiscounted net cash flows. An impairment charge would be recognized in a period if the fair value of the vessels was less than their carrying value and the carrying value was not recoverable from future undiscounted cash flows. Considerations in making such an impairment evaluation would include comparison of current carrying value to anticipated future operating cash flows, vessel market values, expectations with respect to future operations, and other relevant factors.

As of December 31, 2018, we concluded that events occurred and circumstances had changed, which may trigger the existence of potential impairment of some of our vessels. These indicators included volatility in the charter market and the vessels' market values, as well as the potential impact the current marketplace may have on our future operations. As a result, we performed an impairment assessment of certain of our vessels by comparing the undiscounted projected net operating cash flows for each vessel to their carrying value. Our strategy is to charter our vessels under multi- year, fixed rate period charters that range from less than one to 18 years for our current vessels, providing us with contracted stable cash flows. The significant factors and assumptions we used in our undiscounted projected net operating cash flow analysis included operating revenues, off-hire revenues, dry docking costs, operating expenses and management fees estimates.

As of December 31, 2018, our revenue assumptions were based on contracted time charter rates up to the end of life of the current contract of each vessel as well as the estimated average time charter equivalent rates for the remaining life of the vessel after the completion of its current contract. The estimated daily time charter equivalent rates used for non-contracted revenue days are based on a combination of (i) recent charter market rates, (ii) conditions existing in the containership market as of December 31, 2018, (iii) historical average time charter rates, based on publications by independent third party maritime research services, and (iv) estimated future time charter rates, based on publications by independent third party maritime research services that provide such forecasts. We had five 2012-built 13,100 TEU vessels employed on 12-year charters, with breakeven rechartering rates of about $18,689 per day on average. Vessels of this size are recent entrants into the containership market and, accordingly, historical data as to their re-chartering rates was episodic. We estimated rechartering rates for these 13,100 TEU vessels for step one of the impairment analysis based on forecasts of independent third party maritime research services, which took into account recent chartering rates for newbuilding vessels of this size and estimates based on historical charter rates for other larger sized containerships. Recognizing that the container transportation is cyclical and subject to significant volatility based on factors beyond our control we believe that the appropriate historical average time charter rates to use as a benchmark for impairment testing of our vessels are the most recent 10 to 15 year averages, to the extent available, as such averages take into account the volatility and cyclicality of the market. Management believes the use of revenue estimates, based on the combination of factors (i) to (iv) above, to be reasonable as of the reporting date.

In addition, we used annual operating expenses escalation factors and estimations of scheduled and unscheduled off-hire revenues based on historical experience. All estimates used and assumptions made were in accordance with our internal budgets and historical experience of the shipping industry.

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The more significant factors that could impact management's assumptions regarding time charter equivalent rates include (i) loss or reduction in business from significant customers, (ii) unanticipated changes in demand for transportation of containers, (iii) greater than anticipated levels of containership newbuilding orders or lower than anticipated levels of containership scrappings, and (iv) changes in rules and regulations applicable to the shipping industry, including legislation adopted by international organizations such as IMO and the EU or by individual countries. Although management believes that the assumptions used to evaluate potential impairment were reasonable and appropriate at the time they were made, such assumptions are highly subjective and likely to change, possibly materially, in the future. There can be no assurance as to how long charter rates and vessel values will remain at their low levels or whether they will improve by a significant degree.

As of December 31, 2018, our assessment concluded that step two of the impairment analysis was required for ten of our vessels held and used, as their undiscounted projected net operating cash flows did not exceed their carrying value. The fair values of these vessels were determined with assistance from valuations obtained from third party independent shipbrokers. As of December 31, 2018 we recorded an impairment loss of $210.7 million for these ten of our vessels held and used.

As of December 31, 2017, we concluded that there are no events and circumstances, which may trigger the existence of potential impairment of our vessels. The indicators which we considered were mainly the improved charter market conditions and the improved vessel's market value compared to the prior year, as well as the potential impact the current marketplace may have on our future operations. Additionally, we have not lost any significant charterer in 2017 as was the case in 2016 and the current improved market rates and the improved charter market supply demand conditions contributed to a better operating results reported by our charterers in 2017 compared to 2016. Based on our assessment, two vessels with long-term bareboat charters expiring in 2028 and twenty-five of our vessels, which were impaired as of December 31, 2016 to their fair value (see the table presented below), had their estimated market value higher than their carrying value as of December 31, 2017. We believed that it can be reasonable anticipated that each of these twenty-seven vessels will recover their carrying values through the end of their useful lives. The remaining twenty-eight vessels in our fleet may had aggregate estimated market values below their aggregate carrying values by approximately $590.5 million as of December 31, 2017. We believed that each of these twenty-eight vessels, twenty-five of which were under long-term time charters expiring from July 2018 through June 2024 and three of which were under short-term time charters, will recover their carrying values through the end of their useful lives, given the remaining average estimated useful life of these twenty-eight vessels was 22 years as of December 31, 2017 and given the estimated future time charter rates anticipated following the termination of their current time charters or bareboat charters compared to the prior year when these vessels were tested for impairment, based on publications by independent third party maritime research services that provide such forecasts.

*Impairment Sensitivity Analysis*

For the forty-five vessels for which our assessment concluded that step two of the impairment analysis was not required, an internal analysis, which used a discounted cash flow model utilizing inputs and assumptions based on market observations as of December 31, 2018, and is also in accordance with our vessel's market valuation as described in our credit facilities and accepted by our lenders, suggests that twenty-one vessels have current market values that exceed their carrying values and twenty-four vessels may have current market values below their carrying values. We believe that each of the twenty-four vessels identified as having estimated market values less than their carrying value, all of which are currently under long-term charters expiring from August 2021 to April 2028, will recover their carrying values through the end of their useful lives, based on their undiscounted net cash flows calculated in accordance with our impairment assessment.

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While the Company intends to hold and operate its vessels, the following table presents information with respect to the carrying amount of the Company's vessels. The carrying value of each of the Company's vessels does not represent its market value or the amount that could be obtained if the vessel were sold. The Company's estimates of market values are based on an internal analysis, which used a discounted cash flow model utilizing inputs and assumptions based on market observations, and is also in accordance with its vessels' market valuation, determined as of the dates indicated, following the methodology as described in its credit facilities and accepted by its lenders. In addition, because vessel values are highly volatile, these estimates may not be indicative of either the current or future prices that the Company could achieve if it were to sell any of the vessels. The Company would not record a loss for any of the vessels for which the market value is below its carrying

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value unless and until the Company either determines to sell the vessel for a loss or determines that the vessel's carrying value is not recoverable as discussed above.

| Vessel | TEU | Year Built | Net Book Value December 31, 2018 (In thousands of Dollars) | Net Book Value December 31, 2017 (In thousands of Dollars) |
|---|---|---|---|---|
| Hyundai Honour(2) | 13,100 | 2012 | $ 141,366 | $ 146,915 |
| Hyundai Respect(2) | 13,100 | 2012 | 141,256 | 146,786 |
| Maersk Exeter(2) | 13,100 | 2012 | 143,331 | 148,889 |
| Maersk Enping(2) | 13,100 | 2012 | 142,763 | 148,319 |
| MSC Ambition(2) | 13,100 | 2012 | 143,867 | 149,430 |
| Express Berlin(2) | 10,100 | 2011 | 118,266 | 123,076 |
| Express Rome(2) | 10,100 | 2011 | 118,704 | 123,518 |
| Express Athens(2) | 10,100 | 2011 | 118,890 | 123,695 |
| Le Havre (ex CSCL Le Havre)(2) | 9,580 | 2006 | 53,793 | 56,063 |
| Pusan C (ex CSCL Pusan)(2) | 9,580 | 2006 | 52,865 | 55,026 |
| CMA CGM Melisande(2) | 8,530 | 2012 | 98,231 | 102,003 |
| CMA CGM Attila(2) | 8,530 | 2011 | 93,327 | 96,992 |
| CMA CGM Tancredi(2) | 8,530 | 2011 | 95,383 | 98,981 |
| CMA CGM Bianca(2) | 8,530 | 2011 | 95,870 | 99,598 |
| CMA CGM Samson(2) | 8,530 | 2011 | 95,977 | 99,685 |
| America (ex CSCL America)(2) | 8,468 | 2004 | 43,047 | 45,134 |
| Europe(2) | 8,468 | 2004 | 42,281 | 44,344 |
| CMA CGM Moliere(2) | 6,500 | 2009 | 70,122 | 73,112 |
| CMA CGM Musset(2) | 6,500 | 2010 | 71,722 | 74,456 |
| CMA CGM Nerval(2) | 6,500 | 2010 | 72,219 | 74,967 |
| CMA CGM Rabelais(2) | 6,500 | 2010 | 72,975 | 75,726 |
| CMA CGM Racine(2) | 6,500 | 2010 | 72,932 | 75,656 |
| YM Mandate(2) | 6,500 | 2010 | 76,283 | 79,507 |
| YM Maturity(2) | 6,500 | 2010 | 77,281 | 80,514 |
| Performance(1) | 6,402 | 2002 | 8,442 | 8,457 |
| Dimitra C (ex Priority)(1) | 6,402 | 2002 | 8,376 | 8,348 |
| YM Seattle(1)(3) | 4,253 | 2007 | 11,233 | 16,417 |
| YM Vancouver(1)(3) | 4,253 | 2007 | 11,233 | 17,256 |
| ZIM Rio Grande(3) | 4,253 | 2008 | 12,993 | 46,168 |
| ZIM Sao Paolo(3) | 4,253 | 2008 | 13,536 | 46,747 |
| ZIM Kingston(3) | 4,253 | 2008 | 13,858 | 46,983 |
| ZIM Monaco(3) | 4,253 | 2009 | 14,255 | 47,593 |
| ZIM Dalian(3) | 4,253 | 2009 | 14,701 | 47,766 |
| ZIM Luanda(3) | 4,253 | 2009 | 15,372 | 48,481 |
| Derby D(1) | 4,253 | 2004 | 5,201 | 5,218 |
| ANL Tongala (ex Deva)(1) | 4,253 | 2004 | 5,193 | 5,211 |
| Dimitris C(1) | 3,430 | 2001 | 4,956 | 4,994 |
| Express Brazil(1) | 3,400 | 2010 | 6,980 | 7,107 |
| Express France(1) | 3,400 | 2010 | 6,991 | 7,114 |
| Express Spain(1) | 3,400 | 2011 | 7,347 | 7,494 |
| Express Argentina(1) | 3,400 | 2010 | 6,980 | 7,110 |
| Express Black Sea(1) | 3,400 | 2011 | 7,588 | 7,495 |
| Colombo(1)(3) | 3,314 | 2004 | 9,750 | 15,947 |
| Singapore(1)(3) | 3,314 | 2004 | 9,750 | 18,640 |
| MSC Zebra(1) | 2,602 | 2001 | 3,972 | 4,012 |
| Danae C(1) | 2,524 | 2001 | 4,102 | 3,552 |
| Amalia C(1) | 2,452 | 1998 | 3,287 | 3,318 |
| Advance(1) | 2,200 | 1997 | 2,684 | 2,684 |
| Future(1) | 2,200 | 1997 | 2,677 | 2,677 |
| Sprinter(1) | 2,200 | 1997 | 2,687 | 2,687 |
| Stride(1) | 2,200 | 1997 | 2,684 | 2,684 |
| Progress C (ex Hyundai Progress)(1) | 2,200 | 1998 | 2,688 | 2,830 |
| Bridge(1) | 2,200 | 1998 | 2,685 | 2,952 |
| Highway(1) | 2,200 | 1998 | 2,690 | 2,949 |
| Vladivostok(1) | 2,200 | 1997 | 2,687 | 2,687 |
| **Total** | | | **$ 2,480,329** | **$ 2,795,971** |

(1) As of December 31, 2016, we recorded an impairment loss of $415.1 million in aggregate for these twenty-five vessels, with each vessel written down to its fair value.

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(2) Indicates vessels for which, as of December 31, 2018, the estimated market value was lower than the vessel's carrying value. The aggregate carrying values of these twenty-four vessels exceeded their current aggregate estimated market value by approximately $544.9 million as of December 31, 2018 and by approximately $590.5 million in relation to twenty-eight vessels as of December 31, 2017. We believe, however, that each of these twenty-four vessels, all of which are currently under long-term charters expiring from August 2021 to April 2028 will recover their carrying values through the end of their useful lives, based on their undiscounted net cash flows calculated in accordance with our impairment assessment, given the remaining average estimated useful life of these twenty-four vessels is 21 years as of December 31, 2018. We currently do not expect to sell any of these vessels, or otherwise dispose of them, significantly before the end of their estimated useful life other than the vessels *Hyundai Honour* and *Hyundai Respect*, which we are currently seeking to refinance in accordance with the terms of our 2018 Refinancing. Two more vessels had aggregate carrying values in excess of their aggregate estimated market values as of December 31, 2018 compared to December 31, 2017. Six 4,253 TEU vessels chartered to ZIM, which had an aggregate carrying values in excess of their aggregate estimated market values as of December 31, 2016 and December 31, 2017 were impaired as of December 31, 2018.

(3) As of December 31, 2018, we recorded and impairment loss of $210.7 million in aggregate for ten vessels, with each vessel written down to its fair value.

As discussed above, we believe that the appropriate historical period to use as a benchmark for impairment testing of our vessels is the most recent 10 to 15 years, to the extent available, as such averages take into account the volatility and cyclicality of the market. Charter rates are, however, subject to change based on a variety of factors that we cannot control and we note that charter rates over the last few years have been, on average, below their ten to fifteen year historical average.

In connection with the impairment testing of our vessels as of December 31, 2018, for the twenty-four vessels that our internal analysis suggests that may have current market values below their carrying values, we performed a sensitivity analysis on the most sensitive and/or subjective assumption that has the potential to affect the outcome of the test, the projected charter rate used to forecast future cash flows for non-contracted days. The following table summarizes information about these twenty-four vessels, including the breakeven charter rates and the one-year charter rate historical average for the last 1, 3, 5, 10 and 15 years, respectively.

| Vessel/Year Built | Break Even re-chartering rate(7) ($ per day) | Assumed Rechartering Rate(8)/Percentage difference between break even and assumed re-chartering rates(9) ($ per day)/(%) | 1 year charter rate historical average of last 1 year ($ per day) | 1 year charter rate historical average of last 3 years ($ per day) | 1 year charter rate historical average of last 5 years ($ per day) | 1 year charter rate historical average of last 10 years ($ per day) | 1 year charter rate historical average of last 15 years ($ per day) |
|---|---|---|---|---|---|---|---|
| *5 × 13,100 TEU vessels (2012)(1)* | $ 19,278 | $47,170 / 59.1% | $ 23,216 | $ 18,794 | $ 24,834 | $ 32,009 | $ 47,178 |
| *3 × 10,100 TEU vessels (2011)(2)* | $ 25,099 | $39,500 / 36.5% | $ 19,045 | $ 15,606 | $ 20,967 | $ 26,875 | $ 39,517 |
| *2 × 9,580 TEU vessels (2006)(3)* | $ 16,204 | $25,900 / 37.4% | $ 18,093 | $ 14,875 | $ 20,165 | $ 25,959 | $ 38,231 |
| *5 × 8,530 TEU vessels (2011 - 2012)(4)* | $ 15,491 | $35,600 / 56.5% | $ 16,171 | $ 13,398 | $ 18,545 | $ 24,115 | $ 35,632 |
| *2 × 8,468 TEU vessels (2004)(5)* | $ 14,441 | $24,000 / 39.8% | $ 16,057 | $ 13,311 | $ 18,449 | $ 24,007 | $ 35,480 |
| *7 × 6,500 TEU vessels (2009 - 2010)(6)* | $ 13,240 | $27,200 / 51.3% | $ 14,350 | $ 11,350 | $ 13,010 | $ 17,010 | $ 27,280 |

(1) Our five 13,100 TEU vessels are under long-term time charter contracts with Hyundai with the earliest expiration dates of the charters being as follows: the *Hyundai Honour* on February 16, 2024, the *Hyundai Respect* on March 8, 2024, the *Maersk Enping* on May 3, 2024, the *Maersk Exeter* on June 7, 2024 and the *MSC Ambition* on June 29, 2024.

(2) Our three 10,100 TEU vessels out of which two are under long-term time charter contracts with Hapag Lloyd and one on long-term charter with Yang Ming with the earliest expiration dates of the charters being as

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follows: the *Express Rome,* on February 28, 2022, the *Express Athens* on February 26, 2022 and the *Express Berlin,* on April 7, 2022.

(3) Our two 9,580 TEU vessels are under long-term time charter contracts with MSC with the earliest expiration dates of the charters being as follows: the *Pusan C (ex CSCL Pusan)* on November 30, 2022 and the *Le Havre (ex CSCL Le Havre)* on November 30, 2022.

(4) Our five 8,530 TEU vessels are under long-term time charter contracts with CMA-CGM with the earliest expiration dates of the charters being as follows: the *CMA CGM Attila* on April 9, 2023, the *CMA CGM Tancredi* on May 24, 2023, the *CMA CGM Bianca* on July 28, 2023, the *CMA CGM Samson* on September 16, 2023 and the *CMA CGM Melisande* on November 30, 2023.

(5) Our two 8,468 TEU vessels are/will be under long-term time charter contracts with MSC with the earliest expiration dates of the charters being as follows: the *Europe* on November 30, 2022 and the *America (ex CSCL America)* on November 30, 2022.

(6) Our five 6,500 TEU vessels are under long-term time charter contracts with CMA CGM and two on long-term bareboat charter with Yang Ming with the earliest expiration dates of the charters being as follows: the *CMA CGM Moliere* on August 29, 2021, the *CMA CGM Musset* on August 10, 2022, the *CMA CGM Nerval* on October 17, 2022, the *CMA CGM Rabelais* on December 2, 2022, the *CMA CGM Racine* on January 17, 2023, the *Mandate* on January 20, 2028 and the *Maturity* on April 20, 2028.

(7) The breakeven re-chartering rate is the charter rate that if used in step one of the impairment testing will result in the undiscounted total cash flows being equal to the carrying value of the vessel. The use of charter rates below the breakeven re-chartering rate would trigger step two of the impairment testing that would result in the recording of an aggregate impairment loss of $544.9 million as of December 31, 2018.

(8) Re-chartering rate used in our impairment testing as of December 31, 2018, to estimate the revenues for the remaining life of the respective vessels after the expiration of their existing charter contracts.

(9) The variance in percentage points of the breakeven re-chartering rate per day compared to the per day re-chartering assumption used in Step 1 of the Company's impairment testing analysis.

If we had used the historical average one-year charter rates for the last 10 or 15 years, the results of our 2018 impairment testing on all vessel categories discussed on the above table would not have been impacted, as the cash flow forecasts would still result in each vessel's carrying cost being recovered. If, however, historical average one-year charter rates for the last 1, 3, or 5 years had been used in the cash flow forecasts of our three 10,100 TEU vessels and five 6,500 TEU vessels, then the carrying values of the respective vessels as of December 31, 2018, which were under time charters expiring from August 2021 through January 2023 would not have been recovered. Additionally, on the premise of a 30 year useful life, given that these vessels will have a remaining life above 17 years when they come off charter, the historical 10 to 15 year average is considered by the management as the most reasonable reference point when assessing the earnings generation potential of these vessels during their remaining life after expiry of their current charters.

Furthermore, as discussed above, the Company's internal analysis suggested that another twenty-one vessels had a market value in excess of its carrying value as of December 31, 2018.

**Newly Implemented Accounting Policies:**

***Statement of Cash Flows***

In August 2016, the FASB issued ASU 2016-15, "Statement of Cash Flows (Topic 230): Classification of Certain Cash Receipts and Cash Payments" ("ASU 2016-15"). The guidance adds or clarifies guidance on the classification of certain cash receipts and payments in the statement of cash flows. Additionally, in November 2016, the FASB issued ASU 2016-18, "Statement of Cash Flows (Topic 230): Restricted Cash" ("ASU 2016-18"), which requires that amounts generally described as restricted cash and restricted cash equivalents be included with cash and cash equivalents when reconciling the beginning-of-period and end-of-period total amounts shown on the statement of cash

flows. We adopted these standards effective January 1, 2018. Prior periods were retrospectively adjusted to conform to the current period's presentation. The adoption of ASU 2016-15 did not have a material impact on our consolidated statements of cash flows. Upon adoption of ASU 2016-18, we reclassified the restricted cash balance of $2.8 million as of December 31, 2017 and December 31, 2016 to the cash, cash equivalents and restricted cash balances within the consolidated statements of cash flows. Refer to Note 3 "Cash, Cash Equivalents and Restricted Cash" for further details.

***Financial Instruments***

In January 2016, the FASB issued Accounting Standards Update No. 2016-01, "Recognition and Measurement of Financial Assets and Financial Liabilities" ("ASU 2016-01"). ASU 2016-01 requires all equity investments to be measured at fair value with changes in the fair value recognized through net income (other than those accounted for under equity method of accounting or those that result in consolidation of the investee). The amendments in this Update also require an entity to present separately in other comprehensive income the portion of the total change in the fair value of a liability resulting from a change in the instrument-specific credit risk when the entity has elected to measure the liability at fair value in accordance with the fair value option for financial instruments. In addition the amendments in this Update eliminate the requirement to disclose the methods and significant assumptions used to estimate the fair value that is required to be disclosed for financial instruments measured at amortized cost on the balance sheet for public business entities. We adopted this standard effective January 1, 2018. Our investment in ZIM equity securities does not have readily determinable fair value. As a result, we elected to record this equity investment at cost, less impairment, adjusted for subsequent observable price changes. The adoption of this standard did not have a material effect on the consolidated financial statements and notes disclosures. As of December 31, 2018, we did not identify any observable prices for the same or similar securities that would indicate a change in the carrying value of our equity.

***Revenue Recognition***

In May 2014, the FASB issued Accounting Standards Update No. 2014-9 "Revenue from Contracts with Customers" ("ASU 2014-09"), which superseded the current revenue recognition guidance and outlines a single comprehensive model for entities to use in accounting for revenue arising from contracts with customers. In March 2016, the FASB issued ASU 2016-08, "Revenue from Contracts with Customers (Topic 606): Principal versus Agent Considerations (Reporting Revenue Gross versus Net)" ("ASU 2016-08"), which clarifies the implementation guidance on principal versus agent considerations. In addition, in 2016, the FASB issued four amendments, which clarified the guidance on certain items such as reporting revenue as a principal versus agent, identifying performance obligations, accounting for intellectual property licenses, assessing collectability and presentation of sales taxes. We adopted this standard effective January 1, 2018 using modified retrospective approach. The adoption of this standard did not have any effect on our retained earnings or on our financial results for year ended December 31, 2018 since all of our revenues are generated from time charter and bareboat charter agreements.

**Recent Accounting Pronouncements:**

In February 2016, the FASB issued Accounting Standards Update No. 2016-02, "Leases (Topic 842)" ("ASU 2016-02"). ASU 2016-02 will apply to both types of leases  capital (or finance) leases and operating leases. According to the new Accounting Standard, lessees will be required to recognize assets and liabilities on the balance sheet for the rights and obligations created by all leases with terms of more than 12 months. ASU 2016  02 is effective for fiscal years beginning after December 15, 2018, including interim periods within those fiscal years. Early application is permitted. This guidance requires companies to identify lease and non-lease components of a lease agreement.

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Lease components relate to the right to use the leased asset and non-lease components relate to payments for goods or services that are transferred separately from the right to use the underlying asset. Total lease consideration is allocated to lease and non-lease components on a relative standalone basis. The recognition of revenues related to lease components will be governed by ASC 842 while revenue related to non-lease components will be subject to ASC 606. In March 2018, the FASB tentatively approved a proposed amendment to ASU 842, that would provide an entity the optional transition method to initially account for the impact of the adoption with a cumulative adjustment to retained earnings on the effective date of the ASU, January 1, 2019 rather than January 1, 2017, which would eliminate the need to restate amounts presented prior to January 1, 2019. In addition, lessors can elect, as a practical expedient, not to allocate the total consideration to lease and non-lease components based on their relative standalone selling prices. As adopted by the Accounting Standards Update No. 2018-11 in July 2018, this practical expedient will allow lessors to elect and account for the combined component based on its predominant characteristic. ASC 842 provides practical expedients that allow entities to not (i) reassess whether any expired or existing contracts are considered or contain leases; (ii) reassess the lease classification for any expired or existing leases; and (iii) reassess initial direct costs for any existing leases. In July 2018, the FASB issued Accounting Standards Update No. 2018-10, "Codification Improvements to Topic 842, Leases" and in December 2018 the Accounting Standards Update No. 2018-20 "Narrow-scope improvements for lessors", which further improve and clarify ASU 2016-02. We plan to adopt the standard on January 1, 2019 and expect to elect the use of all practical expedients. Based on our preliminary assessment, we are expecting that the adoption will not have a material effect on our consolidated financial statements since the Company is primarily a lessor and the changes are fairly minor.

In June 2016, the FASB issued ASU 2016-13, "Financial Instruments Credit Losses (Topic 326): Measurement of Credit Losses on Financial Instruments" ("ASU 2016-13"), which amends the impairment model by requiring entities to use a forward-looking approach based on expected losses to estimate credit losses on certain types of financial instruments, including trade receivables. In December 2018, the FASB issued Accounting Standards Update No. 2018-19 "Codification improvements to Topic 326", which clarifies that impairment of receivables arising from operating leases should be accounted for in accordance with Topic 842, Leases. The ASU 2016-13 is effective for public entities for fiscal years beginning after December 15, 2019, with early adoption permitted. We are currently evaluating the impact of the new standard on our consolidated financial statements.

## Item 6. Directors, Senior Management and Employees

The following table sets forth, as of February 28, 2019, information for each of our directors and executive officers.

| Name | Age | Position |
|---|---|---|
| Dr. John Coustas | 63 | President and CEO and Class I Director |
| Iraklis Prokopakis | 68 | Senior Vice President, Chief Operating Officer and Treasurer and Class II Director |
| Evangelos Chatzis | 45 | Chief Financial Officer and Secretary |
| Dimitris Vastarouchas | 51 | Deputy Chief Operating Officer |
| George Economou | 66 | Class II Director |
| Myles R. Itkin | 71 | Class I Director |
| Miklós Konkoly-Thege | 76 | Class III Director |
| William Repko | 69 | Class III Director |
| Petros Christodoulou | 58 | Class I Director |

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The term of our Class III directors expires in 2019, the term of our Class II directors expires in 2020 and the term of our Class I directors expires in 2021. Certain biographical information about each of these individuals is set forth below.

**Dr. John Coustas** is our President, Chief Executive Officer and a member of our board of directors. Dr. Coustas has over 30 years of experience in the shipping industry. Dr. Coustas assumed management of our company in 1987 from his father, Dimitris Coustas, who founded Danaos Shipping in 1972, and has been responsible for our corporate strategy and the management of our affairs since that time. Dr. Coustas is Vice Chairman of the board of directors of The Swedish Club. Additionally, he is a member of the board of directors of the Union of Greek Shipowners and a member of the DNV Council. Dr. Coustas holds a degree in Marine Engineering from the National Technical University of Athens as well as a Master's degree in Computer Science and a Ph.D. in Computer Controls from Imperial College, London.

**Iraklis Prokopakis** is our Senior Vice President, Treasurer, Chief Operating Officer and a member of our board of directors. Mr. Prokopakis joined us in 1998 and has over 40 years of experience in the shipping industry. Prior to entering the shipping industry, Mr. Prokopakis was a captain in the Hellenic Navy. He holds a Bachelor of Science in Mechanical Engineering from Portsmouth University in the United Kingdom, a Master's degree in Naval Architecture and a Ship Risk Management Diploma from the Massachusetts Institute of Technology in the United States and a post-graduate diploma in business studies from the London School of Economics. Mr. Prokopakis also has a Certificate in Operational Audit of Banks from the Management Center Europe in Brussels and a Safety Risk Management Certificate from Det Norske Veritas. He is a member of the Board of the Hellenic Chamber of Shipping and the Owners' Committee of the Korean Register of Shipping.

**Evangelos Chatzis** is our Chief Financial Officer and Secretary. Mr. Chatzis has been with Danaos Corporation since 2005 and has over 22 years of experience in corporate finance and the shipping industry. During his years with Danaos he has been actively engaged in the company's initial public offering in the United States and has led the finance function of the company. Throughout his career he has developed considerable experience in operations, corporate finance, treasury and risk management and international business structuring. Prior to joining Danaos, Evangelos was the Chief Financial Officer of Globe Group of Companies, a public company in Greece engaged in a diverse scope of activities including dry bulk shipping, the textile industry, food production & distribution and real estate. During his years with Globe Group, he was involved in mergers and acquisitions, corporate restructurings and privatizations. He holds a Bachelor of Science degree in Economics from the London School of Economics, a Master's of Science degree in Shipping & Finance from City University Cass Business School, as well as a post-graduate diploma in Shipping Risk Management from IMD Business School.

**Dimitris Vastarouchas** is our Deputy Chief Operating Officer. Mr. Vastarouchas has been the Technical Manager of our Manager since 2005 and has over 20 years of experience in the shipping industry. Mr. Vastarouchas initially joined our Manager in 1995 and prior to becoming Technical Manager he was the New Buildings Projects and Site Manager, under which capacity he supervised newbuilding projects in Korea for 4,250, 5,500 and 8,500 TEU containerships. He holds a degree in Naval Architecture & Marine Engineering from the National Technical University of Athens, Certificates & Licenses of expertise in the fields of Aerodynamics (C.I.T.), Welding (CSWIP), Marine Coating (FROSIO) and Insurance (North of England P&I). He is also a qualified auditor by Det Norske Veritas and Certified Negotiator by Schranner Negotiations Institute (SNI).

**George Economou** has been a member of our board of directors since 2010. Mr. Economou has over 40 years of experience in the maritime industry and has served as Chairman and Chief Executive Officer of Dryships Inc. since its incorporation in 2004. He successfully took the company public in February 2005 on NASDAQ under the trading symbol: DRYS. The company subsequently invested and

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developed Ocean Rig UDW Inc., an owner of rigs and ships involved in ultra deep water drilling. Mr. Economou was the Chairman of Ocean Rig UDW Inc. until December 2018 when Ocean Rig UDW Inc. merged with Transocean. Mr. Economou is a member of ABS Council, Intertanko Hellenic Shipping Forum and Lloyds Register Hellenic Advisory Committees. Mr. Economou is a graduate of the Massachusetts Institute of Technology and holds both a Bachelor of Science and a Master of Science degree in Naval Architecture and Marine Engineering and a Master of Science in Shipping and Shipbuilding Management.

**Myles R. Itkin** has been a member of our board of directors since 2006. Mr. Itkin was the Executive Vice President, Chief Financial Officer and Treasurer of Overseas Shipholding Group, Inc. ("OSG"), in which capacities he served, with the exception of a promotion from Senior Vice President to Executive Vice President in 2006, from 1995 to 2013. Prior to joining OSG in June 1995, Mr. Itkin was employed by Alliance Capital Management L.P. as Senior Vice President of Finance. Prior to that, he was Vice President of Finance at Northwest Airlines, Inc. Mr. Itkin served on the board of directors of the U.K. P&I Club from 2006 to 2013. Mr. Itkin holds a Bachelor's degree from Cornell University and an MBA from New York University.

On November 14, 2012, OSG filed voluntary petitions for reorganization for itself and 180 of its subsidiaries under Chapter 11 of Title 11 of the United States Code in the U.S. Bankruptcy Court for the District of Delaware. On January 23, 2017, Mr. Itkin, and OSG, consented to an SEC order finding they violated or caused the violation of, among other provisions, the negligence-based antifraud provisions as well as reporting, books-and-records, and internal controls provisions of the federal securities laws, in relation to the failure to recognize tax liabilities in OSG's financial statements resulting from its controlled foreign subsidiary guaranteeing OSG's debt. Mr. Itkin agreed to pay a $75,000 penalty and OSG agreed to pay a $5 million penalty subject to bankruptcy court approval.

**Miklós Konkoly-Thege** has been a member of our board of directors since 2006. Mr. Konkoly-Thege began at Det Norske Veritas ("DNV"), a ship classification society, in 1984. From 1984 through 2002, Mr. Konkoly-Thege served in various capacities with DNV including Chief Operating Officer, Chief Financial Officer and Corporate Controller, Head of Corporate Management Staff and Head of Business Areas. Mr. Konkoly-Thege became President and Chairman of the Executive Board of DNV in 2002 and served in that capacity until his retirement in May 2006. Mr. Konkoly-Thege is a member of the board of directors of Wilhelmsen Technical Solutions AS, Callenberg Technology Group AB and Stena Hungary Holding KFT. Mr. Konkoly-Thege holds a Master of Science degree in civil engineering from Technische Universität Hannover, Germany and an MBA from the University of Minnesota.

**William Repko** has been a member of our board of directors since July 2014. Mr. Repko has nearly 40 years of investing, finance and restructuring experience. Mr. Repko retired from Evercore Partners in February 2014 where he had served as a senior advisor, senior managing director and was a co-founder of the firm's Restructuring and Debt Capital Markets Group since September 2005. Prior to joining Evercore Partners Inc., Mr. Repko served as chairman and head of the Restructuring Group at J.P. Morgan Chase, a leading investment banking firm, where he focused on providing comprehensive solutions to clients' liquidity and reorganization challenges. In 1973, Mr. Repko joined Manufacturers Hanover Trust Company, a commercial bank, which after a series of mergers became part of J.P. Morgan Chase. Mr. Repko has been named to the Turnaround Management Association (TMA)-sponsored Turnaround, Restructuring and Distressed Investing Industry Hall of Fame. Mr. Repko has served on the Board of Directors of Stellus Capital Investment Corporation (SCM:NYSE) since 2012 and is Chairman of its Compensation Committee and serves on the Audit Committee. Mr. Repko received his B.S. in Finance from Lehigh University.

**Petros Christodoulou** has been a member of our board of directors since June 2018. Mr. Christodoulou has been a member of the Board of Directors of Guardian Capital Group since 2016 and a member of the Institute of Corporate Directors of Canada. He has also been a

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member of the Board of Directors of Aegean Baltic Bank since 2017. Mr. Christodoulou was Chief Executive Officer and Chief Financial Officer of Capital Product Partners, an owner of crude, product carriers and containerships, from September 2014 until 2015. From 2012 to 2014, Mr. Christodoulou was the Deputy Chief Executive Officer and Executive Member of the Board of the National Bank of Greece Group, acting as chairman of NBG Asset Management, Astir Palace SA and NBG BankAssurance. Mr. Christodoulou was a member of the Board of Directors of Hellenic Exchanges SA from 2012 to 2014 and Director General of the Public Debt Management Agency of Greece from 2010 to 2014, acting as its Executive Director from 2010 to 2012. Mr. Christodoulou holds an MBA from Columbia University and a Bachelor of Commerce degree from the Athens School of Commerce and Economics.

**Compensation of Directors and Senior Management**

Non-executive directors receive annual fees of $70,000 per annum, plus reimbursement for their out-of-pocket expenses, which amounts are payable at the election of each non-executive director in cash or stock as described below under "  Equity Compensation Plan." We do not have service contracts with any of our non-employee directors. We have employment agreements with two directors who are also executive officers of our company, as well as with our other two executive officers.

Since May 1, 2015, we have directly employed our Chief Executive Officer, Chief Operating Officer, Chief Financial Officer and Deputy Chief Operating Officer, who received aggregate compensation of €2.7 million ($3.2 million) €1.5 million ($1.8 million) and €1.5 million ($1.7 million) for the years ended December 31, 2018, 2017 and 2016, respectively. Our executive officers are eligible, in the discretion of our board of directors and compensation committee, for incentive compensation and restricted stock, stock options or other awards under our equity compensation plan, which is described below under "  Equity Compensation Plan."

Our executive officers are entitled to severance payments for termination without "cause" or for "good reason" generally equal to (i) (x) the greater of (A) the amount of base salary that would have been payable during the remaining term of the agreements, which expire in December 2023 (or in the case of Dr. Coustas, December 2024), and (B) three times the executive officer's annual salary plus bonus (based on an average of the prior three years), including the value on the date of grant of any equity grants made under our equity compensation plan during that three-year period (which, for stock options, will be the Black- Scholes value), as well as (y) a pro-rata bonus for the year in which termination occurs and continued benefits, if any, for 36 months or (ii) if such termination without cause or for good reason occurs within two years of a "change of control" of our company the greater of (a) the amount calculated as described in clause (i) and (b) a specified dollar amount for each executive officer (approximately €4.6 million in the aggregate for all executive officers), as well as continued benefits, if any, for 36 months.

**Employees**

We directly employ our Chief Executive Officer, Chief Operating Officer, Chief Financial Officer and Deputy Chief Operating Officer. Approximately 1,104 officers and crew members served on board the vessels we own as of December 31, 2018, but are employed by our manager. Crew wages and other related expenses are paid by our manager and our manager is reimbursed by us.

**Share Ownership**

The common stock beneficially owned by our directors and executive officers and/or companies affiliated with these individuals is disclosed in "Item 7. Major Shareholders and Related Party Transactions" below.

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**Board of Directors**

At December 31, 2018 and February 28, 2019, we had seven members on our board of directors. The board of directors may change the number of directors to not less than two, nor more than 15, by a vote of a majority of the entire board, subject to the terms of our Stockholders Agreement which limits the size of the board to nine directors. See "Item 10. Additional Information Stockholders Agreement." Each director is elected to serve until the third succeeding annual meeting of stockholders and until his or her successor shall have been duly elected and qualified, except in the event of death, resignation or removal. A vacancy on the board created by death, resignation, removal (which may only be for cause), or failure of the stockholders to elect the entire class of directors to be elected at any election of directors or for any other reason, may be filled only by an affirmative vote of a majority of the remaining directors then in office, even if less than a quorum, at any special meeting called for that purpose or at any regular meeting of the board of directors.

In accordance with the terms of the August 6, 2010 common stock subscription agreement between Sphinx Investment Corp. and us, we have agreed to nominate Mr. Economou or such other person, in each case who shall be acceptable to us, designated by Sphinx Investment Corp., for election by our stockholders to the Board of Directors at each annual meeting of stockholders at which the term of Mr. Economou or such other director so designated expires, so long as such investor beneficially owns a specified minimum amount of our common stock. We have been informed that our largest stockholder, a family trust established by Dr. John Coustas, and Dr. John Coustas have agreed to vote all of the shares of common stock they own, or over which they have voting control, in favor of any such nominee standing for election.

Our board of directors has determined that each of Messrs. Economou, Itkin, Konkoly-Thege, Repko and Christodoulou are independent within the requirements of the NYSE.

To promote open discussion among the independent directors, those directors meet in regularly scheduled and ad hoc executive session without participation of our company's management and will continue to do so in 2019. Mr. Myles Itkin served as the presiding director for purposes of these meetings. Stockholders who wish to send communications on any topic to the board of directors or to the independent directors as a group, or to the presiding director, Mr. Myles Itkin, may do so by writing to our Secretary, Mr. Evangelos Chatzis, Danaos Corporation, c/o Danaos Shipping Co. Ltd., 14 Akti Kondyli, 185 45 Piraeus, Greece.

**Corporate Governance**

The board of directors and our company's management has engaged in an ongoing review of our corporate governance practices in order to oversee our compliance with the applicable corporate governance rules of the New York Stock Exchange and the SEC.

We have adopted a number of key documents that are the foundation of its corporate governance, including:

- a Code of Business Conduct and Ethics for officers and employees;
- a Code of Conduct and Ethics for Corporate Officers and Directors;
- a Nominating and Corporate Governance Committee Charter;
- a Compensation Committee Charter; and
- an Audit Committee Charter.

These documents and other important information on our governance, including the board of director's Corporate Governance Guidelines, are posted on the Danaos Corporation website, and may be viewed at *http://www.danaos.com*. We will also provide a paper copy of any of these documents upon

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the written request of a stockholder. Stockholders may direct their requests to the attention of our Secretary, Mr. Evangelos Chatzis, Danaos Corporation, c/o Danaos Shipping Co. Ltd., 14 Akti Kondyli, 185 45 Piraeus, Greece.

**Committees of the Board of Directors**

We are a "foreign private issuer" under SEC rules promulgated under the Securities Act and within the meaning of the New York Stock Exchange corporate governance standards. Pursuant to certain exceptions for foreign private issuers, we are not required to comply with certain of the corporate governance practices followed by domestic U.S. companies under the New York Stock Exchange listing standards. We have elected to comply, however, with the New York Stock Exchange corporate governance rules applicable to domestic U.S. issuers, except that (1) as permitted for foreign private issuers, one member of the Nominating and Corporate Governance Committee is (and, prior to September 2018, one member of our Compensation Committee was) a non-independent director and (2) we have not sought stockholder approval for certain issuances of common stock, including the common stock issued in connection with the consummation of the 2018 Refinancing, and we may not seek stockholder approval for future issuances of common stock, as permitted by applicable Marshall Islands law. See "Item 16G. Corporate Governance."

***Audit Committee***

Our audit committee consists of Myles R. Itkin (chairman), Miklós Konkoly-Thege and William Repko, each of whom our Board has determined is independent within the requirements of the NYSE and SEC. Our board of directors has determined that Mr. Itkin qualifies as an audit committee "financial expert," as such term is defined in Regulation S-K. The audit committee is responsible for (1) the hiring, termination and compensation of the independent auditors and approving any non-audit work performed by such auditor, (2) approving the overall scope of the audit, (3) assisting the board in monitoring the integrity of our financial statements, the independent accountant's qualifications and independence, the performance of the independent accountants and our internal audit function and our compliance with legal and regulatory requirements, (4) annually reviewing an independent auditors' report describing the auditing firms' internal quality-control procedures, any material issues raised by the most recent internal quality-control review, or peer review, of the auditing firm, (5) discussing the annual audited financial and quarterly statements with management and the independent auditor, (6) discussing earnings press releases, as well as financial information and earning guidance, (7) discussing policies with respect to risk assessment and risk management, (8) meeting separately, periodically, with management, internal auditors and the independent auditor, (9) reviewing with the independent auditor any audit problems or difficulties and management's response, (10) setting clear hiring policies for employees or former employees of the independent auditors, (11) annually reviewing the adequacy of the audit committee's written charter, (12) handling such other matters that are specifically delegated to the audit committee by the board of directors from time to time, (13) reporting regularly to the full board of directors and (14) evaluating the board of directors' performance. During 2018, there were five meetings of the audit committee.

***Compensation Committee***

Our compensation committee consists of Miklós Konkoly-Thege (chairman), William Repko and Petros Christodoulou who replaced Iraklis Prokopakis on the committee in 2018. The compensation committee is responsible for (1) reviewing key employee compensation policies, plans and programs, (2) reviewing and approving the compensation of our chief executive officer and other executive officers, (3) developing and recommending to the board of directors compensation for board members, (4) reviewing and approving employment contracts and other similar arrangements between us and our executive officers, (5) reviewing and consulting with the chief executive officer on the selection of

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officers and evaluation of executive performance and other related matters, (6) administration of stock plans and other incentive compensation plans, (7) overseeing compliance with any applicable compensation reporting requirements of the SEC, (8) retaining consultants to advise the committee on executive compensation practices and policies and (9) handling such other matters that are specifically delegated to the compensation committee by the board of directors from time to time. During 2018, there were five meetings of the compensation committee.

***Nominating and Corporate Governance Committee***

Our nominating and corporate governance committee consists of William Repko (chairman), Iraklis Prokopakis and Myles R. Itkin. The nominating and corporate governance committee is responsible for (1) developing and recommending criteria for selecting new directors, (2) screening and recommending to the board of directors individuals qualified to become executive officers, (3) overseeing evaluations of the board of directors, its members and committees of the board of directors and (4) handling such other matters that are specifically delegated to the nominating and corporate governance committee by the board of directors from time to time. During 2018, there were seven meetings of the nominating and corporate governance committee.

***Equity Compensation Plan***

We have adopted an equity compensation plan, which we refer to as the Plan. The Plan is generally administered by the compensation committee of our board of directors, except that the full board may act at any time to administer the Plan, and authority to administer any aspect of the Plan may be delegated by our board of directors or by the compensation committee to an executive officer or to any other person. The Plan allows the plan administrator to grant awards of shares of our common stock or the right to receive or purchase shares of our common stock (including options to purchase common stock, restricted stock and stock units, bonus stock, performance stock, and stock appreciation rights) to our employees, directors or other persons or entities providing significant services to us or our subsidiaries, including employees of our manager, and also provides the plan administrator with the authority to reprice outstanding stock options or other awards. The actual terms of an award, including the number of shares of common stock relating to the award, any exercise or purchase price, any vesting, forfeiture or transfer restrictions, the time or times of exercisability for, or delivery of, shares of common stock, will be determined by the plan administrator and set forth in a written award agreement with the participant. Any options granted under the Plan will be accounted for in accordance with accounting guidance for share-based compensation.

The aggregate number of shares of our common stock for which awards may be granted under the Plan cannot exceed 6% of the number of shares of our common stock issued and outstanding at the time any award is granted. Awards made under the Plan that have been forfeited (including our repurchase of shares of common stock subject to an award for the price, if any, paid to us for such shares of common stock, or for their par value) or cancelled or have expired, will not be treated as having been granted for purposes of the preceding sentence.

The Plan requires that the plan administrator make an equitable adjustment to the number, kind and exercise price per share of awards in the event of our recapitalization, reorganization, merger, spin-off, share exchange, dividend of common stock, liquidation, dissolution or other similar transaction or event. In addition, the plan administrator will be permitted to make adjustments to the terms and conditions of any awards in recognition of any unusual or nonrecurring events. Unless otherwise set forth in an award agreement, any awards outstanding under the Plan will vest upon a "change of control," as defined in the Plan. Our board of directors may, at any time, alter, amend, suspend, discontinue or terminate the Plan, except that any amendment will be subject to the approval of our stockholders if required by applicable law, regulation or stock exchange rule and that, without the consent of the affected participant under the Plan, no action may materially impair the rights of such participant under any awards outstanding under the Plan. The Plan will terminate on September 17, 2019.

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As of April 18, 2008, the Board of Directors and the Compensation Committee approved incentive compensation of the Manager's employees with its shares from time to time, after specific for each such time, decision by the compensation committee and the Board of Directors in order to provide a means of compensation in the form of free shares under its 2006 equity compensation plan to certain employees of the Manager of the Company's common stock. The plan was effective as of December 31, 2008. Pursuant to the terms of the plan, employees of the Manager may receive (from time to time) shares of the Company's common stock as additional compensation for their services offered during the preceding period. The total amount of stock to be granted to employees of the Manager will be at the Company's Board of Directors' discretion only and there will be no contractual obligation for any stock to be granted as part of the employees' compensation package in future periods. On September 14, 2018, 4,182,832 shares of restricted stock were granted to our executive officers, 50% of which are scheduled to vest on December 31, 2019 and 50% of which are scheduled to vest on December 31, 2021, subject to the executive's continued employment with the Company as of such dates or earlier death or disability, under its 2016 Equity Compensation Plan, as amended. During 2017, no shares of common stock were granted. As of December 15, 2016, the Company granted 25,000 shares and recorded an expense of $0.1 million, representing the fair value of the stock granted as at the date of the grant. This grant was cancelled on December 14, 2017. During 2016, the Company issued 17,608 shares of common stock in partial settlement of 2015 and 2014 grants. Refer to Note 17, Stock Based Compensation, in the notes to our consolidated financial statements included elsewhere herein.

The Company has also established the Directors Share Payment Plan under its 2006 equity compensation plan. The purpose of the plan is to provide a means of payment of all or a portion of compensation payable to directors of the Company in the form of Company's Common Stock. The plan was effective as of April 18, 2008. Each member of the Board of Directors of the Company may participate in the plan. Pursuant to the terms of the plan, Directors may elect to receive in Common Stock all or a portion of their compensation. During 2018, 2017 and 2016, none of the directors elected to receive in Company shares his compensation. Refer to Note 17, Stock Based Compensation, in the notes to our consolidated financial statements included elsewhere herein.

## Item 7. Major Shareholders and Related Party Transactions

### Related Party Transactions

#### *Management Affiliations*

Danaos Shipping Co. Ltd., which we refer to as our Manager, is ultimately owned by Danaos Investment Limited as the trustee of the 883 Trust, of which Dr. Coustas and other members of the Coustas family are beneficiaries. Dr. Coustas has certain powers to remove and replace Danaos Investment Limited as trustee of the 883 Trust. DIL is also our largest stockholder, owning approximately 31.8% of our outstanding common stock as of February 28, 2019. Our Manager has provided services to our vessels since 1972 and continues to provide technical, administrative and certain commercial services which support our business, as well as comprehensive ship management services such as technical supervision and commercial management, including chartering our vessels pursuant to a management agreement.

In connection with the 2018 Refinancing, on August 10, 2018, our management agreement with the Manager was amended and restated, including to (1) extend its term until December 31, 2024, (2) provide for the management fee offsets contemplated by the Backstop Agreement (see "  Backstop Agreement" below), and (3) address the allocation of charter opportunities across our fleet. The fees payable to the Manager pursuant to the management agreement were not changed in connection with this amendment and are fixed through the term of the management agreement.

Management fees in respect of continuing operations under our management agreement amounted to approximately $16.8 million in 2018, $16.9 million in 2017 and $17.1 million in 2016. The related

expenses are presented under "General and administrative expenses" on the Consolidated Statement of Operations. We pay monthly advances in regard to the next month vessels' operating expenses. These prepaid monthly expenses are presented in our consolidated balance sheet under "Due from related parties" and totaled $18.0 million and $34.0 million as of December 31, 2018 and 2017, respectively.

***Management Agreement***

Under our management agreement, our Manager is responsible for providing us with technical, administrative and certain commercial services, which include the following:

*technical services*, which include managing day-to-day vessel operations, performing general vessel maintenance, ensuring regulatory compliance and compliance with the law of the flag of each vessel and of the places where the vessel operates, ensuring classification society compliance, supervising the maintenance and general efficiency of vessels, arranging the hire of qualified officers and crew, training, transportation, insurance of the crew (including processing all claims), performing normally scheduled drydocking and general and routine repairs, arranging insurance for vessels (including marine hull and machinery, protection and indemnity and war risks insurance), purchasing stores, supplies, spares, lubricating oil and maintenance capital expenditures for vessels, appointing supervisors and technical consultants and providing technical support, shoreside support, shipyard supervision, and attending to all other technical matters necessary to run our business;

*administrative services*, which include, in each direction of our Chief Executive Officer, Chief Operating Officer, Chief Financial Officer and Deputy Chief Operating Officer, assistance with the maintenance of our corporate books and records, payroll services, assistance with the preparation of our tax returns and financial statements, assistance with corporate and regulatory compliance matters not related to our vessels, procuring legal and accounting services (including the preparation of all necessary budgets for submission to us), assistance in complying with United States and other relevant securities laws, human resources, cash management and bookkeeping services, development and monitoring of internal audit controls, disclosure controls and information technology, assistance with all regulatory and reporting functions and obligations, furnishing any reports or financial information that might be requested by us and other non-vessel related administrative services, assistance with office space, providing legal and financial compliance services, overseeing banking services (including the opening, closing, operation and management of all of our accounts including making deposits and withdrawals reasonably necessary for the management of our business and day-to-day operations), arranging general insurance and director and officer liability insurance (at our expense), providing all administrative services required for subsequent debt and equity financings and attending to all other administrative matters necessary to ensure the professional management of our business; and

*commercial services*, which include chartering our vessels, assisting in our chartering, locating, purchasing, financing and negotiating the purchase and sale of our vessels, supervising the design and construction of newbuildings, and such other commercial services as we may reasonably request from time to time.

*Reporting Structure*

Our Manager reports to us and our Board of Directors through our Chief Executive Officer, Chief Operating Officer, Chief Financial Officer and Deputy Chief Operating Officer, each of which is appointed by our board of directors. Under our management agreement, our Chief Executive Officer, Chief Operating Officer, Chief Financial Officer and Deputy Chief Operating Officer may direct the Manager to remove and replace any officer or any person who serves as the head of a business unit of our Manager. Furthermore, our Manager will not remove any person serving as an officer or senior

manager without the prior written consent of our Chief Executive Officer, Chief Operating Officer, Chief Financial Officer and Deputy Chief Operating Officer.

*Compensation of Our Manager*

For 2019 we will pay our manager the following fees, which are fixed through the current term of the management agreement expiring on December 31, 2024: (i) a daily management fee of $850, (ii) a daily vessel management fee of $425 for vessels on bareboat charter, pro-rated for the number of calendar days we own each vessel, (iii) a daily vessel management fee of $850 for vessels on time charter, pro-rated for the number of calendar days we own each vessel, (iv) a fee of 1.25% on all freight, charter hire, ballast bonus and demurrage for each vessel, (v) a fee of 0.5% based on the contract price of any vessel bought or sold by it on our behalf, excluding newbuilding contracts, and (vi) a flat fee of $725,000 per newbuilding vessel, if any, which we capitalize, for the on premises supervision of any newbuilding contracts by selected engineers and others of its staff. We believe these fees are no more than the rates we would need to pay an unaffiliated third party to provide us with these management services.

We also advance all technical vessel operating expenses with respect to each vessel in our fleet to enable our Manager to arrange for the payment of such expenses on our behalf. To the extent the amounts advanced are greater or less than the actual vessel operating expenses of our fleet for a quarter, our Manager or us, as the case may be, will pay the other the difference at the end of such quarter, although our Manager may instead choose to credit such amount against future vessel operating expenses to be advanced for future quarters.

*Term and Termination Rights*

The management agreement, as amended and restated on August 10, 2018, is for a term expiring on December 31, 2024.

*Our Manager's Termination Rights.* Our Manager may terminate the management agreement prior to the end of its term in the two following circumstances:

- if any moneys payable by us shall not have been paid within 60 business days of payment having been demanded in writing; or

- if at any time we materially breach the agreement and the matter is unresolved within 60 days after we are given written notice from our Manager.

*Our Termination Rights.* We may terminate the management agreement prior to the end of its term in the two following circumstances upon providing the respective notice:

- if at any time our Manager neglects or fails to perform its principal duties and obligations in any material respect and the matter is unresolved within 20 days after our Manager receives written notice of such neglect or failure from us; or

- if any moneys payable by the Manager under or pursuant to the management agreement are not promptly paid or accounted for in full within 10 business days by the Manager in accordance with the provisions of the management agreement.

We also may terminate the management agreement immediately under any of the following circumstances:

- if either we or our Manager ceases to conduct business, or all or substantially all of the properties or assets of either such party is sold, seized or appropriated;

- if either we or our Manager files a petition under any bankruptcy law, makes an assignment for the benefit of its creditors, seeks relief under any law for the protection of debtors or adopts a

plan of liquidation, or if a petition is filed against us or our Manager seeking to declare us or it an insolvent or bankrupt and such petition is not dismissed or stayed within 40 business days of its filing, or if our Company or the Manager admits in writing its insolvency or its inability to pay its debts as they mature, or if an order is made for the appointment of a liquidator, manager, receiver or trustee of our Company or the Manager of all or a substantial part of its assets, or if an encumbrancer takes possession of or a receiver or trustee is appointed over the whole or any part of the Manager's or our Company's undertaking, property or assets or if an order is made or a resolution is passed for our Manager's or our winding up;

if a distress, execution, sequestration or other process is levied or enforced upon or sued out against our Manager's property which is not discharged within 20 business days;

if the Manager ceases or threatens to cease wholly or substantially to carry on its business otherwise than for the purpose of a reconstruction or amalgamation without insolvency previously approved by us; or

if either our Manager or we are prevented from performing any obligations under the management agreement by any cause whatsoever of any nature or kind beyond the reasonable control of us or our Manager respectively for a period of two consecutive months or more.

In addition, we may terminate any applicable ship management agreement in any of the following circumstances:

if we or any subsidiary of ours ceases to be the owner of the vessel covered by such ship management agreement by reason of a sale thereof, or if we or any subsidiary of ours ceases to be registered as the owner of the vessel covered by such ship management agreement;

if a vessel becomes an actual or constructive or compromised or arranged total loss or an agreement has been reached with the insurance underwriters in respect of the vessel's constructive, compromised or arranged total loss or if such agreement with the insurance underwriters is not reached or it is adjudged by a competent tribunal that a constructive loss of the vessel has occurred;

if the vessel covered by such ship management agreement is requisitioned for title or any other compulsory acquisition of the vessel occurs, otherwise than by requisition by hire; or

if the vessel covered by such ship management agreement is captured, seized, detained or confiscated by any government or persons acting or purporting to act on behalf of any government and is not released from such capture, seizure, detention or confiscation within 20 business days.

***Non-competition***

Our Manager has agreed that, during the term of the management agreement and for a period of one year following termination of the Management Agreement, it will not provide any management services to any other entity without our prior written approval, other than with respect to entities controlled by Dr. Coustas, our Chief Executive Officer, which do not operate within the containership (larger than 2,500 twenty foot equivalent units, or TEUs) or drybulk sectors of the shipping industry or in the circumstances described below. Dr. Coustas has also personally agreed to the same restrictions on the provision, directly or indirectly, of management services during this period pursuant to a restrictive covenant agreement with us, which was amended in connection with the 2018 Refinancing, including to (1) extend its term until December 31, 2024 and (2) provide that certain provisions of the agreement will cease to apply upon the occurrence of certain transactions constituting a "Change of Control" of the Company which are not within the control of Dr. Coustas or DIL. In addition, our Chief Executive Officer (other than in his capacities with us) and our Manager have separately agreed not, during the term of our management agreement and for one year thereafter, to engage, directly or

indirectly, in (i) the ownership or operation of containerships of larger than 2,500 TEUs or (ii) the ownership or operation of any drybulk carriers or (iii) the acquisition of or investment in any business involved in the ownership or operation of containerships larger than 2,500 TEUs or drybulk carriers. Notwithstanding these restrictions, if our independent directors decline the opportunity to acquire any such containerships or drybulk carriers or to acquire or invest in any such business, our Chief Executive Officer will have the right to make, directly or indirectly, any such acquisition or investment during the four-month period following such decision by our independent directors, so long as such acquisition or investment is made on terms no more favorable than those offered to us. In this case, our Chief Executive Officer and our Manager will be permitted to provide management services to such vessels. In connection with our investment in Gemini (see " Gemini Shipholdings Corporation" below), these restrictions on our Chief Executive Officer and our Manager were waived, with the approval of our independent directors, with respect to vessels acquired by Gemini.

The restrictions described above on our Manager, under the management agreement, and Dr. Coustas, under the restrictive covenant agreement, will cease to apply upon the occurrence of certain transactions constituting a "Change of Control" of the Company, which are not within the control of Dr. Coustas or DIL, including where Dr. Coustas ceases to be both the Chief Executive Officer of the Company and a director of the Company without his consent in connection with a hostile takeover of the Company by a third party, as set out in the restrictive covenant agreement.

***Sale of Our Manager***

Our Manager has agreed that it will not transfer, assign, sell or dispose of all or a significant portion of its business that is necessary for the services our Manager performs for us without the prior written consent of our Board of Directors. Furthermore, in the event of any proposed sale of our Manager, we have a right of first refusal to purchase our Manager. This prohibition and right of first refusal is in effect throughout the term of the management agreement and for a period of one year following the expiry or termination of the management agreement. Our Chief Executive Officer, Dr. John Coustas, or any trust established for the Coustas family (under which Dr. Coustas and/or a member of his family is a beneficiary), is required, unless we expressly permit otherwise, to own 80% of our Manager's outstanding capital stock during the term of the management agreement and 80% of the voting power of our Manager's outstanding capital stock. In the event of any breach of these requirements, we would be entitled to purchase the capital stock of our Manager owned by Dr. Coustas or any trust established for the Coustas family (under which Dr. Coustas and/or a member of his family is a beneficiary). Under the terms of certain of our financing agreements, a change in control of our Manager or a breach by our Manager of our management agreement would constitute an event of default under such financing agreements.

***Gemini Shipholdings Corporation***

On August 5, 2015, we entered into a Shareholders Agreement (the "Gemini Shareholders Agreement"), with Gemini Shipholdings Corporation ("Gemini") and Virage International Ltd. ("Virage"), a company controlled by our largest stockholder, DIL, in connection with the formation of Gemini to acquire and operate containerships. We and Virage own 49% and 51%, respectively, of Gemini's issued and outstanding share capital. Under the Gemini Shareholders Agreement, we and Virage have preemptive rights with respect to issuances of Gemini capital stock as well as tag-along rights, drag-along rights and certain rights of first refusal with respect to proposed transfers of Gemini equity interests. In addition, certain actions by Gemini, including acquisitions or dispositions of vessels and newbuilding contracts, require the unanimous approval of the Gemini board of directors including the director designated by the Company, who is currently our Chief Operating Officer Iraklis Prokopakis. Mr. Prokopakis also serves as Chief Operating Officer of Gemini, and our Chief Financial Officer, Evangelos Chatzis, serves as Chief Financial Officer of Gemini, for which services Messrs. Prokopakis and Chatzis do not receive any additional compensation. We also have the right to

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purchase all of the equity interests in Gemini that we do not own for fair market value at any time after December 31, 2018, to the extent permitted under our credit facilities, provided that such fair market value is not below the net book value of such equity interests.

In 2015, prior to our equity investment, Gemini acquired a 100% interest in entities with capital leases for the containerships *Suez Canal* and *Genoa* and the entity with a memorandum of agreement to acquire the containership *Catherine C* (ex *NYK Lodestar)*. In February 2016, Gemini acquired the containership *Leo C (ex NYK Leo)*. Gemini financed these acquisitions with the assumption of capital lease obligations, borrowings under a secured loan facility and an aggregate of $47.4 million of equity contributions from the Company and Virage. We do not guarantee any debt of Gemini or its subsidiaries.

In connection with our investment in Gemini, the restrictions on the ownership, operation and management of containerships set forth in the restrictive covenant agreement with our Chief Executive Officer, the management agreement with our Manager and our executive officers' respective employment agreements were waived, with the approval of the independent directors of our board of directors, with respect to vessels acquired, owned and operated by Gemini. Danaos Shipping provides vessel management services to Gemini at the same rates as we pay pursuant to our management agreement with Danaos Shipping.

***The Swedish Club***

Dr. John Coustas, our Chief Executive Officer, is a Deputy Chairman of the Board of Directors of The Swedish Club, our primary provider of insurance, including a substantial portion of our hull & machinery, war risk and protection and indemnity insurance. During the years ended December 31, 2018, 2017 and 2016, we paid premiums of $3.9 million, $4.6 million and $5.6 million, respectively, to The Swedish Club under these insurance policies.

***Danaos Management Consultants***

Our Chief Executive Officer, Dr. John Coustas, co-founded and has a 50.0% ownership interest in Danaos Management Consultants, which provides the ship management software deployed on the vessels in our fleet to our Manager on a complementary basis. Dr. Coustas does not participate in the day-to-day management of Danaos Management Consultants.

***Offices***

We occupy office space that is owned by our Manager and which is provided to us as part of the services we receive under our management agreement.

***Sphinx Investment Corp. Director Nominee***

As described above under "Item 6. Directors, Senior Management and Employees Board of Directors", following completion of our $200.0 million equity transaction on August 12, 2010, which satisfied a condition to our bank agreement and approximately $425 million of new debt financing, Mr. George Economou joined the Board of Directors of the Company as an independent director in accordance with the terms of the common stock subscription agreement between Sphinx Investment Corp. and the Company. We have agreed to nominate Mr. Economou or such other person, in each case who shall be acceptable to us, designated by Sphinx Investment Corp., for election by our stockholders to the Board of Directors at each annual meeting of stockholders at which the term of Mr. Economou or such other director so designated expires, so long as such investor beneficially owns a specified minimum amount of common stock. We have been informed that our largest stockholder, DIL, and Dr. John Coustas have agreed to vote all of the shares of our common stock owned by them, or over which they have voting control, in favor of any such nominee standing for election.

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***2018 Refinancing***

***Stockholders Agreement***

See "Item 10. Additional Information Stockholders Agreement" for further discussion.

***Registration Rights Agreement***

See "Item 10. Additional Information Material Contracts Registration Rights Agreement" for further discussion.

***Contribution Agreement; Subordinated Loan Agreement***

Pursuant to the terms of a Contribution Agreement, dated as of August 10, 2018, between the Company and DIL, DIL contributed $10 million to us on the 2018 Refinancing Closing Date for which it did not receive any shares of common stock or other interests in us.

DIL had also further agreed to commit to backstop, through a cash contribution pursuant to a Subordinated Loan Agreement, dated as of August 10, 2018, between the Company, as borrower, and DIL, any shortfall in the required minimum consolidated cash balance as of September 30, 2018 required under the New 2018 Credit Facilities, subject to certain limitations. As there was no shortfall in the required consolidated cash balance as of September 30, 2018, this subordinated loan agreement was not drawn upon by the Company.

***Backstop Agreement***

In connection with the 2018 Refinancing, we have agreed with our lenders to use commercially reasonable efforts to consummate an offering of common stock for aggregate net proceeds of not less than $50 million within 18 months after the 2018 Refinancing Closing Date (the "Follow-on Equity Raise"). In order to facilitate the Follow-on Equity Raise, DIL has entered into an agreement with us, dated as of August 10, 2018 (the "Backstop Agreement"), pursuant to which DIL agreed to purchase up to $10 million of common stock in such offering (at the price offered to the public in such offering, as determined by a special committee of our board of directors comprised solely of disinterested independent directors), to the extent that the proceeds from the Follow-on Equity Raise are less than $50 million. In the event that we determine not to complete a Follow-on Equity Raise within 18 months after the 2018 Refinancing Closing Date or fail to do so, DIL has agreed to invest an amount equal to $10 million in common stock in a private placement at a price per share no less than the volume weighted average trading price of the common stock on the NYSE over a consecutive thirty (30) trading day period prior to such private placement, which price may be decreased by the committee of disinterested independent directors so long as such price is at least equal to (or greater than) the implied net asset value per share of the Company upon consummation of the private placement'

If DIL fails to comply with its obligations under the Backstop Agreement, we will apply all or some of the amount of DIL's unfulfilled obligations under the Backstop Agreement as a credit towards any fees payable by us to the Manager, which is controlled indirectly by DIL, under our management agreement with our Manager.

**Major Stockholders**

The following table sets forth certain information regarding the beneficial ownership of our outstanding common stock as of February 28, 2019 held by:

- each person or entity that we know beneficially owns 5% or more of our common stock;

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each of our officers and directors; and

all our directors and officers as a group.

Our major stockholders have the same voting rights as our other stockholders. Beneficial ownership is determined in accordance with the rules of the SEC. In general, a person who has voting power or investment power with respect to securities is treated as a beneficial owner of those securities.

Beneficial ownership does not necessarily imply that the named person has the economic or other benefits of ownership. For purposes of this table, shares subject to options, warrants or rights or shares exercisable within 60 days of February 28, 2019 are considered as beneficially owned by the person holding those options, warrants or rights. Each stockholder is entitled to one vote for each share held. The applicable percentage of ownership of each stockholder is based on 213,324,455 shares of common stock outstanding as of February 28, 2019. Information for certain holders is based on their latest filings with the SEC or information delivered to us.

| | Number of Shares of Common Stock Owned | Percentage of Common Stock |
|---|---|---|
| ***Executive Officers and Directors:*** | | |
| John Coustas(1)<br>*Chairman, President and Chief Executive Officer* | 67,828,140 | 31.8% |
| Iraklis Prokopakis<br>*Director, Senior Vice President and Chief Operating Officer* | 2,533,619 | 1.2% |
| Evangelos Chatzis<br>*Chief Financial Officer and Secretary* | 2,216,416 | 1.0% |
| Dimitris Vastarouchas<br>*Deputy Chief Operating Officer* | 89,931 | * |
| George Economou(2)<br>*Director* | 21,621,621 | 10.1% |
| Myles R. Itkin<br>*Director* | | |
| Miklós Konkoly-Thege<br>*Director* | 86,966 | * |
| William Repko<br>*Director* | | |
| Petros Christodoulou<br>*Director* | | |
| All executive officers and directors as a group (9 persons) | 94,376,693 | 44.2% |
| ***5% Beneficial Owners:*** | | |
| Danaos Investment Limited as Trustee of the 883 Trust(3) | 67,828,140 | 31.8% |
| HSH Nordbank AG(4) | 43,942,485 | 20.6% |
| The Royal Bank of Scotland Plc(5) | 35,238,185 | 16.5% |
| Sphinx Investment Corp.(2) | 21,621,621 | 10.1% |
| Credit Suisse AG(6) | 13,272,824 | 6.2% |

* Less than 1%.

(1) By virtue of shares owned indirectly through Danaos Investment Limited as Trustee of the 883 Trust, which is our largest stockholder. Please see footnote (3) below for further detail regarding DIL and the 883 Trust.

(2)

According to an Amendment No. 3 to Schedule 13D filed with the SEC on February 27, 2019, Sphinx Investment Corp. ("Sphinx") is a wholly-owned subsidiary of Maryport Navigation Corp., a

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Liberian company. Mr. George Economou, a member of our Board of Directors, may be deemed the beneficial owner of the shares held by Sphinx. The address of Sphinx is c/o Mare Services Limited, 5/1 Merchants Street, Valletta, Malta. Pursuant to a Security Agreement dated January 9, 2017 (the "Pledge Agreement"), between Sphinx and Samsung Heavy Industries Co. Ltd (the "Secured Party"), Sphinx pledged and granted a security interest in 12,000,000 of these shares in favor of the Secured Party. The Pledge Agreement contains default and similar provisions that are standard for such agreements. Sphinx has retained dividend and voting rights in the pledged shares during the term of the Pledge Agreement, absent a default.

(3)
According to a Schedule 13D/A jointly filed with the SEC on August 14, 2018 by DIL and John Coustas, DIL owns and has sole voting power and sole dispositive power with respect to all such shares. The beneficiaries of the 883 Trust are Dr. Coustas and members of his family. The board of directors of DIL consists of four members, none of whom are beneficiaries of the 883 Trust or members of the Coustas family, and has voting and dispositive control over the shares held by the 883 Trust. Dr. Coustas has certain powers to remove and replace DIL as trustee of the 883 Trust. This does not necessarily imply economic ownership of the securities.

(4)
Based on information reported on Amendment No. 1 to Schedule 13D filed with the SEC on December 17, 2018 by HSH Nordbank AG. According to this Amendment No. 1 to Schedule 13D and a Schedule 13D filed on December 17, 2018 by Stephen Feinberg, on behalf of Craig Court, Inc., the managing member of Craig Court GP, LLC, the general partner of Cerberus Capital Management, L.P., HSH Nordbank AG has entered into a Master Funded Sub-Participation and Trust Agreement (the "Sub-Participation Agreement") with an affiliate of Cerberus Capital Management, L.P., Promontoria North Shipping Designated Activity Company, a designated activity company limited by shares, incorporated under the laws of the Republic of Ireland (the "Participant"). Pursuant to the terms of the Sub-Participation Agreement, HSH Nordbank AG retained legal title to the 43,942,485 shares of common stock included in the above table, but is required to carry out the instructions of the Participant as they relate to these shares of Common Stock, including with respect to the voting and disposition thereof. As a result of the arrangements under the Sub-Participation Agreement, according to the Schedule 13D filed on December 17, 2018, Stephen Feinberg, through one or more intermediate entities, possesses the shared power to vote and the shared power to direct the disposition of these 43,942,485 shares of common stock and, thus, may be deemed to beneficially own 43,942,485 shares of our common stock.

(5)
Based on information reported on a Schedule 13G jointly filed with the SEC on August 13, 2018 by The Royal Bank of Scotland plc, NatWest Holdings Limited and The Royal Bank of Scotland Group plc.

(6)
Based on information reported on a Schedule 13G filed with the SEC on February 13, 2019 by Credit Suisse AG.

As of February 28, 2019, we had approximately five stockholders of record, three of which were located in the United States and held an aggregate of 129,835,953 shares of common stock. However, one of the United States stockholders of record is CEDEFAST, a nominee of The Depository Trust Company, which held 125,740,005 shares of our common stock. Accordingly, we believe that the shares held by CEDEFAST include shares of common stock beneficially owned by both holders in the United States and non-United States beneficial owners, including 90,068,861 shares which may be deemed to be beneficially owned by our officers and directors resident outside the United States and no shares which may be deemed to be beneficially owned by directors resident in the United States as reflected in the above table. We are not aware of any arrangements the operation of which may at a subsequent date result in our change of control.

DIL owns approximately 31.8% of our outstanding common stock. This stockholder is able to exert significant influence on the outcome of matters on which our stockholders are entitled to vote, including the election of our board of directors and other significant corporate actions. A "Change of

Control" will give rise to a mandatory prepayment in full of each of our New 2018 Credit Facilities. A "Change of Control" of the Company for these purposes includes the occurrence of the following: (i) Dr. Coustas ceases to be both the Company's Chief Executive Officer and a director of the Company, subject to certain exceptions, (ii) the existing members of the board of directors and the directors appointed following nomination by the existing board of directors collectively do not constitute a majority of the board of directors, (iii) Dr. Coustas and members of his family cease to collectively control at least 15% and one share of the voting interest in the Company's outstanding capital stock or to beneficially own at least 15% and one share of the Company's outstanding capital stock, or (iv) any person or persons acting in concert (other than the Coustas family) (x) holds a greater portion of the Company's outstanding capital stock than the Coustas family (other than as a direct result of the sale by the lenders of shares issued in the 2018 Refinancing) or (y) controls the Company.

**Item 8. Financial Information**

See "Item 18. Financial Statements" below.

*Significant Changes.* No significant change has occurred since the date of the annual financial statements included in this annual report on Form 20-F.

*Legal Proceedings.* On September 1, 2016, Hanjin Shipping, a charterer of eight of our vessels, referred to the Seoul Central District Court, which issued an order to commence the rehabilitation proceedings of Hanjin Shipping. Hanjin Shipping has cancelled all eight charter party agreements with the Company. On February 17, 2017 the Seoul Central District Court (Bankruptcy Division), declared the bankruptcy of Hanjin Shipping, converting the rehabilitation proceeding to a bankruptcy proceeding. The Seoul Central District Court (Bankruptcy Division) appointed a bankruptcy trustee to dispose of Hanjin Shipping's remaining assets and distribute the proceeds from the sale of such assets to Hanjin Shipping's creditors according to their priorities.

On October 12, 2018 the First Instance Court of Seoul, issued its judgement on our submitted common benefit claim. Owners of the respective vessels were awarded with the total amount of $6.1 million plus interest and legal costs. The common benefit claim applies to the unpaid charter hires plus other outstandings for the period from the date of Hanjin Shipping's filing for bankruptcy until the termination notices for each respective charterparty.

The Bankruptcy Trustee of Hanjin Shipping filed an appeal to the High Court (an appellate court in South Korea). On February 13, 2019, the appellate court in South Korea dismissed the appeal filed by the Bankruptcy Trustee of Hanjin Shipping in its entirety upholding the judgement of the First Instance Court of Seoul. On February 28, 2019 the Bankruptcy Trustee of Hanjin Shipping filed an appeal to the Supreme Court of Korea against the judgement rendered by the appellate court in South Korea.

The Company ceased recognizing revenue from Hanjin Shipping effective from July 1, 2016 onwards and recognized a bad debt expense amounting to $15.8 million in its Consolidated Statements of Operations for the year ended December 31, 2016. The Company has a total unsecured claim submitted to the Seoul Central District Court for unpaid charter hire, charges, expenses and loss of profit against Hanjin Shipping totaling $597.9 million, which is not recognized in the accompanying Consolidated Balance Sheet as of December 31, 2018 and 2017.

We have not been involved in any other legal proceedings that we believe would have a significant effect on our business, financial position, results of operations or liquidity, and we are not aware of any proceedings that are pending or threatened that may have a material effect on our business, financial position, results of operations or liquidity. From time to time, we may be subject to legal proceedings and claims in the ordinary course of business, principally personal injury and property casualty claims. We expect that these claims would be covered by insurance, subject to customary deductibles. However, those claims, even if lacking merit, could result in the expenditure of significant financial and managerial resources.

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*Dividend Policy.* We have not paid a dividend since 2008, when our board of directors determined to suspend the payment of cash dividends as a result of market conditions in the international shipping industry. We are not permitted to pay dividends under our New 2018 Credit Facilities until (1) we receive in excess of $50 million in net cash proceeds from offerings of common stock following the 2018 Refinancing, and (2) the payment in full of the first installment of amortization payable following the consummation of the 2018 Refinancing under each new credit facility. After these conditions are satisfied, under our loan agreements we will be permitted to pay dividends if, among other things, a default has not occurred and is continuing or would occur as a result of the payment of such dividend, and we remain in compliance with the financial and other covenants thereunder. To the extent our credit facilities permit us to pay dividends, any dividend payments will be subject to us having sufficient available excess cash and distributable reserves, and declaration and payment of any dividends will be at the discretion of our board of directors. We have not yet adopted a dividend policy with respect to future dividends. The timing and amount of dividend payments will be dependent upon our earnings, financial condition, cash requirements and availability, fleet renewal and expansion, restrictions in our credit facilities, the provisions of Marshall Islands law affecting the payment of distributions to stockholders and other factors. Declaration and payment of any future dividend is subject to the discretion of our board of directors. We are a holding company, and we depend on the ability of our subsidiaries to distribute funds to us in order to satisfy our financial obligations and to make any dividend payments. See "Item 3. Key Information Risk Factors Risks relating to our common stock" for a discussion of the risks related to dividend payments, if any.

After our initial public offering, we paid regular quarterly dividends from February 2007 to November 19, 2008. We paid no dividends in 2006 and, prior to our initial public offering, in 2005 we paid dividends of $244.6 million to our stockholders from our retained earnings.

## Item 9. The Offer and Listing

Since our initial public offering in the United States in October 2006, our common stock has been listed on the New York Stock Exchange under the symbol "DAC."

## Item 10. Additional Information

### Share Capital

Under our articles of incorporation, our authorized capital stock consists of 750,000,000 shares of common stock, $0.01 par value per share, of which, as of December 31, 2018 and February 28, 2019, 213,324,455 shares were issued and outstanding, and 100,000,000 shares of blank check preferred stock, $0.01 par value per share, of which, as of December 31, 2018 and February 28, 2019, no shares were issued and outstanding. All of our shares of stock are in registered form.

#### *Common Stock*

Each outstanding share of common stock entitles the holder to one vote on all matters submitted to a vote of stockholders. Subject to preferences that may be applicable to any outstanding shares of preferred stock, holders of shares of common stock are entitled to receive ratably all dividends, if any, declared by our board of directors out of funds legally available for dividends. Holders of common stock do not have conversion, redemption or preemptive rights to subscribe to any of our securities. All outstanding shares of common stock are fully paid and nonassessable. The rights, preferences and privileges of holders of shares of common stock are subject to the rights of the holders of any shares of preferred stock which we may issue in the future.

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***Blank Check Preferred Stock***

Under the terms of our articles of incorporation, our board of directors has authority, without any further vote or action by our stockholders, to issue up to 100,000,000 shares of blank check preferred stock.

**Articles of Incorporation and Bylaws**

Our purpose is to engage in any lawful act or activity relating to the business of chartering, rechartering or operating containerships, drybulk carriers or other vessels or any other lawful act or activity customarily conducted in conjunction with shipping, and any other lawful act or activity approved by the board of directors. Our articles of incorporation and bylaws do not impose any limitations on the ownership rights of our stockholders.

Under our bylaws, annual stockholder meetings will be held at a time and place selected by our board of directors. The meetings may be held in or outside of the Marshall Islands. Special meetings may be called by the board of directors. Our board of directors may set a record date between 15 and 60 days before the date of any meeting to determine the stockholders that will be eligible to receive notice and vote at the meeting.

***Directors***

Our directors are elected by a plurality of the votes cast at each annual meeting of the stockholders by the holders of shares entitled to vote in the election. There is no provision for cumulative voting. The Stockholders Agreement entered into in connection with the 2018 Refinancing, described below under " Stockholders Agreement", contains certain provisions relating to the composition of our Board of Directors.

The board of directors may change the number of directors to not less than two, nor more than 15, by a vote of a majority of the entire board, subject to the terms of the Stockholders Agreement described below under " Stockholders Agreement." Each director shall be elected to serve until the third succeeding annual meeting of stockholders and until his or her successor shall have been duly elected and qualified, except in the event of death, resignation or removal. A vacancy on the board created by death, resignation, removal (which may only be for cause), or failure of the stockholders to elect the entire class of directors to be elected at any election of directors or for any other reason, may be filled only by an affirmative vote of a majority of the remaining directors then in office, even if less than a quorum, at any special meeting called for that purpose or at any regular meeting of the board of directors. The board of directors has the authority to fix the amounts which shall be payable to the members of our board of directors for attendance at any meeting or for services rendered to us.

***Dissenters' Rights of Appraisal and Payment***

Under the Marshall Islands Business Corporations Act, or the BCA, our stockholders have the right to dissent from various corporate actions, including any merger or sale of all or substantially all of our assets not made in the usual course of our business, and to receive payment of the fair value of their shares. However, the right of a dissenting stockholder under the BCA to receive payment of the fair value of such stockholder's shares is not available for the shares of any class or series of stock, which shares or depository receipts in respect thereof, at the record date fixed to determine the stockholders entitled to receive notice of and to vote at the meeting of the stockholders to act upon the agreement of merger or consolidation, were either (i) listed on a securities exchange or admitted for trading on an interdealer quotation system or (ii) held of record by more than 2,000 holders. The right of a dissenting stockholder to receive payment of the fair value of his or her shares shall not be available for any shares of stock of the constituent corporation surviving a merger if the merger did not

require for its approval the vote of the stockholders of the surviving corporation. In the event of any further amendment of our articles of incorporation, a stockholder also has the right to dissent and receive payment for his or her shares if the amendment alters certain rights in respect of those shares. The dissenting stockholder must follow the procedures set forth in the BCA to receive payment. In the event that we and any dissenting stockholder fail to agree on a price for the shares, the BCA procedures involve, among other things, the institution of proceedings in the high court of the Republic of The Marshall Islands in which our Marshall Islands office is situated or in any appropriate jurisdiction outside the Marshall Islands in which our shares are primarily traded on a local or national securities exchange. The value of the shares of the dissenting stockholder is fixed by the court after reference, if the court so elects, to the recommendations of a court-appointed appraiser.

***Stockholders' Derivative Actions***

Under the BCA, any of our stockholders may bring an action in our name to procure a judgment in our favor, also known as a derivative action, provided that the stockholder bringing the action is a holder of common stock both at the time the derivative action is commenced and at the time of the transaction to which the action relates.

***Supermajority Stockholder Approval***

At the Company's 2018 annual meeting of stockholders on July 20, 2018, the Company's stockholders approved and adopted an amendment to the Company's Restated Articles of Incorporation to require supermajority stockholder approval to take certain actions, which amendment was filed with the Marshall Islands registrar of corporations and became effective on August 10, 2018. Specifically, the amendment provides that, prior to the earlier to occur of (1) the fifth (5th) anniversary of the effective date of such amendment and (2) (x) the Company's lenders having the opportunity to register the common stock received by such lenders in the 2018 Refinancing pursuant to a shelf registration statement that has been declared effective by the SEC and (y) the consummation of sales of common stock with aggregate net proceeds to the Company of at least $50.0 million following the 2018 Refinancing Closing Date, the Company may not take any of the following actions without an affirmative vote by the holders of not less than sixty-six and two-thirds percent (66-2/3%) of the outstanding shares of capital stock entitled to vote generally for the election of directors, at any annual meeting or at any special meeting: (i) amending the Company's Restated Articles of Incorporation or the bylaws in a manner that adversely affects the rights of the holders of the common stock; (ii) consummating any merger, consolidation, spin-off or sale of all or substantially all of the assets of the Company or the Company and its subsidiaries, taken as a whole; (iii) delisting the common stock such that the common stock is not listed or quoted on any of the New York Stock Exchange, the Nasdaq Global Select Market, the Nasdaq Global Market or the Nasdaq Capital Market (or any of their respective successors); (iv) deregistering the common stock under Section 12 of the Exchange Act; or (v) substantially changing the nature of the Company's business from the ownership, operation and management of maritime shipping assets.

**Anti-takeover Provisions of our Charter Documents**

Several provisions of our articles of incorporation and bylaws may have anti-takeover effects. These provisions are intended to avoid costly takeover battles, lessen our vulnerability to a hostile change of control and enhance the ability of our board of directors to maximize stockholder value in connection with any unsolicited offer to acquire us. However, these anti-takeover provisions, which are summarized below, could also discourage, delay or prevent (1) the merger or acquisition of our company by means of a tender offer, a proxy contest or otherwise, that a stockholder may consider in its best interest and (2) the removal of incumbent officers and directors.

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*Blank Check Preferred Stock*

Under the terms of our articles of incorporation, our board of directors has authority, without any further vote or action by our stockholders, to issue up to 100,000,000 shares of blank check preferred stock. Our board of directors may issue shares of preferred stock on terms calculated to discourage, delay or prevent a change of control of our company or the removal of our management.

*Classified Board of Directors*

Our articles of incorporation provide for a board of directors serving staggered, three-year terms. Approximately one-third of our board of directors will be elected each year. This classified board provision could discourage a third party from making a tender offer for our shares or attempting to obtain control of our company. It could also delay stockholders who do not agree with the policies of the board of directors from removing a majority of the board of directors for two years.

*Election and Removal of Directors*

Our articles of incorporation and bylaws prohibit cumulative voting in the election of directors. Our bylaws require parties other than the board of directors to give advance written notice of nominations for the election of directors. Our bylaws also provide that our directors may be removed only for cause and only upon the affirmative vote of the holders of at least $66^{2}/_{3}$% of the outstanding shares of our capital stock entitled to vote for those directors. These provisions may discourage, delay or prevent the removal of incumbent officers and directors.

*Calling of Special Meetings of Stockholders*

Our bylaws provide that special meetings of our stockholders may be called by our board of directors.

*Advance Notice Requirements for Stockholder Proposals and Director Nominations*

Our bylaws provide that stockholders seeking to nominate candidates for election as directors or to bring business before an annual meeting of stockholders must provide timely notice of their proposal in writing to the corporate secretary.

Generally, to be timely, a stockholder's notice must be received at our principal executive offices not less than 90 days or more than 120 days prior to the first anniversary date of the previous year's annual meeting. If, however, the date of our annual meeting is more than 30 days before or 30 days after the first anniversary date of the previous year's annual meeting, a stockholder's notice must be received at our principal executive offices by the later of (i) the close of business on the 90th day prior to such annual meeting date or (ii) the close of business on the tenth day following the date on which such annual meeting date is first publicly announced or disclosed by us. Our bylaws also specify requirements as to the form and content of a stockholder's notice. These provisions may impede stockholders' ability to bring matters before an annual meeting of stockholders or to make nominations for directors at an annual meeting of stockholders.

*Business Combinations*

Although the BCA does not contain specific provisions regarding "business combinations" between companies organized under the laws of the Marshall Islands and "interested stockholders," we have included these provisions in our articles of incorporation. Specifically, our articles of incorporation prohibit us from engaging in a "business combination" with certain persons for three years following the date the person becomes an interested stockholder. Interested stockholders generally include:

- any person who is the beneficial owner of 15% or more of our outstanding voting stock; or

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any person who is our affiliate or associate and who held 15% or more of our outstanding voting stock at any time within three years before the date on which the person's status as an interested stockholder is determined, and the affiliates and associates of such person.

Subject to certain exceptions, a business combination includes, among other things:

certain mergers or consolidations of us or any direct or indirect majority-owned subsidiary of ours;

any sale, lease, exchange, mortgage, pledge, transfer or other disposition of our assets or of any subsidiary of ours having an aggregate market value equal to 10% or more of either the aggregate market value of all our assets, determined on a consolidated basis, or the aggregate value of all our outstanding stock;

certain transactions that result in the issuance or transfer by us of any stock of the Company or any direct or indirect majority-owned subsidiary of the Company to the interested stockholder;

any transaction involving us or any of our subsidiaries that has the effect of increasing the proportionate share of any class or series of stock, or securities convertible into any class or series of stock, of ours or any such subsidiary that is owned directly or indirectly by the interested stockholder or any affiliate or associate of the interested stockholder; and

any receipt by the interested stockholder of the benefit directly or indirectly (except proportionately as a stockholder) of any loans, advances, guarantees, pledges or other financial benefits provided by or through us.

These provisions of our articles of incorporation do not apply to a business combination if:

before a person became an interested stockholder, our board of directors approved either the business combination or the transaction in which the stockholder became an interested stockholder;

upon consummation of the transaction which resulted in the stockholder becoming an interested stockholder, the interested stockholder owned at least 85% of our voting stock outstanding at the time the transaction commenced, other than certain excluded shares;

at or following the transaction in which the person became an interested stockholder, the business combination is approved by our board of directors and authorized at an annual or special meeting of stockholders, and not by written consent, by the affirmative vote of the holders of at least $66^2/_3$% of our outstanding voting stock that is not owned by the interested stockholder;

the stockholder was or became an interested stockholder prior to the consummation of our initial public offering of common stock under the Securities Act;

a stockholder became an interested stockholder inadvertently and (i) as soon as practicable divests itself of ownership of sufficient shares so that the stockholder ceases to be an interested stockholder; and (ii) would not, at any time within the three-year period immediately prior to a business combination between our company and such stockholder, have been an interested stockholder but for the inadvertent acquisition of ownership; or

the business combination is proposed prior to the consummation or abandonment of and subsequent to the earlier of the public announcement or the notice required under our articles of incorporation which (i) constitutes one of the transactions described in the following sentence; (ii) is with or by a person who either was not an interested stockholder during the previous three years or who became an interested stockholder with the approval of the board; and (iii) is approved or not opposed by a majority of the members of the board of directors then in office

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(but not less than one) who were directors prior to any person becoming an interested stockholder during the previous three years or were recommended for election or elected to succeed such directors by a majority of such directors. The proposed transactions referred to in the preceding sentence are limited to:

(i) a merger or consolidation of our company (except for a merger in respect of which, pursuant to the BCA, no vote of the stockholders of our company is required);

(ii) a sale, lease, exchange, mortgage, pledge, transfer or other disposition (in one transaction or a series of transactions), whether as part of a dissolution or otherwise, of assets of our company or of any direct or indirect majority-owned subsidiary of our company (other than to any direct or indirect wholly-owned subsidiary or to our company) having an aggregate market value equal to 50% or more of either that aggregate market value of all of the assets of our company determined on a consolidated basis or the aggregate market value of all the outstanding shares; or

(iii) a proposed tender or exchange offer for 50% or more of our outstanding voting stock.

**Stockholder Rights Plan**

The rights issued pursuant to a stockholder rights agreement, dated as of September 18, 2006, as amended from time to time thereafter, between us and American Stock Transfer & Trust Company, LLC, as rights agent, expired on December 17, 2018. Accordingly, our shares of common stock no longer include a right entitling the holder, upon the occurrence of a triggering event, to purchase from us a unit consisting of one-thousandth of a share of our Series A participating preferred stock.

**Stockholders Agreement**

We entered into a Stockholders Agreement (the "Stockholders Agreement") with those lenders that received shares of common stock in connection with the 2018 Refinancing and DIL, as described below.

*Board of Directors.* The Stockholders Agreement provides that our board of directors is required to consist of up to nine directors and that a majority of the board be "independent" under NYSE rules.

*Tag-Along Rights.* The Stockholders Agreement provides for "tag-along" rights until (i) such time as all of the stockholders party to the Stockholders Agreement have had the opportunity to register their shares on an effective shelf registration statement filed with the SEC and (ii) the completion of a registered offering of common stock resulting in net proceeds to us of at least $50 million following the 2018 Refinancing Closing Date. Such tag-along rights provide, subject to certain exceptions described in the Stockholders Agreement, that upon a sale by DIL or its affiliates of common stock resulting in another person or its affiliates (other than stockholders party to the Stockholders Agreement) holding more than 15% of our issued and outstanding common stock or resulting in DIL and its affiliates holding less than 20% of our issued and outstanding common stock, each stockholder party to the Stockholders Agreement has the right to require the proposed purchaser to purchase from it the number of shares of common stock requested to be included by such stockholder in the sale, on a pro rata basis, at a price equal to and on terms and conditions no worse than the highest price paid and most favorable terms agreed to by that proposed purchaser in the previous 12 months.

*Purchases of Common Stock by DIL.* The Stockholders Agreement provides that in the event DIL or any of its affiliates makes any offer to purchase any common stock from any stockholder party to the Stockholders Agreement (other than DIL or its affiliates, or offers made to all

stockholders), DIL or such affiliate must also offer to purchase, on the same terms, the common stock owned by each stockholder party to the Stockholders Agreement, on a pro rata basis based on the ownership of common stock of stockholders exercising this right.

*Dividend Reinvestment Commitment by DIL.* The Stockholders Agreement includes an undertaking by DIL that, until the earlier of the repayment or refinancing in full of the New 2018 Credit Facilities and June 30, 2024, it will, within six months of receipt of dividend payments from us, either (i) reinvest 50% of all such cash dividends in the manner described below, or (ii) place such amount into escrow to be released only for the purpose of such reinvestments or to DIL at the repayment or refinancing in full of all our New 2018 Credit Facilities. Such reinvestments will be made by way of a subscription for common stock in a public offering by us at the price offered to the public in such offering (as determined by a committee of our board of directors comprising solely of disinterested independent directors) or, if there is no such public offering during that six (6) month period, in a private placement at a price no less than the volume weighted average trading price of our common stock on the NYSE over the consecutive thirty (30) trading day period prior to one business day prior to the closing of such private placement which price may be decreased by a committee of the Board of Directors of the Company comprised solely of disinterested independent directors for so long as such price is at least equal to (or greater than) the implied net asset value per share of the Company upon consummation of the private placement. The shares so issued will benefit from registration rights under the Registration Rights Agreement, described below, subject to certain limitations.

*Right to Participate in Certain Equity Offerings.* Our lenders receiving shares of common stock in connection with the 2018 Refinancing, as well as DIL, have the right to participate as a purchaser in any primary offering of shares by us, unless such holder is selling concurrently with such offering, on a pro rata basis based on the respective holder's percentage share ownership of common stock at the time of such offering, subject to customary exceptions, including for share issuances pursuant to equity compensation arrangements or as acquisition consideration.

**Material Contracts**

For a summary of the following agreements, please see the specified section of this Annual Report on Form 20-F. Such summaries are not intended to be complete and reference is made to the contracts themselves, which are exhibits to this Annual Report on Form 20-F.

*Amended and Restated Management Agreement.* For a description of the Amended and Restated Management Agreement, dated August 10, 2018, between Danaos Shipping Company Limited and Danaos Corporation, please see "Item 7. Major Shareholders and Related Party Transactions Management Agreement."

*Amended and Restated Restrictive Covenant Agreement.* For a description of the Amended and Restated Restrictive Covenant Agreement, dated August 10, 2018, between Danaos Corporation, DIL and Dr. John Coustas, please see "Item 7. Major Shareholders and Related Party Transactions Non-competition."

*Stockholders Agreement.* For a description of the Stockholders Agreement, dated as of August 10, 2018, by and among the Company, the lenders party thereto and DIL, please see "Item 10. Additional Information Stockholders Agreement."

*Contribution Agreement.* For a description of the Contribution Agreement, dated as of August 10, 2018, by and between the Company and DIL, please see "Item 7. Major Shareholders and Related Party Transactions Related Party Transactions Contribution Agreement; Subordinated Loan Agreement."

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*Subordinated Loan Agreement.* For a description of the Subordinated Loan Agreement, dated as of August 10, 2018, between the Company and DIL, please see "Item 7. Major Shareholders and Related Party Transactions Related Party Transactions Contribution Agreement; Subordinated Loan Agreement."

*Backstop Agreement.* For a description of the Backstop Agreement, dated as of August 10, 2018, by and among the Company, DIL and Danaos Shipping Company Limited, please see "Item 7. Major Shareholders and Related Party Transactions Related Party Transactions Backstop Agreement."

*Registration Rights Agreement.* We entered into a registration rights agreement, dated as of August 10, 2018, with those lenders which received common stock in the 2018 Refinancing and DIL (the "Registration Rights Agreement"), pursuant to which we agreed to register for resale under the Securities Act the common stock held by DIL, the common stock issued to such lenders in the 2018 Refinancing, as well as shares issued to DIL pursuant to the Backstop Agreement and its dividend reinvestment obligation described in "Item 10. Additional Information Stockholders Agreement", subject to the limitations contained therein. The Registration Rights Agreement requires us to file with the SEC a shelf registration statement to register resales of common stock received by such lenders and DIL and to use our commercially reasonable efforts to request the SEC declare it effective no later than 90 days after the 2018 Refinancing Closing Date and maintain its effectiveness. Pursuant to this obligation, we filed a shelf registration statement with the SEC covering all of the shares of common stock received by the lenders in the 2018 Refinancing, which was declared effective by the SEC on September 13, 2018. The Registration Rights Agreement also includes provisions, effective from 90 days after the Follow-on Equity Raise until the date five years after the occurrence of the Follow-on Equity Raise: (1) providing for demand registration rights in the event there is not an effective shelf registration statement at the time, (2) requiring us to provide customary marketing assistance and cooperation in connection with any "shelf take-down" offering requested in accordance with the terms thereof and (3) providing for piggyback registration rights, with customary cutbacks, with respect to such securities.

*Gemini Shareholders Agreement.* For a description of the Shareholders Agreement, dated as of August 5, 2015, by and among Gemini Shipholdings Corporation, the Company and Virage International Ltd., please see "Item 7. Major Shareholders and Related Party Transactions Related Party Transactions Gemini Shipholdings Corporation."

*Credit Facilities.* Amendment and Restatement Agreement, dated July 31, 2018, by and among Danaos Corporation, as Borrower, arranged by Aegean Baltic Bank S.A. and HSH Nordbank AG, as Arrangers, with Aegean Baltic Bank S.A., as Agent and Aegean Baltic Bank S.A., as Security Agent, please see "Item 5. Operating and Financial Review and Prospects 2018 Refinancing and New 2018 Credit Facilities".

Amendment and Restatement Agreement in respect of the Facility Agreement dated February 20, 2007 included therein, dated August 1, 2018, by and among Danaos Corporation, as Borrower and its subsidiaries and The Royal Bank of Scotland PLC and Natwest Markets PLC, please see "Item 5. Operating and Financial Review and Prospects 2018 Refinancing and New 2018 Credit Facilities".

**Exchange Controls and Other Limitations Affecting Stockholders**

Under Marshall Islands law, there are currently no restrictions on the export or import of capital, including foreign exchange controls or restrictions that affect the remittance of dividends, interest or other payments to non-resident holders of our common stock. In mid-2015, Greece implemented capital controls restricting the transfer of funds out of Greece, which would restrict our use of the limited amount of cash we hold in Greece for the remittance of dividends, interest or other payments to non- resident holders of our common stock outside of Greece.

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We are not aware of any limitations on the rights to own our common stock, including rights of non-resident or foreign stockholders to hold or exercise voting rights on our common stock, imposed by foreign law or by our articles of incorporation or bylaws.

**Tax Considerations**

***Marshall Islands Tax Considerations***

We are a Marshall Islands corporation. Because we do not, and we do not expect that we will, conduct business or operations in the Marshall Islands, under current Marshall Islands law we are not subject to tax on income or capital gains and our stockholders will not be subject to Marshall Islands taxation or withholding on dividends and other distributions, including upon a return of capital, we make to our stockholders. In addition, our stockholders, who do not reside in, maintain offices in or engage in business in the Marshall Islands, will not be subject to Marshall Islands stamp, capital gains or other taxes on the purchase, ownership or disposition of common stock, and such stockholders will not be required by the Republic of The Marshall Islands to file a tax return relating to the common stock.

Each stockholder is urged to consult their tax counsel or other advisor with regard to the legal and tax consequences, under the laws of pertinent jurisdictions, including the Marshall Islands, of their investment in us. Further, it is the responsibility of each stockholder to file all state, local and non-U.S., as well as U.S. federal tax returns that may be required of them.

***Liberian Tax Considerations***

The Republic of Liberia enacted a new income tax act effective as of January 1, 2001 (the "New Act"). In contrast to the income tax law previously in effect since 1977, the New Act does not distinguish between the taxation of "non-resident" Liberian corporations, such as our Liberian subsidiaries, which conduct no business in Liberia and were wholly exempt from taxation under the prior law, and "resident" Liberian corporations which conduct business in Liberia and are (and were under the prior law) subject to taxation.

The New Act was amended by the Consolidated Tax Amendments Act of 2011, which was published and became effective on November 1, 2011 (the "Amended Act"). The Amended Act specifically exempts from taxation non-resident Liberian corporations such as our Liberian subsidiaries that engage in international shipping (and are not engaged in shipping exclusively within Liberia) and that do not engage in other business or activities in Liberia other than those specifically enumerated in the Amended Act. In addition, the Amended Act made such exemption from taxation retroactive to the effective date of the New Act.

If, however, our Liberian subsidiaries were subject to Liberian income tax under the Amended Act, they would be subject to tax at a rate of 35% on their worldwide income. As a result, their, and subsequently our, net income and cash flow would be materially reduced. In addition, as the ultimate shareholder of the Liberian subsidiaries we would be subject to Liberian withholding tax on dividends paid by our Liberian subsidiaries at rates ranging from 15% to 20%.

***United States Federal Income Tax Considerations***

The following discussion of United States federal income tax matters is based on the Internal Revenue Code of 1986, or the Code, judicial decisions, administrative pronouncements, and existing and proposed regulations issued by the United States Department of the Treasury, all of which are in effect and available and subject to change, possibly with retroactive effect. Except as otherwise noted, this discussion is based on the assumption that we will not maintain an office or other fixed place of business within the United States. We have no current intention of maintaining such an office. References in this discussion to "we" and "us" are to Danaos Corporation and its subsidiaries on a consolidated basis, unless the context otherwise requires.

*United States Federal Income Taxation of Our Company*

*Taxation of Operating Income: In General*

Unless exempt from United States federal income taxation under the rules discussed below, a foreign corporation is subject to United States federal income taxation in respect of any income that is derived from the use of vessels, from the hiring or leasing of vessels for use on a time, operating or bareboat charter basis, from the participation in a pool, partnership, strategic alliance, joint operating agreement or other joint venture it directly or indirectly owns or participates in that generates such income, or from the performance of services directly related to those uses, which we refer to as "shipping income," to the extent that the shipping income is derived from sources within the United States. For these purposes, 50% of shipping income that is attributable to transportation that begins or ends, but that does not both begin and end, in the United States constitutes income from sources within the United States, which we refer to as "United States-source shipping income."

Shipping income attributable to transportation that both begins and ends in the United States is generally considered to be 100% from sources within the United States. We do not expect to engage in transportation that produces income which is considered to be 100% from sources within the United States.

Shipping income attributable to transportation exclusively between non-United States ports is generally considered to be 100% derived from sources outside the United States. Shipping income derived from sources outside the United States will not be subject to any United States federal income tax.

In the absence of exemption from tax under Section 883 of the Code, our gross United States-source shipping income and that of our vessel-owning or vessel-operating subsidiaries, unless determined to be effectively connected with the conduct of a United States trade or business, as described below, would be subject to a 4% tax imposed without allowance for deductions as described below.

*Exemption of Operating Income from United States Federal Income Taxation*

Under Section 883 of the Code, we and our vessel-owning or vessel-operating subsidiaries will be exempt from United States federal income taxation on United States-source shipping income if:

(1) we and such subsidiaries are organized in foreign countries (our "countries of organization") that grant an "equivalent exemption" to corporations organized in the United States; and

(2) either

(A) more than 50% of the value of our stock is owned, directly or indirectly, by individuals who are "residents" of our country of organization or of another foreign country that grants an "equivalent exemption" to corporations organized in the United States, which we refer to as the "50% Ownership Test"; or

(B) our stock is "primarily and regularly traded on an established securities market" in our country of organization, in another country that grants an "equivalent exemption" to United States corporations, or in the United States, which we refer to as the "Publicly-Traded Test."

We believe, based on Revenue Ruling 2008-17, 2008-12 IRB 626, and, in the case of the Marshall Islands, an exchange of notes between the United States and the Marshall Islands, 1990-2 C.B. 321, in the case of Liberia, an exchange of notes between the United States and Liberia, 1988-1 C.B. 463, in the case of Cyprus, an exchange of notes between the United States and Cyprus, 1989-2 C.B. 332 and, in the case of Malta, an exchange of notes between the United States and Malta, 1997-1 C.B. 314,

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(each an "Exchange of Notes"), that the Marshall Islands, Liberia, Cyprus and Malta, the jurisdictions in which we and our vessel-owning and vessel-operating subsidiaries are incorporated, grant an "equivalent exemption" to United States corporations. Therefore, we believe that we and our vessel-owning and vessel-operating subsidiaries will be exempt from United States federal income taxation with respect to United States-source shipping income if either the 50% Ownership Test or the Publicly-Traded Test is met. While we believe that we have previously satisfied the 50% Ownership Test, it may be difficult for us to continue to satisfy the 50% Ownership Test due to the public trading of our stock, following the consummation of the 2018 Refinancing, because the 883 Trust no longer owns more than 50% of our shares. Our ability to satisfy the Publicly-Traded Test is discussed below.

The Section 883 regulations provide, in pertinent part, that stock of a foreign corporation will be considered to be "primarily traded" on an established securities market in a particular country if the number of shares of each class of stock that are traded during any taxable year on all established securities markets in that country exceeds the number of shares in each such class that are traded during that year on established securities markets in any other single country. For 2018, our common stock, which is the sole class of our issued and outstanding stock, was "primarily traded" on the New York Stock Exchange. We expect that that will also be the case for subsequent taxable years, but no assurance can be given that this will be the case, or that we otherwise will be eligible for the Publicly-Traded Test.

Under the regulations, our common stock will be considered to be "regularly traded" on an established securities market if one or more classes of our stock representing more than 50% of our outstanding shares, by total combined voting power of all classes of stock entitled to vote and total value, is listed on the market. We refer to this as the "listing threshold". Since our common stock is our sole class of stock we satisfied the listing threshold for 2018 and expect to continue to do so for subsequent taxable years.

It is further required that with respect to each class of stock relied upon to meet the listing threshold (i) such class of the stock is traded on the market, other than in minimal quantities, on at least 60 days during the taxable year or 1/6 of the days in a short taxable year; and (ii) the aggregate number of shares of such class of stock traded on such market is at least 10% of the average number of shares of such class of stock outstanding during such year or as appropriately adjusted in the case of a short taxable year. We believe that we satisfied the trading frequency and trading volume tests for 2018. We expect to continue to satisfy these requirements following the consummation of the 2018 Refinancing and for subsequent taxable years, but no assurance can be given that this will be the case. Even if this were not the case, the regulations provide that the trading frequency and trading volume tests will be deemed satisfied if, as was the case for 2018 and may be the case with our common stock for subsequent taxable years, such class of stock is traded on an established market in the United States and such stock is regularly quoted by dealers making a market in such stock.

Notwithstanding the foregoing, the regulations provide, in pertinent part, that a class of our stock will not be considered to be "regularly traded" on an established securities market for any taxable year in which 50% or more of such class of our outstanding shares of the stock is owned, actually or constructively under specified stock attribution rules, on more than half the days during the taxable year by persons who each own 5% or more of the value of such class of our outstanding stock, which we refer to as the "5 Percent Override Rule."

For purposes of being able to determine the persons who own 5% or more of our stock, or "5% Stockholders," the regulations permit us to rely on those persons that are identified on Schedule 13G and Schedule 13D filings with the United States Securities and Exchange Commission, or the "SEC," as having a 5% or more beneficial interest in our common stock. The regulations further provide that an investment company which is registered under the Investment Company Act of 1940, as amended, will not be treated as a 5% Stockholder for such purposes.

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More than 50% of our shares of common stock were owned prior to the consummation of the Refinancing, and following the consummation of the Refinancing, more than 50% of our shares of common stock may be owned, by 5% stockholders. For any period that this is the case, we will be subject to the 5% Override Rule unless we can establish that among the shares included in the closely-held block of our shares of common stock there are a sufficient number of shares of common stock that are owned or treated as owned by "qualified stockholders" such that the shares of common stock included in such block that are not so treated could not constitute 50% or more of the shares of our common stock for more than half the number of days during the taxable year. In order to establish this, such qualified stockholders would have to comply with certain documentation and certification requirements designed to substantiate their identity as qualified stockholders. For these purposes, a "qualified stockholder" includes (i) an individual that owns or is treated as owning shares of our common stock and is a resident of a jurisdiction that provides an exemption that is equivalent to that provided by Section 883 of the Code and (ii) certain other persons. There can be no assurance that we will not be subject to the 5 Percent Override Rule with respect to any taxable year.

Approximately 31.8% of our shares will be treated, under applicable attribution rules, as owned by the 883 Trust whose ownership of our shares will be attributed, during his lifetime, to John Coustas, our chief executive officer, for purposes of Section 883. Dr. Coustas has entered into an agreement with us regarding his compliance, and the compliance of certain entities that he controls and through which he owns our shares, with the certification requirements designed to substantiate status as qualified stockholders. In certain circumstances, including circumstances where Dr. Coustas ceases to be a "qualified stockholder" or where the 883 Trust transfers some or all of our shares that it holds, Dr. Coustas' compliance, and the compliance of certain entities that he controls or through which he owns our shares, with the terms of the agreement with us will not enable us to satisfy the requirements for the benefits of Section 883. Following Dr. Coustas' death, there can be no assurance that our shares that are treated, under applicable attribution rules, as owned by the 883 Trust will be treated as owned by a "qualified stockholder" or that any "qualified stockholder" to whom ownership of all or a portion of such ownership is attributed will comply with the ownership certification requirements under Section 883.

Accordingly, there can be no assurance that we or any of our vessel-owning or vessel-operating subsidiaries will qualify for the benefits of Section 883 for any taxable year.

To the extent the benefits of Section 883 are unavailable, our U.S.-source shipping income, to the extent not considered to be "effectively connected" with the conduct of a United States trade or business, as described below, would be subject to a 4% tax imposed by Section 887 of the Code on a gross basis, without the benefit of deductions. Since, under the sourcing rules described above, we expect that no more than 50% of our shipping income would be treated as being derived from United States sources, we expect that the maximum effective rate of United States federal income tax on our gross shipping income would never exceed 2% under the 4% gross basis tax regime. Many of our charters contain provisions obligating the charter to reimburse us for amounts paid in respect of the 4% tax with respect to the activities of the vessel subject to the charter.

To the extent the benefits of the Section 883 exemption are unavailable and our United States-source shipping income is considered to be "effectively connected" with the conduct of a United States trade or business, as described below, any such "effectively connected" U.S.-source shipping income, net of applicable deductions, would be subject to the United States federal corporate income tax currently imposed at rates of up to 21%. In addition, we may be subject to the 30% "branch profits" taxes on earnings effectively connected with the conduct of such trade or business, as determined after allowance for certain adjustments, and on certain interest paid or deemed paid attributable to the conduct of our United States trade or business.

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Our U.S.-source shipping income, other than leasing income, will be considered "effectively connected" with the conduct of a United States trade or business only if:

- we have, or are considered to have, a fixed place of business in the United States involved in the earning of shipping income; and
- substantially all (at least 90%) of our U.S.-source shipping income, other than leasing income, is attributable to regularly scheduled transportation, such as the operation of a vessel that follows a published schedule with repeated sailings at regular intervals between the same points for operating that begin or end in the United States.

Our U.S.-source shipping income from leasing will be considered "effectively connected" with the conduct of a U.S. trade or business only if:

- we have, or are considered to have a fixed place of business in the United States that is involved in the meaning of such leasing income; and
- substantially all (at least 90%) of our U.S.-source shipping income from leasing is attributable to such fixed place of business.

For these purposes, leasing income is treated as attributable to a fixed place of business where such place of business is a material factor in the realization of such income and such income is realized in the ordinary course of business carried on through such fixed place of business. Based on the foregoing and on the expected mode of our shipping operations and other activities, we believe that none of our U.S.-source shipping income will be "effectively connected" with the conduct of a U.S. trade or business.

*United States Taxation of Gain on Sale of Vessels*

Regardless of whether we qualify for exemption under Section 883, we will not be subject to United States federal income taxation with respect to gain realized on a sale of a vessel, provided the sale is considered to occur outside of the United States under United States federal income tax principles. In general, a sale of a vessel will be considered to occur outside of the United States for this purpose if title to the vessel, and risk of loss with respect to the vessel, pass to the buyer outside of the United States. It is expected that any sale of a vessel will be so structured that it will be considered to occur outside of the United States unless any gain from such sale is expected to qualify for exemption under Section 883.

*United States Federal Income Taxation of United States Holders*

As used herein, the term "United States Holder" means a beneficial owner of common stock that is a United States citizen or resident, United States corporation or other United States entity taxable as a corporation, an estate the income of which is subject to United States federal income taxation regardless of its source, or a trust if a court within the United States is able to exercise primary jurisdiction over the administration of the trust and one or more United States persons have the authority to control all substantial decisions of the trust. The discussion that follows deals only with common stock that are held by a United States Holder as capital assets, and does not address the treatment of United States Holders that are subject to special tax rules.

If a partnership holds our common stock, the tax treatment of a partner will generally depend upon the status of the partner and upon the activities of the partnership. Partners in a partnership holding our common stock are encouraged to consult their tax advisor.

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*Distributions with Respect to Common Stock*

Subject to the discussion of passive foreign investment companies, or PFICs, below, any distributions made by us with respect to our common stock to a United States Holder will generally constitute dividends, which may be taxable as ordinary income or "qualified dividend income" as described in more detail below, to the extent of our current or accumulated earnings and profits, as determined under United States federal income tax principles. Distributions in excess of our earnings and profits will be treated first as a nontaxable return of capital to the extent of the United States Holder's tax basis in his or her or its common stock on a dollar for dollar basis and thereafter as capital gain. Because we are not a United States corporation, United States Holders that are corporations will not be entitled to claim a dividends received deduction with respect to any distributions they receive from us. Dividends paid with respect to our common stock will generally be treated as passive category income or, in the case of certain types of United States Holders, general category income for purposes of computing allowable foreign tax credits for United States foreign tax credit purposes. Dividends paid on our common stock to a United States Holder who is an individual, trust or estate (a "United States Individual Holder") should be treated as "qualified dividend income" that is taxable to such United States Individual Holders at preferential tax rates provided that (1) the common stock is readily tradable on an established securities market in the United States (such as the New York Stock Exchange); (2) we are not a PFIC for the taxable year during which the dividend is paid or the immediately preceding taxable year (see the discussion below under " PFIC Status and Material U.S. Federal Tax Consequences"); and (3) the United States Individual Holder owns the common stock for more than 60 days in the 121- day period beginning 60 days before the date on which the common stock becomes ex-dividend. Special rules may apply to any "extraordinary dividend". Generally, an extraordinary dividend is a dividend in an amount which is equal to or in excess of ten percent of a stockholder's adjusted basis (or fair market value in certain circumstances) in a share of common stock paid by us. If we pay an "extraordinary dividend" on our common stock that is treated as "qualified dividend income," then any loss derived by a United States Individual Holder from the sale or exchange of such common stock will be treated as long-term capital loss to the extent of such dividend.

There is no assurance that any dividends paid on our common stock will be eligible for these preferential rates in the hands of a United States Individual Holder. Any dividends paid by us which are not eligible for these preferential rates will be taxed to a United States Individual Holder at the standard ordinary income rates.

Legislation has been previously introduced that would deny the preferential rate of federal income tax currently imposed on qualified dividend income with respect to dividends received from a non-U.S. corporation, unless the non-U.S. corporation either is eligible for the benefits of a comprehensive income tax treaty with the United States or is created or organized under the laws of a foreign country which has a comprehensive income tax system. Because the Marshall Islands has not entered into a comprehensive income tax treaty with the United States and imposes only limited taxes on corporations organized under its laws, it is unlikely that we could satisfy either of these requirements. Consequently, if this legislation were enacted in its current form the preferential rate of federal income tax described above may no longer be applicable to dividends received from us. As of the date hereof, it is not possible to predict with certainty whether or in what form legislation of this sort might be proposed, or enacted.

*Sale, Exchange or other Disposition of Common Stock*

Assuming we do not constitute a PFIC for any taxable year, a United States Holder generally will recognize taxable gain or loss upon a sale, exchange or other disposition of our common stock in an amount equal to the difference between the amount realized by the United States Holder from such sale, exchange or other disposition and the United States Holder's tax basis in such stock. Such gain or

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loss will be treated as long-term capital gain or loss if the United States Holder's holding period is greater than one year at the time of the sale, exchange or other disposition. Such capital gain or loss will generally be treated as United States-source income or loss, as applicable, for United States foreign tax credit purposes. A United States Holder's ability to deduct capital losses is subject to certain limitations.

*PFIC Status and Material U.S. Federal Tax Consequences*

Special United States federal income tax rules apply to a United States Holder that holds stock in a foreign corporation classified as a passive foreign investment company, or PFIC, for United States federal income tax purposes. In general, we will be treated as a PFIC in any taxable year in which, after applying certain look-through rules, either:

- at least 75% of our gross income for such taxable year consists of passive income (e.g., dividends, interest, capital gains and rents derived other than in the active conduct of a rental business); or

- at least 50% of the average value of our assets during such taxable year produce, or are held for the production of, passive income.

For purposes of determining whether we are a PFIC, we will be treated as earning and owning our proportionate share of the income and assets, respectively, of any of our subsidiary corporations in which we own at least 25% of the value of the subsidiary's stock. Income earned, or deemed earned, by us in connection with the performance of services will not constitute passive income. By contrast, rental income will generally constitute "passive income" unless we are treated under specific rules as deriving our rental income in the active conduct of a trade or business.

We may hold, directly or indirectly, interests in other entities that are PFICs ("Subsidiary PFICs"). If we are a PFIC, each United States Holder will be treated as owning its pro-rata share by value of the stock of any such Subsidiary PFICs.

While there are legal uncertainties involved in this determination, we believe that we should not be treated as a PFIC for the taxable year ended December 31, 2018. We believe that, although there is no legal authority directly on point, the gross income that we derive from time chartering activities of our subsidiaries should constitute services income rather than rental income. Consequently, such income should not constitute passive income and the vessels that we or our subsidiaries operate in connection with the production of such income should not constitute passive assets for purposes of determining whether we are a PFIC. The characterization of income from time charters, however, is uncertain. Although there is older legal authority supporting this position consisting of case law and Internal Revenue Service, or IRS, pronouncements concerning the characterization of income derived from time charters as services income for other tax purposes, the United States Court of Appeals for the Fifth Circuit held in *Tidewater Inc. and Subsidiaries v. United States*, 565 F.3d 299; (5th Cir. 2009), that income derived from certain time chartering activities should be treated as rental income rather than services income for purposes of the "foreign sales corporation" rules under the Code. The IRS has stated that it disagrees with and will not acquiesce to the *Tidewater* decision, and in its discussion stated that the time charters at issue in *Tidewater* would be treated as producing services income for PFIC purposes. However, the IRS's statement with respect to the *Tidewater* decision was an administrative action that cannot be relied upon or otherwise cited as precedent by taxpayers. Consequently, in the absence of any binding legal authority specifically relating to the statutory provisions governing PFICs, there can be no assurance that the IRS or a court would agree with the *Tidewater* decision. However, if the principles of the *Tidewater* decision were applicable to our time charters, we would likely be treated as a PFIC. Moreover, although we intend to conduct our affairs in a manner to avoid being classified as a PFIC, we cannot assure you that the nature of our assets, income and operations will not change, or that we can avoid being treated as a PFIC for any taxable year.

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If we were to be treated as a PFIC for any taxable year, a United States Holder would be required to file an annual report with the IRS for that year with respect to such holder's common stock. In addition, as discussed more fully below, if we were to be treated as a PFIC for any taxable year, a United States Holder of our common stock would be subject to different taxation rules depending on whether the United States Holder makes an election to treat us as a "Qualified Electing Fund," which election we refer to as a "QEF election." As an alternative to making a QEF election, a United States Holder should be able to make a "mark-to-market" election with respect to our common stock, as discussed below.

*Taxation of United States Holders Making a Timely QEF Election*

If a United States Holder makes a timely QEF election with respect to our common stock, which United States Holder we refer to as an "Electing Holder," for United States federal income tax purposes each year the Electing Holder must report his, her or its pro-rata share of our ordinary earnings and our net capital gain, if any, for our taxable year that ends with or within the taxable year of the Electing Holder, regardless of whether or not distributions were received from us by the Electing Holder. Generally, a QEF election should be made on or before the due date for filing the electing United States Holder's U.S. federal income tax return for the first taxable year in which our common stock is held by such United States Holder and we are classified as a PFIC. The Electing Holder's adjusted tax basis in the common stock would be increased to reflect taxed but undistributed earnings and profits. Distributions of earnings and profits that had been previously taxed would result in a corresponding reduction in the adjusted tax basis in the common stock and would not be taxed again once distributed. An Electing Holder would generally recognize capital gain or loss on the sale, exchange or other disposition of our common stock. A United States Holder would make a QEF election with respect to any year that our company and any Subsidiary PFIC are treated as PFICs by filing one copy of IRS Form 8621 with his, her or its United States federal income tax return and a second copy in accordance with the instructions to such form. If we were to become aware that we were to be treated as a PFIC for any taxable year, we would notify all United States Holders of such treatment and would provide all necessary information to any United States Holder who requests such information in order to make the QEF election described above with respect to our common stock and the stock of any Subsidiary PFIC.

*Taxation of United States Holders Making a "Mark-to-Market" Election*

Alternatively, if we were to be treated as a PFIC for any taxable year and, as we anticipate, our common stock is treated as "marketable stock," a United States Holder of our common stock would be allowed to make a "mark-to- market" election with respect to our common stock, provided the United States Holder completes and files IRS Form 8621 in accordance with the relevant instructions and related Treasury Regulations. If that election is made, the United States Holder generally would include as ordinary income in each taxable year the excess, if any, of the fair market value of the common stock at the end of the taxable year over such holder's adjusted tax basis in the common stock. The United States Holder also would be permitted an ordinary loss in respect of the excess, if any, of the United States Holder's adjusted tax basis in the common stock over its fair market value at the end of the taxable year, but only to the extent of the net amount previously included in income as a result of the mark-to-market election. A United States Holder's tax basis in his, her or its common stock would be adjusted to reflect any such income or loss amount. Gain realized on the sale, exchange or other disposition of our common stock would be treated as ordinary income, and any loss realized on the sale, exchange or other disposition of the common stock would be treated as ordinary loss to the extent that such loss does not exceed the net mark-to-market gains previously included by the United States Holder. A mark-to-market election under the PFIC rules with respect to our common stock would not apply to a Subsidiary PFIC, and a United States Holder would not be able to make such a mark-to-market election in respect of its indirect ownership interest in that Subsidiary PFIC.

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Consequently, United States Holders of our common stock could be subject to the PFIC rules with respect to income of the Subsidiary PFIC, the value of which already had been taken into account indirectly via mark-to-market adjustments.

*Taxation of United States Holders Not Making a Timely QEF or Mark- to-Market Election*

Finally, if we were treated as a PFIC for any taxable year, a United States Holder who does not make either a QEF election or a "mark-to-market" election for that year, whom we refer to as a "Non-Electing Holder," would be subject to special rules with respect to (1) any excess distribution (i.e., the portion of any distributions received by the Non-Electing Holder on our common stock in a taxable year in excess of 125% of the average annual distributions received by the Non-Electing Holder in the three preceding taxable years, or, if shorter, the Non-Electing Holder's holding period for the common stock) and (2) any gain realized on the sale, exchange or other disposition of our common stock. Under these special rules:

- the excess distribution or gain would be allocated ratably over the Non-Electing Holder's aggregate holding period for the common stock;

- the amount allocated to the current taxable year or to any portion of the United States Holder's holding period prior to the first taxable year for which we were a PFIC would be taxed as ordinary income; and

- the amount allocated to each of the other taxable years would be subject to tax at the highest rate of tax in effect for the applicable class of taxpayer for that year, and an interest charge for the deemed deferral benefit would be imposed with respect to the resulting tax attributable to each such other taxable year.

If we were treated as a PFIC for any taxable year, a U.S. Holder that owns our shares would be required to file an annual information return with the IRS reflecting such ownership, regardless of whether a QEF election or a mark-to-market election had been made.

If a United States Holder held our common stock during a period when we were treated as a PFIC but the United States Holder did not have a QEF election in effect with respect to us, then in the event that we failed to qualify as a PFIC for a subsequent taxable year, the United States Holder could elect to cease to be subject to the rules described above with respect to those shares by making a "deemed sale" or, in certain circumstances, a "deemed dividend" election with respect to our common stock. If the United States Holder makes a deemed sale election, the United States Holder will be treated, for purposes of applying the rules described in the preceding paragraph, as having disposed of our common stock for their fair market value on the last day of the last taxable year for which we qualified as a PFIC (the "termination date"). The United States Holder would increase his, her or its basis in such common stock by the amount of the gain on the deemed sale described in the preceding sentence. Following a deemed sale election, the United States Holder would not be treated, for purposes of the PFIC rules, as having owned the common stock during a period prior to the termination date when we qualified as a PFIC.

If we were treated as a "controlled foreign corporation" for United States tax purposes for the taxable year that included the termination date, then a United States Holder could make a deemed dividend election with respect to our common stock. If a deemed dividend election is made, the United States Holder is required to include in income as a dividend his, her or its pro-rata share (based on all of our stock held by the United States Holder, directly or under applicable attribution rules, on the termination date) of our post-1986 earnings and profits as of the close of the taxable year that includes the termination date (taking only earnings and profits accumulated in taxable years in which we were a PFIC into account). The deemed dividend described in the preceding sentence is treated as an excess distribution for purposes of the rules described in the second preceding paragraph. The United States

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Holder would increase his, her or its basis in our common stock by the amount of the deemed dividend. Following a deemed dividend election, the United States Holder would not be treated, for purposes of the PFIC rules, as having owned the common stock during a period prior to the termination date when we qualified as a PFIC. For purposes of determining whether the deemed dividend election is available, we will generally be treated as a controlled foreign corporation for a taxable year when, at any time during that year, United States persons, each of whom owns, directly or under applicable attribution rules, common stock having 10% or more of the total voting power of our common stock, in the aggregate own, directly or under applicable attribution rules, shares representing more than 50% of the voting power or value of our common stock.

A deemed sale or deemed dividend election must be made on the United States Holder's original or amended return for the shareholder's taxable year that includes the termination date and, if made on an amended return, such amended return must be filed not later than the date that is three years after the due date of the original return for such taxable year. Special rules apply where a person is treated, for purposes of the PFIC rules, as indirectly owning our common stock.

***United States Federal Income Taxation of "Non-United States Holders"***

A beneficial owner of common stock that is not a United States Holder and is not treated as a partnership for United States federal income tax purposes is referred to herein as a "Non-United States Holder."

*Dividends on Common Stock*

Non-United States Holders generally will not be subject to United States federal income tax or withholding tax on dividends received from us with respect to our common stock, unless that income is effectively connected with the Non-United States Holder's conduct of a trade or business in the United States. If the Non-United States Holder is entitled to the benefits of a United States income tax treaty with respect to those dividends, that income generally is taxable only if it is attributable to a permanent establishment maintained by the Non-United States Holder in the United States.

*Sale, Exchange or Other Disposition of Common Stock*

Non-United States Holders generally will not be subject to United States federal income tax or withholding tax on any gain realized upon the sale, exchange or other disposition of our common stock unless:

- the gain is effectively connected with the Non-United States Holder's conduct of a trade or business in the United States. If the Non- United States Holder is entitled to the benefits of an income tax treaty with respect to that gain, that gain generally is taxable only if it is attributable to a permanent establishment maintained by the Non-United States Holder in the United States; or

- the Non-United States Holder is an individual who is present in the United States for 183 days or more during the taxable year of disposition and other conditions are met.

If the Non-United States Holder is engaged in a United States trade or business for United States federal income tax purposes, the income from the common stock, including dividends (with respect to the common stock) and the gain from the sale, exchange or other disposition of the stock that is effectively connected with the conduct of that trade or business will generally be subject to regular United States federal income tax in the same manner as discussed in the previous section relating to the taxation of United States Holders. In addition, in the case of a corporate Non-United States Holder, such holder's earnings and profits that are attributable to the effectively connected income,

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which are subject to certain adjustments, may be subject to an additional branch profits tax at a rate of 30%, or at a lower rate as may be specified by an applicable income tax treaty.

*Backup Withholding and Information Reporting*

In general, dividend payments, or other taxable distributions, made within the United States to a noncorporate United States holder will be subject to information reporting requirements and backup withholding tax if such holder:

- fails to provide an accurate taxpayer identification number;
- is notified by the IRS that it has failed to report all interest or dividends required to be shown on its federal income tax returns; or
- in certain circumstances, fails to comply with applicable certification requirements.

Non-United States Holders may be required to establish their exemption from information reporting and backup withholding by certifying their status on IRS Form W-8BEN, W-8ECI or W-8IMY, as applicable.

If a holder sells our common stock to or through a United States office or broker, the payment of the proceeds is subject to both United States backup withholding and information reporting unless the holder certifies that it is a non-United States person, under penalties of perjury, or the holder otherwise establishes an exemption. If a holder sells our common stock through a non-United States office of a non-United States broker and the sales proceeds are paid outside the United States, information reporting and backup withholding generally will not apply to that payment. However, United States information reporting requirements, but not backup withholding, will apply to a payment of sales proceeds, even if that payment is made outside the United States, if a holder sells our common stock through a non-United States office of a broker that is a United States person or has some other contacts with the United States.

Backup withholding tax is not an additional tax. Rather, a holder generally may obtain a refund of any amounts withheld under backup withholding rules that exceed such stockholder's income tax liability by filing a refund claim with the IRS.

**Dividends and Paying Agents**

Not applicable.

**Statement by Experts**

Not applicable.

**Documents on Display**

We are subject to the informational requirements of the Securities Exchange Act of 1934, as amended. In accordance with these requirements, we file reports and other information as a foreign private issuer with the SEC. You may access our public filings and reports and other information regarding registrants, including us, that file electronically with the SEC without charge at a web site maintained by the SEC at *http://www.sec.gov*.

## Item 11. Quantitative and Qualitative Disclosures About Market Risk

*Interest Rate Risk*

We currently have no outstanding interest rate swaps agreements. However, in the past years, we entered into interest rate swap agreements designed to pro-actively and efficiently manage our floating

rate exposure on our credit facilities. We have recognized these derivative instruments on the consolidated balance sheet at their fair value. Pursuant to the adoption of our Risk Management Accounting Policy, and after putting in place the formal documentation required by the accounting guidance for derivatives and hedging in order to designate these swaps as hedging instruments, as of June 15, 2006, these interest rate swaps qualified for hedge accounting, and, accordingly, from that time until June 30, 2012, only hedge ineffectiveness amounts arising from the differences in the change in fair value of the hedging instrument and the hedged item were recognized in the Company's earnings. Assessment and measurement of prospective and retrospective effectiveness for these interest rate swaps were performed on a quarterly basis until June 30, 2012. For qualifying cash flow hedges, the fair value gain or loss associated with the effective portion of the cash flow hedge was recognized initially in stockholders' equity, and recognized to the Statement of Operations in the periods when the hedged item affects profit or loss. On July 1, 2012, we elected to prospectively de-designate cash flow interest rate swaps for which we were obtaining hedge accounting treatment due to the compliance burden associated with this accounting policy. As a result, all changes in the fair value of our cash flow interest rate swap agreements are recorded in earnings under "Unrealized and Realized Losses on Derivatives" from the de-designation date forward. We have not held or issued derivative financial instruments for trading or other speculative purposes.

Accounting guidance for derivative instruments, including certain derivative instruments embedded in other contracts and for hedging activities requires that an entity recognize all derivatives as either assets or liabilities in the consolidated balance sheet and measures those instruments at fair value. If certain conditions are met, a derivative may be specifically designated as a hedge, the objective of which is to match the timing of gain or loss recognition on the hedging derivative with the recognition of (i) the changes in the fair value of the hedged asset or liability that are attributable to the hedged risk or (ii) the earnings effect of the hedged forecasted transaction. For a derivative not designated as a hedging instrument, the gain or loss is recognized in income in the period of change.

*Fair Value Interest Rate Swap Hedges*

These interest rate swaps were designed to economically hedge the fair value of the fixed rate loan facilities against fluctuations in the market interest rates by converting our fixed rate loan facilities to floating rate debt. Pursuant to the adoption of our Risk Management Accounting Policy, and after putting in place the formal documentation required by hedge accounting in order to designate these swaps as hedging instruments, as of June 15, 2006, these interest rate swaps qualified for hedge accounting, and, accordingly, from that time until June 30, 2012, hedge ineffectiveness amounts arising from the differences in the change in fair value of the hedging instrument and the hedged item were recognized in our earnings. Assessment and measurement of prospective and retrospective effectiveness for these interest rate swaps was performed on a quarterly basis, on the financial statement and earnings reporting dates.

On July 1, 2012, we elected to prospectively de-designate fair value interest rate swaps for which it was applying hedge accounting treatment due to the compliance burden associated with this accounting policy. All changes in the fair value of our fair value interest rate swap agreements will continue to be recorded in earnings under "Unrealized and Realized Losses on Derivatives" from the de-designation date forward.

The total fair value change of the interest rate swaps for the years ended December 31, 2018, 2017 and 2016, amounted to nil, nil and $(0.1) million, respectively, and is included in the consolidated Statements of Operations in "Net unrealized and realized losses on derivatives".

We reclassified from "Current portion of long-term debt" and "Long-term debt, net of current portion", where its fair value of hedged item is recorded, to our earnings unrealized gains/losses an amount of nil, nil and $0.4 million for the years ended December 31, 2018, 2017 and 2016, respectively.

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*Cash Flow Interest Rate Swap Hedges*

In prior years, we decided to swap part of our interest expenses from floating to fixed. To this effect, we entered into interest rate swap transactions with varying start and maturity dates, in order to pro- actively and efficiently manage our floating rate exposure.

These interest rate swaps were designed to economically hedge the variability of interest cash flows arising from floating rate debt, attributable to movements in three-month USD$ LIBOR. According to our Risk Management Accounting Policy, and after putting in place the formal documentation required by hedge accounting in order to designate these swaps as hedging instruments, as from their inception, these interest rate swaps qualified for hedge accounting and, accordingly, from that time until June 30, 2012, only hedge ineffectiveness amounts arising from the differences in the change in fair value of the hedging instrument and the hedged item were recognized in our earnings. Assessment and measurement of prospective and retrospective effectiveness for these interest rate swaps were performed on a quarterly basis. For qualifying cash flow hedges, the fair value gain or loss associated with the effective portion of the cash flow hedge was recognized initially in stockholders' equity, and recognized to the Statement of Operations in the periods when the hedged item affects profit or loss.

On July 1, 2012, we elected to prospectively de-designate cash flow interest rate swaps for which we were obtaining hedge accounting treatment due to the compliance burden associated with this accounting policy. As a result, all changes in the fair value of our cash flow interest rate swap agreements are recorded in earnings under "Unrealized and Realized Losses on Derivatives" from the de-designation date forward. We evaluated whether it is probable that the previously hedged forecasted interest payments are probable to not occur in the originally specified time period. We concluded that the previously hedged forecasted interest payments are probable of occurring. Therefore, unrealized gains or losses in accumulated other comprehensive loss associated with the previously designated cash flow interest rate swaps will remain in accumulated other comprehensive loss and recognized in earnings when the interest payments will be recognized. If such interest payments were to be identified as being probable of not occurring, the accumulated other comprehensive loss balance pertaining to these amounts would be reversed through earnings immediately.

We recorded in the consolidated Statements of Operations unrealized gains of nil, nil and $4.5 million in relation to fair value changes of cash flow interest rate swaps for the years ended December 31, 2018, 2017 and 2016, respectively. Furthermore, nil, nil and $0.2 million of unrealized losses were reclassified from Accumulated Other Comprehensive Loss to earnings for year ended December 31, 2018, 2017 and 2016, respectively.

The variable-rate interest on specific borrowings that was associated with vessels under construction was capitalized as a cost of the specific vessels. In accordance with the accounting guidance on derivatives and hedging, the amounts in accumulated other comprehensive income related to realized gains or losses on cash flow hedges that have been entered into and qualify for hedge accounting, in order to hedge the variability of that interest, are classified under other comprehensive income and are reclassified into earnings over the depreciable life of the constructed asset, since that depreciable life coincides with the amortization period for the capitalized interest cost on the debt. An amount of $3.7 million, $3.7 million and $4.0 million was reclassified into earnings for the years ended December 31, 2018, 2017 and 2016, respectively, representing amortization over the depreciable life of the vessels. Additionally, the Company recognized accelerated amortization of these deferred realized losses of $1.4 million, nil and $7.7 million in connection with the impairment losses recognized on the respective vessels for the years ended December 31, 2018, 2017 and 2016.

Assuming no changes to our borrowings or hedging instruments after December 31, 2018, a 10 basis points increase in interest rates on our floating rate debt outstanding at December 31, 2018 would result in a decrease of approximately $0.8 million in our earnings in 2019. These amounts are determined by calculating the effect of a hypothetical interest rate change on our floating rate debt.

These amounts do not include the effects of certain potential results of changing interest rates, such as a different level of overall economic activity, or other actions management may take to mitigate this risk. Furthermore, this sensitivity analysis does not assume alterations in our gross debt or other changes in our financial position.

*Foreign Currency Exchange Risk*

We generate all of our revenues in U.S. dollars, but for the year ended December 31, 2018 we incurred approximately 26.4% of our operating expenses in currencies other than U.S. dollars (mainly in Euros). As of December 31, 2018, approximately 32.8% of our outstanding accounts payable were denominated in currencies other than the U.S. dollar (mainly in Euro). We have not entered into derivative instruments to hedge the foreign currency translation of assets or liabilities or foreign currency transactions.

## Item 12. Description of Securities Other than Equity Securities

Not Applicable.

# PART II

## Item 13. Defaults, Dividend Arrearages and Delinquencies

Not Applicable.

## Item 14. Material Modifications to the Rights of Security Holders and Use of Proceeds

Not Applicable.

## Item 15. Controls and Procedures

### *15A. Disclosure Controls and Procedures*

Our management, with the participation of our Chief Executive Officer and Chief Financial Officer, has evaluated the effectiveness of the design and operation of our disclosure controls and procedures, as defined in Rules 13a-15(e) and 15d-15(e) under the Securities Exchange Act of 1934, as of December 31, 2018. Disclosure controls and procedures are defined under SEC rules as controls and other procedures that are designed to ensure that information required to be disclosed by a company in the reports that it files or submits under the Securities Exchange Act of 1934 is recorded, processed, summarized and reported within required time periods. Disclosure controls and procedures include controls and procedures designed to ensure that information required to be disclosed by an issuer in the reports that it files or submits under the Securities Exchange Act of 1934 is accumulated and communicated to the issuer's management, including its principal executive and principal financial officers, or persons performing similar functions, as appropriate, to allow timely decisions regarding required disclosure. There are inherent limitations to the effectiveness of any system of disclosure controls and procedures, including the possibility of human error and the circumvention or overriding of the controls and procedures. Accordingly, even effective disclosure controls and procedures can only provide reasonable assurance of achieving their control objectives.

Based on our evaluation, our Chief Executive Officer and our Chief Financial Officer have concluded that our disclosure controls and procedures were effective as of December 31, 2018.

### *15B. Management's Annual Report on Internal Control over Financial Reporting*

Our management is responsible for establishing and maintaining adequate internal control over financial reporting, as defined in Rules 13a-15(f) and 15d-15(f) under the Securities Exchange Act of

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1934, and for the assessment of the effectiveness of internal control over financial reporting. Our internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles in the United States ("GAAP").

A company's internal control over financial reporting includes those policies and procedures that (i) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (ii) provide reasonable assurance that transactions are recorded as necessary to permit the preparation of financial statements in accordance with GAAP, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company; and (iii) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the company's assets that could have a material effect on the financial statements.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

In making its assessment of our internal control over financial reporting as of December 31, 2018, management, including the Chief Executive Officer and Chief Financial Officer, used the criteria set forth in Internal Control Integrated Framework (2013) issued by the Committee of Sponsoring Organizations of the Treadway Commission ("COSO").

Management concluded that, as of December 31, 2018, our internal control over financial reporting was effective.

***15C. Attestation Report of the Independent Registered Public Accounting Firm***

PricewaterhouseCoopers S.A, which has audited the consolidated financial statements of the Company for the year ended December 31, 2018, has also audited the effectiveness of the Company's internal control over financial reporting as stated in their audit report which is incorporated into Item 18 of this Form 20-F from page F-2 hereof.

***15D. Change in Internal Control over Financial Reporting***

During the period covered by this Annual Report on Form 20-F, we have made no changes to our internal control over financial reporting that have materially affected or are reasonably likely to materially affect our internal control over financial reporting.

## Item 16A. Audit Committee Financial Expert

Our Audit Committee consists of three independent directors, Myles R. Itkin, who is the chairman of the committee, Miklos Konkoly-Thege and William Repko. Our board of directors has determined that Myles R. Itkin, whose biographical details are included in "Item 6. Directors, Senior Management and Employees," qualifies as an audit committee financial expert as defined under current SEC regulations. Mr. Itkin is independent in accordance with the listing standards of the New York Stock Exchange and SEC rules.

## Item 16B. Code of Ethics

We have adopted a Code of Business Conduct and Ethics for officers and employees of our company, a Code of Conduct for the chief executive officer and senior financial officers of our company and a Code of Ethics for directors of our company, copies of which are posted on our website, and may be viewed at *http://www.danaos.com*. We will also provide a paper copy of these

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documents free of charge upon written request by our stockholders. Stockholders may direct their requests to the attention of Mr. Evangelos Chatzis, Danaos Corporation, c/o Danaos Shipping Co. Ltd., 14 Akti Kondyli, 185 45 Piraeus, Greece. No waivers of the Code of Business Conduct and Ethics, the Code of Conduct or the Code of Ethics have been granted to any person during the year ended December 31, 2018.

**Item 16C. Principal Accountant Fees and Services**

PricewaterhouseCoopers S.A., an independent registered public accounting firm, has audited our annual financial statements acting as our independent auditor for the fiscal years ended December 31, 2018 and 2017.

The chart below sets forth the total amount billed and accrued for the PricewaterhouseCoopers S.A. services performed in 2018 and 2017 and breaks down these amounts by the category of service.

| | 2018 | 2017 |
|---|---|---|
| | (in thousands of dollars) | |
| Audit fees | $ 588.3 | $ 380.1 |
| Audit-related fees | | 43.0 |
| Total fees | $ 588.3 | $ 423.1 |

**Audit Fees**

Audit fees paid were compensation for professional services rendered for the audits of our consolidated financial statements and in connection with the review of the registration statements and related consents required for SEC or other regulatory filings.

**Audit-related Fees; Tax Fees; All Other Fees**

PricewaterhouseCoopers S.A. provided audit-related services related to agreed-upon procedures for the year ended December 31, 2017. No other audit-related, tax or other services were provided for the year ended December 31, 2018 and 2017.

**Pre-approval Policies and Procedures**

The audit committee charter sets forth our policy regarding retention of the independent auditors, requiring the audit committee to review and approve in advance the retention of the independent auditors for the performance of all audit and lawfully permitted non-audit services and the fees related thereto. The chairman of the audit committee or in the absence of the chairman, any member of the audit committee designated by the chairman, has authority to approve in advance any lawfully permitted non-audit services and fees. The audit committee is authorized to establish other policies and procedures for the pre-approval of such services and fees. Where non-audit services and fees are approved under delegated authority, the action must be reported to the full audit committee at its next regularly scheduled meeting.

**Item 16D. Exemptions from the Listing Standards for Audit Committees**

Not Applicable.

**Item 16E. Purchases of Equity Securities by the Issuer and Affiliated Purchasers**

We did not repurchase any shares of our stock in any of the five years ended December 31, 2018.

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**Item 16F. Change in Registrant's Certifying Accountant**

Not Applicable.

**Item 16G. Corporate Governance**

**Statement of Significant Differences between our Corporate Governance Practices and the New York Stock Exchange Corporate Governance Standards for U.S. Domestic Issuers**

Pursuant to certain exceptions for foreign private issuers, we are not required to comply with certain of the corporate governance practices followed by domestic U.S. companies under the New York Stock Exchange listing standards. However, pursuant to Section 303.A.11 of the New York Stock Exchange Listed Company Manual and the requirements of Form 20-F, we are required to state any significant differences between our corporate governance practices and the practices required by the New York Stock Exchange. We believe that our established practices in the area of corporate governance are in line with the spirit of the New York Stock Exchange standards and provide adequate protection to our stockholders. The significant differences between our corporate governance practices and the New York Stock Exchange standards applicable to listed U.S. companies are set forth below.

The New York Stock Exchange requires that a listed U.S. company have a nominating/corporate governance committee and a compensation committee, each composed of independent directors. As permitted under Marshall Islands law and our bylaws, a non-independent director, who is a member of our management who also serves on our board of directors, serves on the nominating and corporate governance committee of our board of directors and until September 2018 served on the compensation committee of our board of directors.

As a foreign private issuer we are permitted to follow the corporate governance rules of our home country in lieu of complying with NYSE shareholder approval requirements applicable to certain share issuances and the adoption or amendment of equity compensation plans, specifically NYSE Rules 303A.08, 312.03(a), 312.03(b) and 312.03(c). If we believe that circumstances warrant, we may elect to comply with the provisions of the Marshall Islands Business Corporations Act which provide that the Board of Directors approve share issuances, without the need for stockholder approval, in lieu of the NYSE rules, as we did in respect of our $200.0 million equity transaction on August 12, 2010 and the issuance of shares in our comprehensive debt refinancing consummated on August 10, 2018. In 2016, our Board of Directors approved the extension of the termination date of our 2016 equity compensation plan until September 17, 2019 in accordance with Marshall Islands law.

**Item 16H. Mine Safety Disclosure**

Not Applicable.

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## PART III

### Item 17. Financial Statements

Not Applicable.

### Item 18. Financial Statements

Reference is made to pages F-1 through F-44 included herein by reference.

### Item 19. Exhibits

| Number | Description |
| --- | --- |
| 1.1 | Restated Articles of Incorporation of Danaos Corporation, as amended by the Articles of Amendment to Restated Articles of Incorporation |
| 1.2 | Amended and Restated Bylaws of Danaos Corporation (incorporated by reference to the Company's Form 6-K filed with the SEC on September 23, 2009) |
| 4.1 | Stockholders Agreement, dated as of August 10, 2018, among Danaos Corporation and the stockholders bound thereby (incorporated by reference to the Company's Report on Form 6-K filed with the SEC on August 14, 2018) |
| 4.2 | Backstop Agreement, dated August 10, 2018, among Danaos Corporation, Danaos Investment Limited and Danaos Shipping Company Limited (incorporated by reference to the Company's Report on Form 6-K filed with the SEC on August 14, 2018) |
| 4.3 | Registration Rights Agreement, dated as of August 10, 2018, among Danaos Corporation and the stockholders bound thereby (incorporated by reference to the Company's Report on Form 6-K filed with the SEC on August 14, 2018) |
| 4.4 | Amended and Restated Management Agreement with Danaos Shipping Co. Ltd., dated August 10, 2018, between Danaos Corporation and Danaos Shipping Company Limited (incorporated by reference to the Company's Report on Form 6-K filed with the SEC on August 14, 2018) |
| 4.5 | Amended and Restated Restrictive Covenant Agreement between Danaos Corporation and Dr. John Coustas, dated August 10, 2018, among Danaos Corporation, Dr. John Coustas and Danaos Investment Limited as the Trustee of the 883 Trust (incorporated by reference to the Company's Report on Form 6-K filed with the SEC on August 14, 2018) |
| 4.6 | Contribution Agreement, dated as of August 10, 2018, between Danaos Corporation and Danaos Investment Limited (incorporated by reference to the Company's Report on Form 6-K filed with the SEC on August 14, 2018) |
| 4.7 | 2006 Equity Compensation Plan (incorporated by reference to the Company's Registration Statement on Form F-1 (Reg. No. 333-137459) filed with the SEC September 19, 2006) |
| 4.8 | Amendment No. 1 to 2006 Equity Compensation Plan (incorporated by reference to the Company's Annual Report on Form 20-F for the year ended December 31, 2016 filed with the SEC on March 6, 2017) |
| 4.9 | Directors' Share Payment Plan (incorporated by reference to the Company's Annual Report on Form 20-F for the year ended December 31, 2008 filed with the SEC on July 13, 2009) |
| 4.10 | Form of Subscription Agreement, including the Form of Registration Rights Agreement attached thereto as Schedule B, for August 2010 common stock sale (incorporated by reference to the Company's Report on Form 6-K filed with the SEC on August 27, 2010) |

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| Number | Description |
|---|---|
| 4.11 | Shareholders Agreement, dated as of August 5, 2015, by and among Gemini Shipholdings Corporation, Virage International Ltd. and Danaos Corporation (incorporated by reference to the Company's Annual Report on Form 20-F for the year ended December 31, 2015 and filed with the SEC on March 15, 2016) |
| 4.12 | Amendment and Restatement Agreement, dated July 31, 2018, by and among Danaos Corporation, as Borrower, arranged by Aegean Baltic Bank S.A. and HSH Nordbank AG, as Arrangers, with Aegean Baltic Bank S.A., as Agent and Aegean Baltic Bank S.A., as Security Agent |
| 4.13 | Amendment and Restatement Agreement in respect of the Facility Agreement dated February 20, 2007 included therein, dated August 1, 2018, by and among Danaos Corporation, as Borrower and its subsidiaries and The Royal Bank of Scotland PLC and Natwest Markets PLC |
| 4.14 | Subordinated Loan Agreement, dated as of August 10, 2018, between Danaos Corporation and Danaos Investment Limited (incorporated by reference to the Company's Report on Form 6-K filed with the SEC on August 14, 2018) |
| 8 | Subsidiaries |
| 11.1 | Code of Business Conduct and Ethics |
| 11.2 | Code of Conduct and Ethics for Corporate Officers and Directors |
| 12.1 | Certification of Chief Executive Officer pursuant to Rule 13a- 14(a) of the Securities Exchange Act of 1934, as amended |
| 12.2 | Certification of Chief Financial Officer pursuant to Rule 13a- 14(a) of the Securities Exchange Act of 1934, as amended |
| 13.1 | Certification of Chief Executive Officer pursuant to Rule 13a- 14(b) of the Securities Exchange Act of 1934, as amended, and 18 U.S.C. Section 1350 as added by Section 906 of the Sarbanes-Oxley Act of 2002 |
| 13.2 | Certification of Chief Financial Officer pursuant to Rule 13a- 14(b) of the Securities Exchange Act of 1934, as amended, and 18 U.S.C. Section 1350 as added by Section 906 of the Sarbanes-Oxley Act of 2002 |
| 15 | Consent of Independent Registered Public Accounting Firm |
| 101 | Attached as Exhibit 101 to this report are the following Interactive Data Files, formatted in eXtensible Business Reporting Language (XBRL): |
| 101.INS | XBRL Instance Document |
| 101.SCH | XBRL Taxonomy Extension Schema |
| 101.CAL | XBRL Taxonomy Extension Calculation Linkbase |
| 101.LAB | XBRL Taxonomy Extension Label Linkbase |
| 101.PRE | XBRL Taxonomy Extension Presentation Linkbase |
| 101.DEF | XBRL Taxonomy Extension Definition Linkbase |

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**SIGNATURES**

The registrant hereby certifies that it meets all of the requirements for filing on Form 20-F and that it has duly caused and authorized the undersigned to sign this annual report on its behalf.

DANAOS CORPORATION
/s/ EVANGELOS CHATZIS

Name: Evangelos Chatzis

Title: *Chief Financial Officer*
Date: March 5, 2019

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| Consolidated Statements of Changes in Stockholders' Equity for the Years Ended December 31, 2018, 2017 and 2016 | F-7 |
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**Report of Independent Registered Public Accounting Firm**

To the board of directors and the stockholders of Danaos Corporation

***Opinions on the Financial Statements and Internal Control over Financial Reporting***

We have audited the accompanying consolidated balance sheets of Danaos Corporation and its subsidiaries (the "Company") as of December 31, 2018 and 2017, and the related consolidated statements of operations, comprehensive income/(loss), changes in stockholders' equity and cash flows for each of the three years in the period ended December 31, 2018, including the related notes (collectively referred to as the "consolidated financial statements"). We also have audited the Company's internal control over financial reporting as of December 31, 2018, based on criteria established in *Internal Control Integrated Framework* (2013) issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of the Company as of December 31, 2018 and 2017, and the results of its operations and its cash flows for each of the three years in the period ended December 31, 2018 in conformity with accounting principles generally accepted in the United States of America. Also in our opinion, the Company maintained, in all material respects, effective internal control over financial reporting as of December 31, 2018, based on criteria established in *Internal Control Integrated Framework* (2013) issued by the COSO.

***Basis for Opinions***

The Company's management is responsible for these consolidated financial statements, for maintaining effective internal control over financial reporting, and for its assessment of the effectiveness of internal control over financial reporting, appearing in "Management's Annual Report on Internal Control over Financial Reporting" under Item 15(b) of the Company's 2018 Annual Report on Form 20-F. Our responsibility is to express opinions on the Company's consolidated financial statements and on the Company's internal control over financial reporting based on our audits. We are a public accounting firm registered with the Public Company Accounting Oversight Board (United States) ("PCAOB") and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audits in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audits to obtain reasonable assurance about whether the consolidated financial statements are free of material misstatement, whether due to error or fraud, and whether effective internal control over financial reporting was maintained in all material respects.

Our audits of the consolidated financial statements included performing procedures to assess the risks of material misstatement of the consolidated financial statements, whether due to error or fraud, and performing procedures that respond to those risks. Such procedures included examining, on a test basis, evidence regarding the amounts and disclosures in the consolidated financial statements. Our audits also included evaluating the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the consolidated financial statements. Our audit of internal control over financial reporting included obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists, and testing and evaluating the design and operating effectiveness of internal control based on the assessed risk. Our audits also included performing such other procedures as we considered necessary in the circumstances. We believe that our audits provide a reasonable basis for our opinions.

***Definition and Limitations of Internal Control over Financial Reporting***

A company's internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. A company's internal control over financial reporting includes those policies and procedures that (i) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (ii) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company; and (iii) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the company's assets that could have a material effect on the financial statements.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

/s/ PricewaterhouseCoopers S.A.
Athens, Greece
March 5, 2019

We have served as the Company's auditor since 2000.

**DANAOS CORPORATION**

**CONSOLIDATED BALANCE SHEETS**

**(Expressed in thousands of United States dollars, except share amounts)**

| | Notes | As of December 31, 2018 | December 31, 2017 |
|---|---|---|---|
| **ASSETS** | | | |
| **CURRENT ASSETS** | | | |
| Cash and cash equivalents | 3 | $ 77,275 | $ 66,895 |
| Restricted cash | 3 | | 2,812 |
| Accounts receivable, net | | 9,225 | 6,502 |
| Inventories | | 8,884 | 8,841 |
| Prepaid expenses | | 1,214 | 1,234 |
| Due from related parties | 11 | 17,970 | 34,007 |
| Other current assets | | 5,182 | 5,708 |
| **Total current assets** | | **119,750** | **125,999** |
| **NON-CURRENT ASSETS** | | | |
| Fixed assets at cost, net of accumulated depreciation of $743,924 (2017: $763,190) | 4 | 2,480,329 | 2,795,971 |
| Deferred charges, net | 5 | 13,031 | 8,962 |
| Investments in affiliates | 6 | 7,363 | 5,998 |
| Other non-current assets | 7 | 59,369 | 49,466 |
| **Total non-current assets** | | **2,560,092** | **2,860,397** |
| **Total assets** | | **$ 2,679,842** | **$ 2,986,396** |

| | Notes | December 31, 2018 | December 31, 2017 |
|---|---|---|---|
| **LIABILITIES AND STOCKHOLDERS' EQUITY** | | | |
| **CURRENT LIABILITIES** | | | |
| Accounts payable | | $ 10,477 | $ 11,371 |
| Accrued liabilities | 8 | 11,770 | 15,226 |
| Current portion of long-term debt, net | 10 | 113,777 | 2,329,601 |
| Accumulated accrued interest, current portion | 10 | 35,782 | |
| Unearned revenue | 7 | 19,753 | 22,853 |
| Other current liabilities | 10 | 31,142 | 788 |
| **Total current liabilities** | | **222,701** | **2,379,839** |
| **LONG-TERM LIABILITIES** | | | |
| Long-term debt, net | 10 | 1,508,108 | |
| Accumulated accrued interest, net of current portion | 10 | 200,574 | |
| Unearned revenue, net of current portion | 7 | 41,730 | 56,159 |
| Other long-term liabilities | 10 | 15,876 | 1,693 |
| **Total long-term liabilities** | | **1,766,288** | **57,852** |
| **Total liabilities** | | **1,988,989** | **2,437,691** |
| Commitments and Contingencies | 16 | | |
| **STOCKHOLDERS' EQUITY** | | | |
| Preferred stock (par value $0.01, 100,000,000 preferred shares authorized and not issued as of December 31, 2018 and December 31, 2017) | 18 | | |
| Common stock (par value $0.01, 750,000,000 common shares authorized as of December 31, 2018 and December 31, 2017. 213,324,455 issued and outstanding as of December 31, 2018 and 109,799,352 as of December 31, 2017) | 18 | 2,133 | 1,098 |

| | | | |
|---|---|---|---|
| Additional paid-in capital | | 725,581 | 546,898 |
| Accumulated other comprehensive loss | 7,13 | (118,710) | (114,076) |
| Retained earnings | | 81,849 | 114,785 |
| **Total stockholders' equity** | | **690,853** | **548,705** |
| **Total liabilities and stockholders' equity** | | **$ 2,679,842** | **$ 2,986,396** |

The accompanying notes are an integral part of these consolidated financial statements

**DANAOS CORPORATION**

**CONSOLIDATED STATEMENTS OF OPERATIONS**

**(Expressed in thousands of United States dollars, except share and per share amounts)**

| | | Year ended December 31, | | |
|---|---|---|---|---|
| | **Notes** | **2018** | **2017** | **2016** |
| **OPERATING REVENUES** | 14, 15 | $ 458,732 | $ 451,731 | $ 498,332 |
| **OPERATING EXPENSES** | | | | |
| Voyage expenses | 11 | (12,207) | (12,587) | (13,925) |
| Vessel operating expenses | 11 | (104,604) | (106,999) | (109,384) |
| Depreciation | 4 | (107,757) | (115,228) | (129,045) |
| Amortization of deferred drydocking and special survey costs | 5 | (9,237) | (6,748) | (5,528) |
| Impairment loss | 4 | (210,715) | | (415,118) |
| Bad debt expense | 13, 16 | | | (15,834) |
| General and administrative expenses | 11 | (26,334) | (22,672) | (22,105) |
| Loss on sale of vessels | | | | (36) |
| **Income/(loss) from operations** | | **(12,122)** | **187,497** | **(212,643)** |
| **OTHER INCOME (EXPENSES):** | | | | |
| Interest income | | 5,781 | 5,576 | 4,682 |
| Interest expense | | (85,706) | (86,556) | (82,966) |
| Other finance expenses | | (3,026) | (4,126) | (4,932) |
| Equity income/(loss) on investments | 6 | 1,365 | 965 | (16,252) |
| Gain on debt extinguishment | 10 | 116,365 | | |
| Other income/(expense), net | 7, 10 | (50,456) | (15,757) | (41,602) |
| Net unrealized and realized losses on derivatives | 13 | (5,137) | (3,694) | (12,482) |
| **Total Other Expenses, net** | | **(20,814)** | **(103,592)** | **(153,552)** |
| **Net Income/(Loss)** | | **$ (32,936)** | **$ 83,905** | **$ (366,195)** |
| **EARNINGS/(LOSS) PER SHARE** | | | | |
| Basic and diluted earnings/(loss) per share | | $ (0.22) | $ 0.76 | $ (3.34) |
| Basic and diluted weighted average number of common shares | 19 | 148,719,749 | 109,824,329 | 109,801,586 |

The accompanying notes are an integral part of these consolidated financial statements

**DANAOS CORPORATION**

**CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME/(LOSS)**

**(Expressed in thousands of United States dollars)**

| | | Year ended December 31, | | |
|---|---|---|---|---|
| | **Notes** | **2018** | **2017** | **2016** |
| **Net Income/(Loss)** | | **$ (32,936)** | **$ 83,905** | **$ (366,195)** |
| Other comprehensive income/(loss): | | | | |
| Unrealized losses on available for sale securities | 7 | (9,771) | (26,607) | |
| Amortization of deferred realized losses on cash flow hedges | 13 | 3,694 | 3,694 | 4,028 |
| Accelerated amortization of deferred realized losses on cash flow hedges | 13 | 1,443 | | 7,706 |
| Reclassification of unrealized losses to earnings | | | | 184 |
| **Total Other Comprehensive Income/(Loss)** | | **(4,634)** | **(22,913)** | **11,918** |
| **Comprehensive Income/(Loss)** | | **$ (37,570)** | **$ 60,992** | **$ (354,277)** |

The accompanying notes are an integral part of these consolidated financial statements

**DANAOS CORPORATION**

**CONSOLIDATED STATEMENTS OF CHANGES IN STOCKHOLDERS' EQUITY**

**(Expressed in thousands of United States dollars)**

| | Common Stock Number of shares | Par value | Additional paid-in capital | Accumulated other comprehensive loss | Retained earnings | Total |
|---|---|---|---|---|---|---|
| **As of January 1, 2016** | **109,782** | **$ 1,098** | **$ 546,822** | **$ (103,081)** | **$ 397,075** | **$ 841,914** |
| Net Loss | | | | | (366,195) | (366,195) |
| Net movement in other comprehensive income | | | | 11,918 | | 11,918 |
| Issuance of common stock | 17 | | | | | |
| Stock compensation | | | 76 | | | 76 |
| **As of December 31, 2016** | **109,799** | **$ 1,098** | **$ 546,898** | **$ (91,163)** | **$ 30,880** | **$ 487,713** |
| Net Income | | | | | 83,905 | 83,905 |
| Net movement in other comprehensive income | | | | (22,913) | | (22,913) |
| **As of December 31, 2017** | **109,799** | **$ 1,098** | **$ 546,898** | **$ (114,076)** | **$ 114,785** | **$ 548,705** |
| Net Loss | | | | | (32,936) | (32,936) |
| Paid-in capital | | | 10,000 | | | 10,000 |
| Issuance of common stock | 99,342 | 993 | 167,719 | | | 168,712 |
| Stock compensation | 4,183 | 42 | 964 | | | 1,006 |
| Net movement in other comprehensive income | | | | (4,634) | | (4,634) |
| **As of December 31, 2018** | **213,324** | **$ 2,133** | **$ 725,581** | **$ (118,710)** | **$ 81,849** | **$ 690,853** |

The accompanying notes are an integral part of these consolidated financial statements

**DANAOS CORPORATION**

**CONSOLIDATED STATEMENTS OF CASH FLOWS**

**(Expressed in thousands of United States dollars)**

| | Year ended December 31, | | |
|---|---|---|---|
| | **2018** | **2017** | **2016** |
| **Cash flows from operating activities** | | | |
| Net income/(loss) | $ (32,936) | $ 83,905 | $ (366,195) |
| *Adjustments to reconcile net income/(loss) to net cash provided by operating activities* | | | |
| Depreciation | 107,757 | 115,228 | 129,045 |
| Amortization of deferred drydocking and special survey costs | 9,237 | 6,748 | 5,528 |
| Impairment losses | 210,715 | | 444,502 |
| Amortization of finance costs | 11,771 | 11,153 | 12,652 |
| Exit fee accrued on debt | 2,059 | 3,169 | 3,447 |
| Debt discount amortization | 3,186 | | |
| Gain on debt extinguishment | (116,365) | | |
| PIK interest | 1,433 | | |
| Bad debt expense | | | 15,834 |
| Loss on sale of securities | | 2,357 | 12,906 |
| Payments for drydocking and special survey costs deferred | (13,306) | (7,511) | (8,976) |
| Loss on sale of vessels | | | 36 |
| Stock based compensation | 1,006 | | 76 |
| Amortization of deferred realized losses on interest rate swaps | 5,137 | 3,694 | 11,734 |
| Unrealized gains on derivatives | | | (4,649) |
| Equity (income)/loss on investments | (1,365) | (965) | 16,252 |
| **(Increase)/Decrease in:** | | | |
| Accounts receivable | (2,723) | (2,544) | (13,210) |
| Inventories | (43) | 2,554 | (355) |
| Prepaid expenses | 20 | 117 | (654) |
| Due from related parties | 16,037 | (1,404) | (13,596) |
| Other assets, current and non-current | (13,728) | (9,099) | (5,455) |
| **Increase/(Decrease) in:** | | | |
| Accounts payable | (894) | 215 | (383) |
| Accrued liabilities | (3,456) | (238) | 1,450 |
| Unearned revenue, current and long-term | (17,529) | (19,301) | 26,501 |
| Other liabilities, current and long-term | (1,327) | (7,005) | (4,523) |
| **Net cash provided by operating activities** | **164,686** | **181,073** | **261,967** |
| **Cash flows from investing activities** | | | |
| Vessels additions | (2,830) | (4,478) | (4,561) |
| Advances for vessels additions | (5,420) | | |
| Investments in affiliates | | | (9,996) |
| Net proceeds from sale of securities | | 6,236 | |
| Net proceeds from sale of vessels | | | 5,178 |
| **Net cash provided by/(used in) investing activities** | **(8,250)** | **1,758** | **(9,379)** |
| **Cash flows from financing activities** | | | |
| Proceeds from long-term debt | 325,852 | | |
| Payments of long-term debt | (440,990) | (189,653) | (251,130) |
| Payments of accumulated accrued interest | (8,556) | | |
| Finance costs | (35,005) | | |
| Paid-in capital | 10,000 | | |
| Share issuance costs | (169) | | |
| **Net cash used in financing activities** | **(148,868)** | **(189,653)** | **(251,130)** |
| **Net increase/(decrease) in cash, cash equivalents and restricted cash** | 7,568 | (6,822) | 1,458 |
| **Cash, cash equivalents and restricted cash, beginning of year** | 69,707 | 76,529 | 75,071 |
| **Cash, cash equivalents and restricted cash, end of year** | **$ 77,275** | **$ 69,707** | **$ 76,529** |

| | | | |
|---|---|---|---|
| **Supplemental cash flow information** | | | |
| Cash paid for interest | $ 71,915 | $ 74,643 | $ 69,180 |
| **Non-cash investing and financing activities** | | | |
| Acquisition of debt securities and equity investment | | | $ 24,627 |

The accompanying notes are an integral part of these consolidated financial statements

**DANAOS CORPORATION**

**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS**

**1. Basis of Presentation and General Information**

The accompanying financial statements have been prepared in conformity with accounting principles generally accepted in the United States of America ("U.S. GAAP"). The reporting and functional currency of Danaos Corporation and its subsidiaries (the "Company") is the United States Dollar.

Danaos Corporation, formerly Danaos Holdings Limited, was formed on December 7, 1998 under the laws of Liberia and is presently the sole owner of all outstanding shares of the companies listed below. Danaos Holdings Limited was redomiciled in the Marshall Islands on October 7, 2005. In connection with the redomiciliation, the Company changed its name to Danaos Corporation. On October 14, 2005, the Company filed and the Marshall Islands accepted Amended and Restated Articles of Incorporation. The authorized capital stock of Danaos Corporation is 750,000,000 shares of common stock with a par value of $0.01 and 100,000,000 shares of preferred stock with a par value of $0.01. Refer to Note 18, "Stockholders' Equity".

The Company's vessels operate worldwide, carrying containers for many established charterers.

The Company's principal business is the acquisition and operation of vessels. Danaos conducts its operations through the vessel owning companies whose principal activity is the ownership and operation of containerships (refer to Note 2, "Significant Accounting Policies") that are under the exclusive management of a related party of the Company (refer to Note 11, "Related Party Transactions").

The consolidated financial statements of the Company have been prepared to reflect the consolidation of the companies listed below. The historical balance sheets and results of operations of the companies listed below have been reflected in the consolidated balance sheets and consolidated statements of operations, consolidated statements of comprehensive income/(loss), cash flows and stockholders' equity at and for each period since their respective incorporation dates.

The Company's consolidated financial statements have been prepared on a going concern basis and contemplate the realization of assets and satisfaction of liabilities in the normal course of business. On August 10, 2018, the Company consummated the refinancing agreement (the "Refinancing") reached with certain of the Company's lenders through a debt reduction of approximately $551 million, the resetting of financial and other covenants, modified interest rates and amortization profiles and an extension of existing debt maturities by approximately five years to December 31, 2023, or in some cases to June 30, 2024, as further disclosed in the Note 10 "Long-term debt, net". This alleviated substantial doubt about the Company's ability to continue as a going concern reported in the Note 3, "Going Concern" to the consolidated financial statements in the Annual Report on Form 20-F for the year ended December 31, 2017.

**DANAOS CORPORATION**

**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS (Continued)**

**1. Basis of Presentation and General Information (Continued)**

As of December 31, 2018, Danaos consolidated the vessel owning companies (the "Danaos Subsidiaries") listed below. All vessels are container vessels:

| Company | Date of Incorporation | Vessel Name | Year Built | TEU(1) |
|---|---|---|---|---|
| Megacarrier (No. 1) Corp. | September 10, 2007 | Hyundai Honour | 2012 | 13,100 |
| Megacarrier (No. 2) Corp. | September 10, 2007 | Hyundai Respect | 2012 | 13,100 |
| Megacarrier (No. 3) Corp. | September 10, 2007 | Maersk Enping | 2012 | 13,100 |
| Megacarrier (No. 4) Corp. | September 10, 2007 | Maersk Exeter | 2012 | 13,100 |
| Megacarrier (No. 5) Corp. | September 10, 2007 | MSC Ambition | 2012 | 13,100 |
| CellContainer (No. 6) Corp. | October 31, 2007 | Express Berlin | 2011 | 10,100 |
| CellContainer (No. 7) Corp. | October 31, 2007 | Express Rome | 2011 | 10,100 |
| CellContainer (No. 8) Corp. | October 31, 2007 | Express Athens | 2011 | 10,100 |
| Karlita Shipping Co. Ltd. | February 27, 2003 | Pusan C (ex CSCL Pusan) | 2006 | 9,580 |
| Ramona Marine Co. Ltd. | February 27, 2003 | Le Havre (ex CSCL Le Havre) | 2006 | 9,580 |
| Teucarrier (No. 5) Corp. | September 17, 2007 | CMA CGM Melisande | 2012 | 8,530 |
| Teucarrier (No. 1) Corp. | January 31, 2007 | CMA CGM Attila | 2011 | 8,530 |
| Teucarrier (No. 2) Corp. | January 31, 2007 | CMA CGM Tancredi | 2011 | 8,530 |
| Teucarrier (No. 3) Corp. | January 31, 2007 | CMA CGM Bianca | 2011 | 8,530 |
| Teucarrier (No. 4) Corp. | January 31, 2007 | CMA CGM Samson | 2011 | 8,530 |
| Oceanew Shipping Ltd. | January 14, 2002 | Europe | 2004 | 8,468 |
| Oceanprize Navigation Ltd. | January 21, 2003 | America (ex CSCL America) | 2004 | 8,468 |
| Boxcarrier (No. 2) Corp. | June 27, 2006 | CMA CGM Musset | 2010 | 6,500 |
| Boxcarrier (No. 3) Corp. | June 27, 2006 | CMA CGM Nerval | 2010 | 6,500 |
| Boxcarrier (No. 4) Corp. | June 27, 2006 | CMA CGM Rabelais | 2010 | 6,500 |
| Boxcarrier (No. 5) Corp. | June 27, 2006 | CMA CGM Racine | 2010 | 6,500 |
| Boxcarrier (No. 1) Corp. | June 27, 2006 | CMA CGM Moliere | 2009 | 6,500 |
| Expresscarrier (No. 1) Corp. | March 5, 2007 | YM Mandate | 2010 | 6,500 |
| Expresscarrier (No. 2) Corp. | March 5, 2007 | YM Maturity | 2010 | 6,500 |
| Actaea Company Limited | October 14, 2014 | Performance | 2002 | 6,402 |
| Asteria Shipping Company Limited | October 14, 2014 | Dimitra C (ex Priority) | 2002 | 6,402 |
| Continent Marine Inc. | March 22, 2006 | Zim Monaco | 2009 | 4,253 |
| Medsea Marine Inc. | May 8, 2006 | Zim Dalian | 2009 | 4,253 |
| Blacksea Marine Inc. | May 8, 2006 | Zim Luanda | 2009 | 4,253 |
| Bayview Shipping Inc. | March 22, 2006 | Zim Rio Grande | 2008 | 4,253 |
| Channelview Marine Inc. | March 22, 2006 | Zim Sao Paolo | 2008 | 4,253 |
| Balticsea Marine Inc. | March 22, 2006 | Zim Kingston | 2008 | 4,253 |
| Seacarriers Services Inc. | June 28, 2005 | YM Seattle | 2007 | 4,253 |
| Seacarriers Lines Inc. | June 28, 2005 | YM Vancouver | 2007 | 4,253 |
| Containers Services Inc. | May 30, 2002 | ANL Tongala (ex Deva) | 2004 | 4,253 |
| Containers Lines Inc. | May 30, 2002 | Derby D | 2004 | 4,253 |
| Boulevard Shiptrade S.A | September 12, 2013 | Dimitris C | 2001 | 3,430 |

**DANAOS CORPORATION**

**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS (Continued)**

**1. Basis of Presentation and General Information (Continued)**

| Company | Date of Incorporation | Vessel Name | Year Built | TEU(1) |
|---|---|---|---|---|
| CellContainer (No. 4) Corp. | March 23, 2007 | Express Spain | 2011 | 3,400 |
| CellContainer (No. 5) Corp. | March 23, 2007 | Express Black Sea | 2011 | 3,400 |
| CellContainer (No. 1) Corp. | March 23, 2007 | Express Argentina | 2010 | 3,400 |
| CellContainer (No. 2) Corp. | March 23, 2007 | Express Brazil | 2010 | 3,400 |
| CellContainer (No. 3) Corp. | March 23, 2007 | Express France | 2010 | 3,400 |
| Wellington Marine Inc. | January 27, 2005 | Singapore | 2004 | 3,314 |
| Auckland Marine Inc. | January 27, 2005 | Colombo | 2004 | 3,314 |
| Vilos Navigation Company Ltd. | May 30, 2013 | MSC Zebra | 2001 | 2,602 |
| Trindade Maritime Company | April 10, 2013 | Amalia C | 1998 | 2,452 |
| Sarond Shipping Inc. | January 18, 2013 | Danae C | 2001 | 2,524 |
| Speedcarrier (No. 7) Corp. | December 6, 2007 | Highway | 1998 | 2,200 |
| Speedcarrier (No. 6) Corp. | December 6, 2007 | Progress C (ex Hyundai Progress) | 1998 | 2,200 |
| Speedcarrier (No. 8) Corp. | December 6, 2007 | Bridge | 1998 | 2,200 |
| Speedcarrier (No. 1) Corp. | June 28, 2007 | Vladivostok | 1997 | 2,200 |
| Speedcarrier (No. 2) Corp. | June 28, 2007 | Advance | 1997 | 2,200 |
| Speedcarrier (No. 3) Corp. | June 28, 2007 | Stride | 1997 | 2,200 |
| Speedcarrier (No. 5) Corp. | June 28, 2007 | Future | 1997 | 2,200 |
| Speedcarrier (No. 4) Corp. | June 28, 2007 | Sprinter | 1997 | 2,200 |

(1) Twenty-foot equivalent unit, the international standard measure for containers and containership capacity.

**2. Significant Accounting Policies**

***Principles of Consolidation:*** The accompanying consolidated financial statements represent the consolidation of the accounts of the Company and its wholly-owned subsidiaries. The subsidiaries are fully consolidated from the date on which control is obtained by the Company.

The Company also consolidates entities that are determined to be variable interest entities, of which the Company is the primary beneficiary, as defined in the accounting guidance, if it determines that it is the primary beneficiary. A variable interest entity is defined as a legal entity where either (a) equity interest holders as a group lack the characteristics of a controlling financial interest, including decision making ability and an interest in the entity's residual risks and rewards, or (b) the equity holders have not provided sufficient equity investment to permit the entity to finance its activities without additional subordinated financial support, or (c) the voting rights of some investors are not proportional to their obligations to absorb the expected losses of the entity, their rights to receive the expected residual returns of the entity, or both and substantially all of the entity's activities either involve or are conducted on behalf of an investor that has disproportionately few voting rights.

Inter-company transaction balances and unrealized gains/(losses) on transactions between the companies are eliminated.

***Investments in affiliates:*** The Company's investments in affiliates are accounted for using the equity method of accounting. Under the equity method of accounting, investments are stated at initial

**DANAOS CORPORATION**

**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS (Continued)**

**2. Significant Accounting Policies (Continued)**

cost and are adjusted for subsequent additional investments and the Company's proportionate share of earnings or losses and distributions. The Company evaluates its investments in affiliates for impairment when events or circumstances indicate that the carrying value of such investments may have experienced other than temporary decline in value below their carrying value. If the estimated fair value is less than the carrying value and is considered an other than temporary decline, the carrying value is written down to its estimated fair value and the resulting impairment is recorded in the Consolidated Statements of Operations.

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

***Reclassifications in Other Comprehensive Income/(Loss):*** The Company had the following reclassifications out of Accumulated Other Comprehensive Loss as of December 31, 2018, 2017 and 2016, respectively (in thousands):

| | | Year ended December 31, | | |
|---|---|---|---|---|
| | **Location of Reclassification into Income** | **2018** | **2017** | **2016** |
| Amortization of deferred realized losses on cash flow hedges | Net unrealized and realized losses on derivatives | 3,694 | 3,694 | 4,028 |
| Accelerated amortization of deferred realized losses on cash flow hedges | Net unrealized and realized losses on derivatives | 1,443 | | 7,706 |
| Reclassification of unrealized losses to earnings | Net unrealized and realized losses on derivatives | | | 184 |
| **Total Reclassifications** | | **$ 5,137** | **$ 3,694** | **$ 11,918** |

***Foreign Currency Translation:*** The functional currency of the Company is the U.S. dollar. The Company engages in worldwide commerce with a variety of entities. Although its operations may expose it to certain levels of foreign currency risk, its transactions are predominantly U.S. dollar denominated. Additionally, the Company's wholly-owned vessel subsidiaries transacted a nominal amount of their operations in Euros; however, all of the subsidiaries' primary cash flows are U.S. dollar denominated. Transactions in currencies other than the functional currency are translated at the exchange rate in effect at the date of each transaction. Differences in exchange rates during the period

**DANAOS CORPORATION**

**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS (Continued)**

**2. Significant Accounting Policies (Continued)**

between the date a transaction denominated in a foreign currency is consummated and the date on which it is either settled or translated, are recognized in the Consolidated Statements of Operations. The foreign currency exchange gains/(losses) recognized in the accompanying Consolidated Statements of Operations for each of the years ended December 31, 2018, 2017 and 2016 were $0.1 million loss, $0.4 million loss and $0.1 million loss, respectively.

***Cash and Cash Equivalents:*** Cash and cash equivalents consist of interest bearing call deposits, where the Company has instant access to its funds and withdrawals and deposits can be made at any time, as well as time deposits with original maturities of three months or less which are not restricted for use or withdrawal. Cash and cash equivalents of $77.3 million as of December 31, 2018 (December 31, 2017: $66.9 million) comprised cash balances and short-term deposits.

***Restricted Cash:*** Cash restricted accounts include retention accounts. Until the full repayment of the KEXIM ABN Amro loan facility in June 2018, the Company was required to deposit one-third of quarterly and one-sixth of the semi-annual principal installments and interest payments, respectively, due on the outstanding loan balance monthly in a retention account. On the rollover settlement date, both principal and interest were paid from the retention account. Refer to Note 3, "Cash, Cash Equivalents and Restricted Cash".

***Accounts Receivable, Net:*** The amount shown as Accounts Receivable, net, at each balance sheet date includes estimated recoveries from charterers for hire and demurrage billings, net of a provision for doubtful accounts. At each balance sheet date, all potentially uncollectible accounts are assessed individually for purposes of determining the appropriate provision for doubtful accounts based on the Company's history of write-offs, level of past due accounts based on the contractual term of the receivables and its relationships with and economic status of its customers. Bad debts are written off in the period in which they are identified.

***Insurance Claims:*** Insurance claims represent the claimable expenses, net of deductibles, which are expected to be recovered from insurance companies. Any costs to complete the claims are included in accrued liabilities. The Company accounts for the cost of possible additional call amounts under its insurance arrangements in accordance with the accounting guidance for contingencies based on the Company's historical experience and the shipping industry practices. Insurance claims are included in the consolidated balance sheet line item "Other current assets".

***Prepaid Expenses and Inventories:*** Prepaid expenses consist mainly of insurance expenses, and inventories consist of bunkers, lubricants and provisions remaining on board the vessels at each period end, which are valued at cost as determined using the first-in, first-out method. Costs of spare parts are expensed as incurred.

***Deferred Financing Costs:*** Loan arrangement fees incurred for obtaining new loans, for loans that have been accounted for as modified and the fees paid to third parties for loans that have been accounted for as extinguished, where there is a replacement debt and the lender remains the same, are deferred and amortized over the loans' respective repayment periods using the effective interest rate method and are presented in the consolidated balance sheets as a direct deduction from the carrying amount of debt liability. Unamortized deferred financing costs for extinguished facilities are written-off. Loan arrangement fees related to the facilities accounted for under troubled debt restructuring with future undiscounted cash flows greater than the net carrying value of the original debt are capitalized

**DANAOS CORPORATION**

**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS (Continued)**

**2. Significant Accounting Policies (Continued)**

and amortized over the loan respective repayment period using the effective interest rate method. Additionally, amortization of deferred finance costs amounting to $15.0 million, $11.2 million and $12.7 million is included in interest expenses in the Consolidated Statements of Operations for the years ended December 31, 2018, December 31, 2017 and December 31, 2016, respectively.

***Fixed Assets:*** Fixed assets consist of vessels. Vessels are stated at cost, less accumulated depreciation. The cost of vessels consists of the contract purchase price and any material expenses incurred upon acquisition (improvements and delivery expenses). Subsequent expenditures for conversions and major improvements are also capitalized when they appreciably extend the life, increase the earning capacity or improve the efficiency or safety of the vessels. Otherwise, these expenditures are charged to expense as incurred. Interest costs while under construction are included in vessels' cost.

The Company has acquired certain vessels in the secondhand market in prior years, all of which were considered to be acquisitions of assets. Following adoption of ASU 2017-01 "Business Combinations (Topic 805)" on January 1, 2018, the Company evaluates if any vessel acquisition in secondhand market constitutes a business or not. When substantially all of the fair value of the gross assets acquired is concentrated in a single identifiable asset or group of similar identifiable assets, the set is not a business. The following assets are considered as a single asset for the purposes of the evaluation (i) a tangible asset that is attached to and cannot be physically removed and used separately from another tangible assets (or an intangible asset representing the right to use a tangible asset); (ii) in place lease intangibles, including favorable and unfavorable intangible assets or liabilities, and the related leased assets.

***Depreciation:*** The cost of the Company's vessels is depreciated on a straight-line basis over the vessels' remaining economic useful lives after considering the estimated residual value (refer to Note 4, "Fixed Assets, net"). Management has estimated the useful life of the Company's vessels to be 30 years from the year built.

***Vessels held for sale:*** Vessels are classified as "Vessels held for sale" when all of the following criteria are met: management has committed to a plan to sell the vessel; the vessel is available for immediate sale in its present condition subject only to terms that are usual and customary for sales of vessels; an active program to locate a buyer and other actions required to complete the plan to sell the vessel have been initiated; the sale of the vessel is probable and transfer of the vessel is expected to qualify for recognition as a completed sale within one year; the asset is being actively marketed for sale at a price that is reasonable in relation to its current fair value and actions required to complete the plan indicate that it is unlikely that significant changes to the plan will be made or that the plan will be withdrawn. Vessels classified as held for sale are measured at the lower of their carrying amount or fair value less cost to sell. These vessels are not depreciated once they meet the criteria to be held for sale.

***Accounting for Special Survey and Drydocking Costs:*** The Company follows the accounting guidance for planned major maintenance activities. Drydocking and special survey costs, which are reported in the balance sheet within "Deferred charges, net", include planned major maintenance and overhaul activities for ongoing certification including the inspection, refurbishment and replacement of steel, engine components, electrical, pipes and valves, and other parts of the vessel. The Company follows the deferral method of accounting for special survey and drydocking costs, whereby actual costs incurred are deferred and amortized on a straight-line basis over the period until the next scheduled survey and

**DANAOS CORPORATION**

**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS (Continued)**

**2. Significant Accounting Policies (Continued)**

drydocking, which is two and a half years. If special survey or drydocking is performed prior to the scheduled date, the remaining unamortized balances are immediately written off.

The amortization periods reflect the estimated useful economic life of the deferred charge, which is the period between each special survey and drydocking.

Costs incurred during the drydocking period relating to routine repairs and maintenance are expensed. The unamortized portion of special survey and drydocking costs for vessels sold is included as part of the carrying amount of the vessel in determining the gain/(loss) on sale of the vessel.

***Impairment of Long-lived Assets:*** The accounting standard for impairment of long-lived assets requires that long-lived assets and certain identifiable intangibles held and used or disposed of by an entity be reviewed for impairment whenever events or changes in circumstances indicate that the carrying amount of the assets may not be recoverable. In the case of long-lived assets held and used, if the future net undiscounted cash flows are less than the carrying value of the asset, an impairment loss is recorded equal to the difference between the asset's carrying value and fair value.

As of December 31, 2018, the Company concluded that events and circumstances triggered the existence of potential impairment of its long-lived assets. These indicators included volatility in the charter market and the vessels' market values, as well as the potential impact the current marketplace may have on our future operations. As a result, the Company performed step one of the impairment assessment of the Company's long-lived assets by comparing the undiscounted projected net operating cash flows for each vessel to its carrying value. The Company's strategy is to charter its vessels under multi-year, fixed rate period charters that range from less than 1 to 18 years for vessels in its fleet, providing the Company with contracted stable cash flows. The significant factors and assumptions the Company used in its undiscounted projected net operating cash flow analysis included, among others, operating revenues, off-hire revenues, drydocking costs, operating expenses and management fees estimates. Revenue assumptions were based on contracted time charter rates up to the end of life of the current contract of each vessel as well as the estimated average time charter equivalent rates for the remaining life of the vessel after the completion of its current contract. The estimated daily time charter equivalent rates used for non-contracted revenue days are based on a combination of (i) recent charter market rates, (ii) conditions existing in the containership market as of December 31, 2018; (iii) historical average time charter rates, based on publications by independent third party maritime research services, and (iv) estimated future time charter rates, based on publications by independent third party maritime research services that provide such forecasts. Recognizing that the container transportation industry is cyclical and subject to significant volatility based on factors beyond the Company's control, management believes the use of revenue estimates, based on the combination of factors (i) to (iv) above, to be reasonable as of the reporting date. In addition, the Company used an annual operating expenses escalation factor and estimates of scheduled and unscheduled off-hire revenues based on historical experience. All estimates used and assumptions made were in accordance with the Company's internal budgets and historical experience of the shipping industry. As at December 31, 2018, the Company's assessment concluded that step two of the impairment analysis was required for certain of its vessels, as the undiscounted projected net operating cash flows of certain vessels did not exceed the carrying value of the respective vessels. Fair value of each vessel was determined by management with the assistance from valuations obtained by third party independent shipbrokers. As of December 31, 2018, the Company recorded an impairment loss of $210.7 million for

**DANAOS CORPORATION**

**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS (Continued)**

**2. Significant Accounting Policies (Continued)**

ten of its vessels that are held and used, which is reflected under "Impairment loss" in the accompanying Consolidated Statements of Operations.

As of December 31, 2017, the Company concluded that there are no events and circumstances, which may trigger the existence of potential impairment of the Company's vessels. The indicators which were considered were mainly the improved charter market and the improved vessel's market values compared to the prior year, as well as the potential impact the marketplace may have on the future operations. As of December 31, 2016, the Company concluded that events and circumstances triggered the existence of impairment of its long-lived assets and recorded an impairment loss of $415.1 million for its vessels that were held and used.

***Investments in Debt Securities:*** The Company classified its debt securities originally as held-to-maturity based on management's positive intent and ability to hold to maturity and were reported at amortized cost, subject to impairment up until December 31, 2016.

During 2017, the Company sold a portion of its debt securities, originally classified as held to maturity and as such reclassified remaining held to maturity debt securities into the available for sale category. The transfer between the categories is accounted for at fair value. The unrealized holding gain/(loss) upon transfer from held to maturity category to available for sale category is recorded in accumulated other comprehensive income/(loss). Available for sale securities are carried at fair value with net unrealized gain/(loss) included in accumulated other comprehensive income/(loss), subject to impairment. An unrealized loss exists when the current fair value of an individual security is less than its amortized cost basis. Interest income, including amortization of premiums and accretion of discounts are recognized in the interest income in the consolidated statements of operations. Upon sale, realized gain/(loss) is recognized in the consolidated statement of operations based on specific identification method. Management evaluates securities for other than temporary impairment on a quarterly basis. An investment is considered impaired if the fair value of the investment is less than its amortized cost. Consideration is given to: 1) if the Company intends to sell the security (that is, it has decided to sell the security); 2) it is more likely than not that the Company will be required to sell the security before the recovery of its entire amortized cost basis; or 3) a credit loss exists that is, the Company does not expect to recover the entire amortized cost basis of the security (the present value of cash flows expected to be collected is less than the amortized cost basis of the security).

***Investments in Equity Securities:*** The Company classifies its equity securities of ZIM at cost as the Company does not have the ability to exercise significant influence. Equity securities of HMM were acquired and held principally for the purpose of resale in the near term and were classified as trading securities based on management's intention on the date of acquisition and were recorded at fair value based on quoted market prices with changes in fair value and realized gains/(losses) presented under "Other income/(expenses), net" in the Consolidated Statements of Operations. The Company sold equity securities of HMM in 2016.

Management evaluates the equity security for other than temporary impairment on a quarterly basis. An investment is considered impaired if the fair value of the investment is less than its cost. Consideration is given to significant deterioration in the earnings performance, credit rating, asset quality, or business prospects of the investee, significant adverse change in the regulatory, economic, or technological environment of the investee, significant adverse change in the general market condition of either the geographic area or the industry in which the investee operates, as well as factors that raise

**DANAOS CORPORATION**

**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS (Continued)**

**2. Significant Accounting Policies (Continued)**

significant concerns about the investee's ability to continue as a going concern, such as negative cash flows from operations, working capital deficiencies, or noncompliance with statutory capital requirements or debt covenants.

***Pension and Retirement Benefit Obligations-Crew:*** The crew on board the companies' vessels serve in such capacity under short-term contracts (usually up to seven months) and accordingly, the vessel-owning companies are not liable for any pension or post-retirement benefits.

***Accounting for Revenue and Expenses:*** Revenues from time chartering of vessels are accounted for as operating leases and are thus recognized on a straight line basis as the average revenue over the rental periods of such charter agreements, as service is performed. The Company earns revenue from bareboat and time charters. Bareboat and time charters involve placing a vessel at the charterers' disposal for a period of time during which the charterer uses the vessel in return for the payment of a specified daily hire rate. Under a time charter, the daily hire rate includes the crew, lubricants, insurance, repair and maintenance, spares and stores. Under a bareboat charter, the charterer is provided only with the vessel.

***Voyage Expenses:*** Voyage expenses include port and canal charges, bunker (fuel) expenses (bunker costs are normally covered by the Company's charterers, except in certain cases such as vessel re-positioning), address commissions and brokerage commissions. Under multi-year time charters and bareboat charters, such as those on which the Company charters its containerships and under short-term time charters, the charterers bear the voyage expenses other than brokerage and address commissions. As such, voyage expenses represent a relatively small portion of the vessels' overall expenses.

***Vessel Operating Expenses:*** Vessel operating expenses include crew wages and related costs, the cost of insurance, expenses for repairs and maintenance, the cost of spares and consumable stores, tonnage taxes and other miscellaneous expenses. Aggregate expenses increase as the size of the Company's fleet increases. Under multi-year time charters, the Company pays for vessel operating expenses. Under bareboat charters, the Company's charterers bear most vessel operating expenses, including the costs of crewing, insurance, surveys, drydockings, maintenance and repairs.

***General and administrative expenses:*** General and administrative expenses include management fees paid to the vessels' manager (refer to Note 11, "Related Party Transactions"), audit fees, legal fees, board remuneration, executive officers compensation, directors & officers insurance and stock exchange fees.

***Repairs and Maintenance:*** All repair and maintenance expenses are charged against income when incurred and are included in vessel operating expenses in the accompanying Consolidated Statements of Operations.

***Dividends:*** Dividends, if any, are recorded in the Company's financial statements in the period in which they are declared by the Company's board of directors.

***Troubled Debt Restructuring and Accumulated Accrued Interest:*** Prior to the finalization of the Refinancing (refer to Note 10, "Long-Term Debt, Net"), the Company concluded that it was experiencing financial difficulty and that certain of the lenders granted a concession (as part of the Refinancing). The Company was experiencing financial difficulty primarily as a result of the projected

**DANAOS CORPORATION**

**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS (Continued)**

**2. Significant Accounting Policies (Continued)**

cash flows not being sufficient to service the balloon payment due as of December 31, 2018 without restructuring and the Company was not able to obtain funding from sources other than existing creditors at an effective interest rate equal to the current market interest rate for similar debt. As a result, the accounting guidance for troubled debt restructuring ("TDR") was applied at the Closing Date. The TDR accounting guidance requires the Company to record the value of the new debt to its restructured undiscounted cash flows over the life of the loan, including cash flows associated with the remaining scheduled interest and principal payments not to exceed the carrying amount of the original debt. In cases in which the recorded value of the debt instrument exceeds the sum of undiscounted future cash flows to be received under the restructured debt instrument, the recorded value is reduced to the sum of undiscounted future cash flows, and a gain is recorded. As a result of the TDR accounting, the interest expense related to the future periods on certain facilities was recognized under the accumulated accrued interest line in the Balance Sheet. Interest payments relating to the future interest recognized in accumulated accrued interest, are recognized as a reduction to the accumulated accrued interest payable when these are paid. As a result, these interest payments are not recorded as interest expense.

In the future, when interest rates change, actual cash flows will differ from the cash flows measured on the Refinancing date. The accounting treatment for changes in cash flows due to changes in interest rates depends on whether there is an increase or a decrease from the spot interest rate used in the initial TDR accounting ("threshold interest rate"). Fluctuations in the effective interest rate after the Refinancing from changes in the interest rate or other cause are accounted for as changes in estimates in the periods in which these changes occur. Upon an increase in the interest rates from the threshold interest rate used to calculate accumulated accrued interest payable, the Company recognizes additional interest expenses in the period the expense is incurred. The additional interest expense is calculated by multiplying the difference between the current interest rate and the threshold interest rate with the current carrying value of the debt. A gain due to decrease in interest rates ('interest windfall') will not be recognized until the debt facilities have been settled and there are no future interest payments. In case there are subsequent increases in interest rates above the threshold interest rate after a previous decrease in interest rates, the carrying amount of the accumulated accrued interest will be reduced by the interest payments in excess of the threshold interest rate until the prior interest windfall due to decrease in the interest rates is recaptured on a cumulative basis.

The Paid-in-kind interest ("PIK interest") related to each period will increase the carrying value of the loan facility and correspondingly decrease the carrying value of the accumulated accrued interest. PIK interest in excess of the amount recognized in the accumulated accrued interest is expensed in the period the expense is incurred.

***Segment Reporting:*** The Company reports financial information and evaluates its operations by total charter revenues. Although revenue can be identified for different types of charters, management does not identify expenses, profitability or other financial information for different charters. As a result, management, including the chief operating decision maker, reviews operating results solely by revenue per day and operating results of the fleet, and thus the Company has determined that it has only one operating and reportable segment.

***Going Concern:*** The management of the Company assesses the Company's ability to continue as a going concern at each period end. The assessment evaluates whether there are conditions that give rise to substantial doubt to continue as a going concern within one year from the consolidated financial statements issuance date.

**DANAOS CORPORATION**

**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS (Continued)**

**2. Significant Accounting Policies (Continued)**

If a substantial doubt to continue as a going concern is identified and after considering management's plans this substantial doubt is alleviated the Company discloses the following: (i) principal conditions or events that raised substantial doubt about the Company's ability to continue as a going concern (before consideration of management's plans), (ii) management's evaluation of the significance of those conditions or events in relation to the Company's ability to meet its obligations, (iii) management's plans that alleviated substantial doubt about the Company's ability to continue as a going concern.

If a substantial doubt to continue as a going concern is identified and after considering management's plans this substantial doubt is not alleviated the Company discloses the following: (i) a statement indicating that there is substantial doubt about the Company's ability to continue as a going concern, (ii) principal conditions or events that raised substantial doubt about the Company's ability to continue as a going concern, (iii) management's evaluation of the significance of those conditions or events in relation to the Company's ability to meet its obligations, and (iv) management's plans that are intended to mitigate the conditions or events that raised substantial doubt about the Company's ability to continue as a going concern.

The Company updates the going concern disclosure in subsequent periods until the period in which substantial doubt no longer exists disclosing how the relevant conditions or events that raised substantial doubt were resolved.

***Derivative Instruments:*** The Company entered into interest rate swap contracts to create economic hedges for its interest rate risks. The Company recorded these financial instruments at their fair value. When such derivatives do not qualify for hedge accounting, changes in their fair value are recorded in the Consolidated Statement of Operations. When the derivatives do qualify for hedge accounting, depending upon the nature of the hedge, changes in the fair value of derivatives are either offset against the fair value of assets, liabilities or firm commitments through income, or recognized in other comprehensive income (effective portion) and are reclassified to earnings when the hedged transaction is reflected in earnings. The ineffective portion of a derivative's change in fair value is immediately recognized in income.

At the inception of the transaction, the Company documents the relationship between hedging instruments and hedged items, as well as its risk management objective and the strategy for undertaking various hedging transactions. The Company also documents its assessment, both at the hedge inception and on an ongoing basis, of whether the derivative financial instruments that are used in hedging transactions are highly effective in offsetting changes in fair values or cash flows of hedged items.

On July 1, 2012, the Company elected to prospectively de-designate fair value and cash flow interest rate swaps for which it was obtaining hedge accounting treatment due to the compliance burden associated with this accounting policy. As a result, all changes in the fair value of the Company's cash flow interest rate swap agreements were recorded in earnings under "Net Unrealized and Realized Losses on Derivatives" from the de-designation date forward.

The Company evaluated whether it is probable that the previously hedged forecasted interest payments are probable to not occur in the originally specified time period. The Company has concluded that the previously hedged forecasted interest payments are probable of occurring. Therefore, unrealized gains or losses in accumulated other comprehensive loss associated with the

**DANAOS CORPORATION**

**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS (Continued)**

**2. Significant Accounting Policies (Continued)**

previously designated cash flow interest rate swaps will remain frozen in accumulated other comprehensive loss and recognized in earnings when the interest payments will be recognized. If such interest payments were to be identified as being probable of not occurring, the accumulated other comprehensive loss balance pertaining to these amounts would be reversed through earnings immediately.

The Company does not use financial instruments for trading or other speculative purposes.

***Earnings/(Loss) Per Share:*** The Company has presented net earnings/(loss) per share for all years presented based on the weighted average number of outstanding shares of common stock of Danaos Corporation at the reported periods. Diluted earnings per share reflect the potential dilution that would occur if securities or other contracts to issue common stock were exercised. The warrants issued in 2011 were excluded from the diluted earnings/(loss) per share for the year ended December 31, 2018, 2017 and 2016, because they were antidilutive. Unvested shares of restricted stock are included in the calculation of the diluted earnings per share, unless considered antidilutive, based on the weighted average number of shares of restricted stock outstanding during the period.

***Equity Compensation Plan:*** The Company has adopted an equity compensation plan (the "Plan") in 2006, which is generally administered by the compensation committee of the Board of Directors. The Plan allows the plan administrator to grant awards of shares of common stock or the right to receive or purchase shares of common stock to employees, directors or other persons or entities providing significant services to the Company or its subsidiaries. The actual terms of an award will be determined by the plan administrator and set forth in written award agreement with the participant. Any options granted under the Plan will be accounted for in accordance with the accounting guidance for share-based compensation arrangements.

The aggregate number of shares of common stock for which awards may be granted under the Plan cannot exceed 6% of the number of shares of common stock issued and outstanding at the time any award is granted. Awards made under the Plan that have been forfeited, cancelled or have expired, will not be treated as having been granted for purposes of the preceding sentence. Unless otherwise set forth in an award agreement, any awards outstanding under the Plan will vest immediately upon a "change of control", as defined in the Plan. The Plan will automatically terminate ten years after it has been most recently approved by the Company's stockholders. Refer to Note 17, "Stock Based Compensation".

As of April 18, 2008, the Company established the Directors Share Payment Plan ("Directors Plan") under the Plan. The purpose of the Directors Plan is to provide a means of payment of all or a portion of compensation payable to directors of the Company in the form of Company's Common Stock. Each member of the Board of Directors of the Company may participate in the Directors Plan. Pursuant to the terms of the Directors Plan, Directors may elect to receive in Common Stock all or a portion of their compensation. On the last business day of each quarter, the rights of common stock are credited to each Director's Share Payment Account. Following December 31st of each year, the Company will deliver to each Director the number of shares represented by the rights credited to their Share Payment Account during the preceding calendar year. Refer to Note 17, "Stock Based Compensation".

**DANAOS CORPORATION**

**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS (Continued)**

**2. Significant Accounting Policies (Continued)**

As of April 18, 2008, the Board of Directors and the Compensation Committee approved the Company's ability to provide, from time to time, incentive compensation to the employees of Danaos Shipping Company Limited (the "Manager"), in the form of free shares of the Company's common stock under the Plan. Prior approval is required by the Compensation Committee and the Board of Directors. The plan was effective since December 31, 2008. Pursuant to the terms of the plan, employees of the Manager may receive (from time to time) shares of the Company's common stock as additional compensation for their services offered during the preceding period. The stock will have no vesting period and the employee will own the stock immediately after grant. The total amount of stock to be granted to employees of the Manager will be at the Company's Board of Directors' discretion only and there will be no contractual obligation for any stock to be granted as part of the employees' compensation package in future periods. Refer to Note 17, "Stock Based Compensation".

**Newly Implemented Accounting Policies:**

***Statement of Cash Flows***

In August 2016, the FASB issued ASU 2016-15, "Statement of Cash Flows (Topic 230): Classification of Certain Cash Receipts and Cash Payments" ("ASU 2016-15"). The guidance adds or clarifies guidance on the classification of certain cash receipts and payments in the statement of cash flows. Additionally, in November 2016, the FASB issued ASU 2016-18, "Statement of Cash Flows (Topic 230): Restricted Cash" ("ASU 2016-18"), which requires that amounts generally described as restricted cash and restricted cash equivalents be included with cash and cash equivalents when reconciling the beginning-of-period and end-of-period total amounts shown on the statement of cash flows. The Company adopted these standards effective January 1, 2018. Prior periods were retrospectively adjusted to conform to the current period's presentation. The adoption of ASU 2016-15 did not have a material impact on the consolidated statements of cash flows. Upon adoption of ASU 2016-18, the Company reclassified the restricted cash balance of $2.8 million as of December 31, 2017 and $2.8 million as of December 31, 2016 to the cash, cash equivalents and restricted cash balances within the consolidated statements of cash flows. Refer to Note 3 "Cash, Cash Equivalents and Restricted Cash" for further details.

***Financial Instruments***

In January 2016, the FASB issued Accounting Standards Update No. 2016-01, "Recognition and Measurement of Financial Assets and Financial Liabilities" ("ASU 2016-01"). ASU 2016-01 requires all equity investments to be measured at fair value with changes in the fair value recognized through net income (other than those accounted for under equity method of accounting or those that result in consolidation of the investee). The amendments in this Update also require an entity to present separately in other comprehensive income the portion of the total change in the fair value of a liability resulting from a change in the instrument-specific credit risk when the entity has elected to measure the liability at fair value in accordance with the fair value option for financial instruments. In addition the amendments in this Update eliminate the requirement to disclose the methods and significant assumptions used to estimate the fair value that is required to be disclosed for financial instruments measured at amortized cost on the balance sheet for public business entities. The Company adopted this standard effective January 1, 2018. The Company's investment in ZIM equity securities does not have readily determinable fair value. As a result, the Company elected to record this equity investment at cost, less impairment, adjusted for subsequent observable price changes. The adoption of this

**DANAOS CORPORATION**

**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS (Continued)**

**2. Significant Accounting Policies (Continued)**

standard did not have a material effect on the consolidated financial statements and notes disclosures. As of December 31, 2018, the Company did not identify any observable prices for the same or similar securities that would indicate a change in the carrying value of the Company's equity.

***Revenue Recognition***

In May 2014, the FASB issued Accounting Standards Update No. 2014-9 "Revenue from Contracts with Customers" ("ASU 2014-09"), which superseded the current revenue recognition guidance and outlines a single comprehensive model for entities to use in accounting for revenue arising from contracts with customers. In March 2016, the FASB issued ASU 2016-08, "Revenue from Contracts with Customers (Topic 606): Principal versus Agent Considerations (Reporting Revenue Gross versus Net)" ("ASU 2016-08"), which clarifies the implementation guidance on principal versus agent considerations. In addition, in 2016, the FASB issued four amendments, which clarified the guidance on certain items such as reporting revenue as a principal versus agent, identifying performance obligations, accounting for intellectual property licenses, assessing collectability and presentation of sales taxes. The Company adopted this standard effective January 1, 2018 using modified retrospective approach. The adoption of this standard did not have any effect on the retained earnings or on the financial results for year ended December 31, 2018 of the Company since all the Company's vessels generated revenues from time charter and bareboat charter agreements.

**Recent Accounting Pronouncements:**

In February 2016, the FASB issued Accounting Standards Update No. 2016-02, "Leases (Topic 842)" ("ASU 2016-02"). ASU 2016-02 will apply to both types of leases capital (or finance) leases and operating leases. According to the new Accounting Standard, lessees will be required to recognize assets and liabilities on the balance sheet for the rights and obligations created by all leases with terms of more than 12 months. ASU 2016-02 is effective for fiscal years beginning after December 15, 2018, including interim periods within those fiscal years. Early application is permitted. This guidance requires companies to identify lease and non-lease components of a lease agreement. Lease components relate to the right to use the leased asset and non-lease components relate to payments for goods or services that are transferred separately from the right to use the underlying asset. Total lease consideration is allocated to lease and non-lease components on a relative standalone basis. The recognition of revenues related to lease components will be governed by ASC 842 while revenue related to non-lease components will be subject to ASC 606. In March 2018, the FASB tentatively approved a proposed amendment to ASU 842, that would provide an entity the optional transition method to initially account for the impact of the adoption with a cumulative adjustment to retained earnings on the effective date of the ASU, January 1, 2019 rather than January 1, 2017, which would eliminate the need to restate amounts presented prior to January 1, 2019. In addition, lessors can elect, as a practical expedient, not to allocate the total consideration to lease and non-lease components based on their relative standalone selling prices. As adopted by the Accounting Standards Update No. 2018-11 in July 2018, this practical expedient will allow lessors to elect and account for the combined component based on its predominant characteristic. ASC 842 provides practical expedients that allow entities to not (i) reassess whether any expired or existing contracts are considered or contain leases; (ii) reassess the lease classification for any expired or existing leases; and (iii) reassess initial direct costs for any existing leases. In July 2018, the FASB issued Accounting Standards Update No. 2018-10, "Codification Improvements to Topic 842, Leases" and in December 2018 the Accounting

**DANAOS CORPORATION**

**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS (Continued)**

**2. Significant Accounting Policies (Continued)**

Standards Update No. 2018-20 "Narrow-scope improvements for lessors", which further improve and clarify ASU 2016-02. The Company plans to adopt the standard on January 1, 2019 and expects to elect the use of all practical expedients. Based on a preliminary assessment, the Company is expecting that the adoption will not have a material effect on its consolidated financial statements since the Company is primarily a lessor and the changes are fairly minor.

In June 2016, the FASB issued ASU 2016-13, "Financial Instruments Credit Losses (Topic 326): Measurement of Credit Losses on Financial Instruments" ("ASU 2016-13"), which amends the impairment model by requiring entities to use a forward-looking approach based on expected losses to estimate credit losses on certain types of financial instruments, including trade receivables. In December 2018, the FASB issued Accounting Standards Update No. 2018-19 "Codification improvements to Topic 326", which clarifies that impairment of receivables arising from operating leases should be accounted for in accordance with Topic 842, Leases. The ASU 2016-13 is effective for public entities for fiscal years beginning after December 15, 2019, with early adoption permitted. The Company is currently evaluating the impact of the new standard on the Company's consolidated financial statements.

**3. Cash, Cash Equivalents and Restricted Cash**

Cash, cash equivalents and restricted cash consisted of the following (in thousands):

| | As of December 31, 2018 | As of December 31, 2017 | As of December 31, 2016 |
|---|---|---|---|
| Cash and cash equivalents | $ 77,275 | $ 66,895 | $ 73,717 |
| Restricted cash | | 2,812 | 2,812 |
| **Total** | **$ 77,275** | **$ 69,707** | **$ 76,529** |

The Company was required to maintain cash of $2.8 million as of December 31, 2017 and December 31, 2016 in retention bank accounts as a collateral for the upcoming scheduled debt payments of its KEXIM-ABN Amro credit facility, which were recorded under current assets in the Company's Consolidated Balance Sheets. This credit facility was fully repaid in July 2018.

**DANAOS CORPORATION**

**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS (Continued)**

**4. Fixed Assets, Net**

Fixed assets, net consisted of the following (in thousands):

| | Vessel Costs | Accumulated Depreciation | Net Book Value |
|---|---|---|---|
| **As of January 1, 2016** | **$ 4,137,117** | **$ (690,794)** | **$ 3,446,323** |
| Additions | 4,561 | | 4,561 |
| Impairment Loss | (586,995) | 171,877 | (415,118) |
| Depreciation | | (129,045) | (129,045) |
| **As of December 31, 2016** | **$ 3,554,683** | **$ (647,962)** | **$ 2,906,721** |
| Additions | 4,478 | | 4,478 |
| Depreciation | | (115,228) | (115,228) |
| **As of December 31, 2017** | **$ 3,559,161** | **$ (763,190)** | **$ 2,795,971** |
| Additions | 2,830 | | 2,830 |
| Impairment Loss | (337,738) | 127,023 | (210,715) |
| Depreciation | | (107,757) | (107,757) |
| **As of December 31, 2018** | **$ 3,224,253** | **$ (743,924)** | **$ 2,480,329** |

As of December 31, 2018, the Company concluded that events and circumstances triggered the existence of potential impairment of its long-lived assets. These indicators included volatility in the charter market and the vessels' market values, as well as the potential impact the current marketplace may have on our future operations. As a result, the Company performed step one of the impairment assessment of the Company's long-lived assets by comparing the undiscounted projected net operating cash flows for each vessel to its carrying value. As at December 31, 2018, the Company's assessment concluded that step two of the impairment analysis was required for certain of its vessels, as the undiscounted projected net operating cash flows of certain vessels did not exceed the carrying value of the respective vessels. Fair value of each vessel was determined by management with the assistance from valuations obtained by third party independent shipbrokers. As of December 31, 2018, the Company recorded an impairment loss of $210.7 million for ten of its vessels that are held and used, which is reflected under "Impairment loss" in the accompanying Consolidated Statements of Operations.

As of December 31, 2017, the Company concluded that there are no events and circumstances, which may trigger the existence of potential impairment of the Company's vessels. The indicators which were considered were mainly the current improved charter market and the improved vessel's market values compared to the prior year, as well as the potential impact the marketplace may have on the future operations. As of December 31, 2016, the Company's testing for impairment resulted in an impairment loss of $415.1 million for its twenty-five held and used vessels. This impairment loss was caused mainly by the loss of a charterer, volatility in the spot market and decline in the vessels's market values.

The residual value (estimated scrap value at the end of the vessels' useful lives) of the fleet was estimated at $378.2 million as of December 31, 2018 and December 31, 2017. The Company has calculated the residual value of the vessels taking into consideration the 10 year average and the 5 year average of the scrap. The Company has applied uniformly the scrap value of $300 per ton for all vessels. The Company believes that $300 per ton is a reasonable estimate of future scrap prices, taking

**DANAOS CORPORATION**

**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS (Continued)**

**4. Fixed Assets, Net (Continued)**

into consideration the cyclicality of the nature of future demand for scrap steel. Although the Company believes that the assumptions used to determine the scrap rate are reasonable and appropriate, such assumptions are highly subjective, in part, because of the cyclical nature of future demand for scrap steel.

In connection with the Refinancing, the Company has undertaken to seek to refinance two of its 13,100 TEU vessels, the Hyundai Honour and Hyundai Respect. The net proceeds are to be applied pro rata to repay the existing credit facilities secured by mortgages on such vessels.

**5. Deferred Charges, Net**

Deferred charges, net consisted of the following (in thousands):

| | Drydocking and Special Survey Costs |
|---|---|
| **As of January 1, 2016** | **$ 4,751** |
| Additions | 8,976 |
| Amortization | (5,528) |
| **As of December 31, 2016** | **$ 8,199** |
| Additions | 7,511 |
| Amortization | (6,748) |
| **As of December 31, 2017** | **$ 8,962** |
| Additions | 13,306 |
| Amortization | (9,237) |
| **As of December 31, 2018** | **$ 13,031** |

The Company follows the deferral method of accounting for drydocking and special survey costs in accordance with accounting for planned major maintenance activities, whereby actual costs incurred are deferred and amortized on a straight-line basis over the period until the next scheduled survey, which is two and a half years. If special survey or drydocking is performed prior to the scheduled date, the remaining unamortized balances are immediately written off. Furthermore, when a vessel is drydocked for more than one reporting period, the respective costs are identified and recorded in the period in which they were incurred and not at the conclusion of the drydocking.

**6. Investments in affiliates**

In August 2015, an affiliated company Gemini Shipholdings Corporation ("Gemini") was formed by the Company and Virage International Ltd. ("Virage"), a company controlled by the Company's largest shareholder. Gemini acquired a 100% interest in two entities with capital leases for the container vessels *Suez Canal* and *Genoa* and two entities that own the container vessels *Catherine C (ex NYK Lodestar)* and *Leo C (ex NYK Leo)*. Gemini financed these acquisitions with the assumption of capital lease obligations of $35.4 million, $19.0 million of borrowings under secured loan facilities and an aggregate of $47.4 million from equity contributions from the Company and Virage, which

**DANAOS CORPORATION**

**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS (Continued)**

**6. Investments in affiliates (Continued)**

subscribed in cash for 49% and 51%, respectively, of Gemini's issued and outstanding share capital. As of December 31, 2018, Gemini consolidated its wholly owned subsidiaries listed below:

| Company | Vessel Name | Year Built | TEU | Date of vessel delivery |
|---|---|---|---|---|
| Averto Shipping S.A. | Suez Canal | 2002 | 5,610 | July 20, 2015 |
| Sinoi Marine Ltd. | Genoa | 2002 | 5,544 | August 2, 2015 |
| Kingsland International Shipping Limited | Catherine C (ex NYK Lodestar) | 2001 | 6,422 | September 21, 2015 |
| Leo Shipping and Trading S.A. | Leo (ex NYK Leo) | 2002 | 6,422 | February 4, 2016 |

The Company has determined that Gemini is a variable interest entity of which the Company is not the primary beneficiary, and as such, this affiliated company is accounted for under the equity method and recorded under "Equity income/(loss) on investments" in the Consolidated Statements of Operations. The Company does not guarantee the debt of Gemini and its subsidiaries and has the right to purchase all of the beneficial interest in Gemini that it does not own for fair market value at any time after December 31, 2018, to the extent permitted under its credit facilities. The net assets of Gemini total $15.0 million and $12.2 million as of December 31, 2018 and December 31, 2017, respectively. The Company's exposure is limited to its share of the net assets of Gemini proportionate to its 49% equity interest in Gemini.

A condensed summary of the financial information for equity accounted investments 49% owned by the Company shown on a 100% basis are as follows (in thousands):

| | 2018 | 2017 | 2016 |
|---|---|---|---|
| Current assets | $ 8,327 | $ 10,014 | |
| Non-current assets | $ 41,155 | $ 40,901 | |
| Current liabilities | $ 5,201 | $ 6,131 | |
| Long-term liabilities | $ 29,254 | $ 32,544 | |
| Net operating revenues | $ 18,885 | $ 17,388 | $ 13,909 |
| Impairment loss | | | $ 29,881 |
| Net income/(loss) | $ 2,787 | $ 1,969 | $ (33,168) |

**7. Other Non-current Assets**

Other non-current assets consisted of the following (in thousands):

| | 2018 | 2017 |
|---|---|---|
| Available for sale securities: | | |
| ZIM notes, net | $ 21,044 | $ 21,093 |
| HMM notes, net | 7,847 | 13,509 |
| Equity participation ZIM | | |
| Advances for vessels additions | 5,420 | |
| Other assets | 25,058 | 14,864 |
| **Total** | **$ 59,369** | **$ 49,466** |

**DANAOS CORPORATION**

**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS (Continued)**

**7. Other Non-current Assets (Continued)**

**a. ZIM**

In July 2014, after the charter restructuring agreements with ZIM, the Company obtained equity participation in ZIM and interest bearing unsecured ZIM notes maturing in 2023, consisting of $8.8 million Series 1 Notes and $41.1 million of Series 2 Notes. ZIM notes were originally classified as held to maturity securities and recorded at amortized costs less other than temporary impairment since initial recognition. The Company classifies its equity participation in ZIM at cost as the Company does not have the ability to exercise significant influence. In 2016, the Company tested for impairment of its equity participation in ZIM based on the existence of triggering events that indicate the interest in equity may have been impaired and recorded an impairment loss of $28.7 million, thus reducing its book value to nil. The Company also tests periodically for impairment of its investments in debt securities based on the existence of triggering events that indicate debt instruments may have been impaired. As of December 31, 2016, the Company recorded an impairment loss of $0.7 million impairment loss on ZIM notes, which were recognized under "Other Income/(Expenses), net" in the accompanying Consolidated Statements of Operations.

In relation to ZIM Notes, the Company received redemption of $0.3 million in the year ended December 31, 2016. The Company recognized $1.4 million, $1.3 million and $1.3 million in relation to their fair value unwinding of ZIM notes in the Consolidated Statements of Operations in "Interest income" for years ended December 31, 2018, December 31, 2017 and December 31, 2016, respectively. Furthermore, for each of the years ended December 31, 2018, December 31, 2017 and December 31, 2016, the Company recognized in the Consolidated Statements of Operations in "Interest income", a non-cash interest income of $0.9 million in relation to ZIM notes, which is accrued quarterly with deferred cash payment on maturity.

Furthermore, in July 2014, an amount of $39.1 million, which represents the additional compensation received from ZIM, was recorded as unearned revenue representing compensation to the Company for the future reductions in the daily charter rates payable by ZIM under its time charters, expiring in 2020 or 2021, for six of the Company's vessels. This amount is recognized in the Consolidated Statements of Operations in "Operating revenues" over the remaining life of the respective time charters. For each of the years ended December 31, 2018, December 31, 2017 and December 31, 2016, the Company recorded an amount of $6.0 million of unearned revenue amortization in "Operating revenues". As of December 31, 2018, the outstanding balances of the current and non-current portion of unearned revenue in relation to ZIM amounted to $6.0 million and $6.5 million, respectively. As of December 31, 2017, the corresponding outstanding balances of the current and non-current portion of unearned revenue amounted to $6.0 million and $12.5 million, respectively. Refer to Note 13, "Financial Instruments  Fair value of Financial Instruments".

**b. HMM**

In July 2016, after the charter restructuring agreements with HMM, the Company obtained interest bearing senior unsecured HMM notes consisting of $32.8 million Loan Notes 1 maturing in July 2024 and $6.2 million Loan Notes 2 maturing in December 2022 and 4.6 million HMM shares. The HMM notes were originally classified as held to maturity securities and recorded at amortized costs less other than temporary impairment since initial recognition. Based on the management's intention, the HMM shares were held principally for the purpose of the resale in the near term and were classified as trading securities. The Company also tests periodically for impairment of its investments in debt securities based on the existence of triggering events that indicate debt instruments may have been impaired.

**DANAOS CORPORATION**

**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS (Continued)**

**7. Other Non-current Assets (Continued)**

On September 1, 2016, the Company sold all HMM shares obtained after the charter restructuring agreements with HMM for cash proceeds on sale of $38.1 million resulting in a loss on sale of $12.9 million, which was recorded under "Other income/(expenses), net" in the Consolidated Statement of Operations for the year ended December 31, 2016. The HMM shares were considered trading securities and the proceeds were classified as operating activities in the Consolidated Statement of Cash Flows for the year ended December 31, 2016. The proceeds were used to repay outstanding debt obligations. Furthermore, for the years ended December 31, 2018, December 31, 2017 and December 31, 2016, the Company recognized $1.8 million, $1.8 million and $1.0 million, respectively, of non-cash interest income and fair value unwinding of HMM notes under "Interest income" in the Consolidated Statement of Operations.

On July 18, 2016, the Company recognized unearned revenue of $75.6 million representing compensation to the Company for the future reductions in the daily charter rates payable by HMM under the time charter agreements, which represents non-cash transaction for the Statement of Cash Flows for the year ended December 31, 2016. The amortization of unearned revenue is recognized in the Consolidated Statement of Operations under "Operating revenues" over the remaining life of the respective charters. For the years ended December 31, 2018, December 31, 2017 and December 31, 2016, the Company recorded an amount of $8.8 million, $15.6 million and $7.9 million, respectively, of unearned revenue amortization. As of December 31, 2018, the outstanding balances of the current and non-current portion of unearned revenue in relation to HMM amounted to $8.2 million and $35.2 million, respectively. As of December 31, 2017, the corresponding outstanding balances of the current and non-current portion of unearned revenue amounted to $8.8 million and $43.4 million, respectively. Refer also to Note 13, "Financial Instruments  Fair value of Financial Instruments".

**c. Transfer to Available for sale category**

On March 28, 2017, the Company sold $13.0 million principal amount of HMM Loan Notes 1 maturing in July 2024 carried at amortized costs of $8.6 million for gross cash proceeds on sale of $6.2 million, which were received in April 2017. The sale resulted in a loss of $2.4 million, which was recognized in the "Other income/(expenses), net" in the accompanying Consolidated Statements of Operations for year ended December 31, 2017. The proceeds were used to repay related outstanding debt obligations in April 2017. The sale of these notes resulted in a transfer of all remaining held to maturity HMM and ZIM notes into the available for sale securities at fair value. The unrealized losses, which were recognized in other comprehensive loss, are analyzed as follows as of December 31, 2018 (in thousands):

| Description of securities | Amortized cost basis | Fair value | Unrealized loss |
|---|---|---|---|
| ZIM notes | $ 44,676 | $ 21,044 | $ (23,632) |
| HMM notes | 20,593 | 7,847 | (12,746) |
| **Total** | **$ 65,269** | **$ 28,891** | **$ (36,378)** |

**DANAOS CORPORATION**

**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS (Continued)**

**7. Other Non-current Assets (Continued)**

| | | Unrealized loss on available for sale securities |
|---|---|---|
| Balance as of January 1, 2017 | | |
| Unrealized loss on available for sale securities | $ | (26,607) |
| **Balance as of December 31, 2017** | | **(26,607)** |
| Unrealized loss on available for sale securities | | (9,771) |
| **Balance as of December 31, 2018** | **$** | **(36,378)** |

The Company has agreed to install scrubbers on seven of its vessels and have an option to install them on two more vessels, with estimated total costs amounting to approximately $21.6 million out of which advances of $5.0 million were paid before December 31, 2018 and the remaining amount of $16.6 million is expected to be paid in 2019.

Other assets mainly include non-current assets related to straight-lining of the Company's revenue amounting to $23.1 million and $10.8 million as of December 31, 2018 and December 31, 2017, respectively.

**8. Accrued Liabilities**

Accrued liabilities consisted of the following (in thousands):

| | | 2018 | | 2017 |
|---|---|---|---|---|
| Accrued payroll | $ | 924 | $ | 928 |
| Accrued interest | | 6,304 | | 9,953 |
| Accrued expenses | | 4,542 | | 4,345 |
| **Total** | **$** | **11,770** | **$** | **15,226** |

Accrued expenses mainly consisted of accruals related to the operation of the Company's fleet and other expenses as of December 31, 2018 and December 31, 2017.

**9. Lease Arrangements**

*Charters-out*

The future minimum rentals, expected to be earned on non-cancellable time charters consisted of the following as of December 31, 2018 (in thousands):

| | | |
|---|---|---|
| 2019 | $ | 366,659 |
| 2020 | | 345,174 |
| 2021 | | 319,423 |
| 2022 | | 257,533 |
| 2023 | | 172,454 |

| | | |
|---|---|---|
| 2024 and thereafter | | 116,111 |
| **Total future rentals** | **$** | **1,577,354** |

**DANAOS CORPORATION**

**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS (Continued)**

**9. Lease Arrangements (Continued)**

Rentals from time charters are not generally received when a vessel is off-hire, including time required for normal periodic maintenance of the vessel. In arriving at the future minimum rentals, an estimated time off-hire to perform periodic maintenance on each vessel has been deducted, although there is no assurance that such estimate will be reflective of the actual off-hire in the future. The off-hire assumptions used relate mainly to drydocking and special survey maintenance carried out approximately every 2.5 years per vessel, or every 5 years for vessels less than 15-years old, and which may last approximately 10 to 15 days.

**10. Long-Term Debt, net**

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

| Credit Facility | Balance as of December 31, 2018 | Balance as of December 31, 2017 |
|---|---|---|
| The Royal Bank of Scotland $475.5 mil. Facility | $ 474,743 | $ 634,864 |
| The Royal Bank of Scotland (January 2011 Facility) | | 24,316 |
| HSH Nordbank AG Aegean Baltic Bank Piraeus Bank $382.5 mil. Facility | 379,762 | 622,851 |
| HSH Nordbank AG Aegean Baltic Bank Piraeus Bank (January 2011 Facility) | | 17,205 |
| Citibank $114 mil. Facility | 110,644 | 117,316 |
| Credit Suisse $171.8 mil. Facility | 167,990 | 176,189 |
| Citibank Eurobank $37.6 mil. Facility | 35,544 | 37,645 |
| Club Facility $206.2 mil. | 202,439 | 220,689 |
| Sinosure Cexim Citibank ABN Amro $203.4 mil. Facility | 61,020 | 81,360 |
| Citibank $123.9 mil. Facility | 122,523 | |
| Citibank $120 mil. Facility | 115,973 | |
| Deutsche Bank | | 156,062 |
| ABN Amro-Bank of America Merrill Lynch-Burlington Loan Management-National Bank of Greece | | 199,302 |
| ABN Amro Bank of America Merrill Lynch Burlington Loan Management National Bank of Greece (January 2011 Credit Facility) | | 8,771 |
| The Export Import Bank of Korea & ABN Amro | | 23,109 |
| Fair value of debt | (26,065) | |
| Comprehensive Financing Plan exit fees accrued | 21,583 | 21,099 |
| **Total long-term debt** | **$ 1,666,156** | **$ 2,340,778** |
| Less: Deferred finance costs, net | (44,271) | (11,177) |
| Less: Current portion | (113,777) | $ (2,329,601) |
| **Total long-term debt net of current portion and deferred finance cost** | **$ 1,508,108** | |

Each of the new credit facilities are collateralized by first and second preferred mortgages over the vessels financed, general assignment of all hire freights, income and earnings, the assignment of their insurance policies, as well as any proceeds from the sale of mortgaged vessels, the Company's

**DANAOS CORPORATION**

**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS (Continued)**

**10. Long-Term Debt, net (Continued)**

investments in ZIM and Hyundai Merchant Marine securities, stock pledges and benefits from corporate guarantees.

As of December 31, 2018, there was no remaining borrowing availability under the Company's credit facilities. The weighted average interest rate on long-term borrowings for the years ended December 31, 2018, 2017 and 2016 was 4.3%, 3.1% and 2.6%, respectively. Total interest paid during the years ended December 31, 2018, 2017 and 2016 was $71.9 million, $74.6 million and $69.2 million, respectively. The total amount of interest cost incurred and expensed in 2018 was $70.7 million (2017: $75.4 million, 2016: $70.3 million).

***The Refinancing and the New Credit Facilities***

The Company entered into a debt refinancing agreement with certain of its lenders holding debt of $2.2 billion maturing by December 31, 2018, for a debt refinancing (the "Refinancing") which was consummated on August 10, 2018 (the "Closing Date") that superseded, amended and supplemented the terms of each of the Company's then-existing credit facilities (other than the Sinosure-CEXIM-Citibank-ABN Amro credit facility which is not covered thereby). The Refinancing provided for, among other things, the issuance of 99,342,271 new shares of common stock to certain of the Company's lenders (which represented 47.5% of the Company's outstanding common stock immediately after giving effect to such issuance and diluted existing shareholders ratably), a principal amount debt reduction of approximately $551 million, revised amortization schedules, maturities, interest rates, financial covenants, events of defaults, guarantee and security packages and $325.9 million of new debt financing from one of the Company's lenders Citibank (the "Citibank New Money"). The Company's largest stockholder, Danaos Investment Limited as Trustee of the 883 Trust ("DIL"), contributed $10 million to the Company on the Closing Date, for which DIL did not receive any shares of common stock or other interests in the Company. The maturities of most of the new loan facilities covered by this debt refinancing were extended by five years to December 31, 2023 (or, in some cases, June 30, 2024).

In addition, the Company agreed to make reasonable efforts to source investment commitment for new shares of common stock with net proceeds not less than $50 million in aggregate no later than 18 months after the Closing Date ($10 million of which is to be underwritten by DIL).

As part of the Refinancing the Company entered into new credit facilities for an aggregate principal amount of approximately $1.6 billion due December 31, 2023 through an amendment and restatement or replacement of existing credit facilities. The following are the new term loan credit facilities (the "New Credit Facilities"):

(i) a $475.5 million credit facility provided by the Royal Bank of Scotland (the "RBS Facility"), which refinanced the prior Royal Bank of Scotland credit facilities

(ii) a $382.5 million credit facility provided by HSH Nordbank AG Aegean Baltic Bank Piraeus Bank (the "HSH Facility"), which refinanced the prior HSH Nordbank AG Aegean Baltic Bank Piraeus Bank credit facilities

(iii) a $114.0 million credit facility provided by Citibank (the "Citibank $114 mil. Facility"), which refinanced the prior Citibank credit facility

**DANAOS CORPORATION**

**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS (Continued)**

**10. Long-Term Debt, net (Continued)**

(iv) a $171.8 million credit facility provided by Credit Suisse (the "Credit Suisse $171.8 mil. Facility"), which refinanced the prior Credit Suisse credit facility

(v) a $37.6 million credit facility provided by Citibank Eurobank (the "Citibank Eurobank $37.6 mil. Facility)"), which refinanced the prior Citibank Eurobank credit facility

(vi) a $206.2 million credit facility provided by Citibank Credit Suisse Sentina (the "Club Facility $206.2 mil."), which refinanced the prior EnTrustPermal Credit Suisse CitiGroup Club facility

(vii) a $120.0 million credit facility provided by Citibank (the "Citibank $120 mil. Facility"), which refinanced the prior ABN Amro Bank of America Merrill Lynch Burlington Loan Management National Bank of Greece facilities

(viii) a $123.9 million credit facility provided by Citibank (the "Citibank $123 mil. Facility"), which refinanced the prior Deutsche Bank facility

***Interest and Fees***

The interest rate payable under the New Credit Facilities (which does not include the Sinosure-CEXIM-Citibank-ABN Amro credit facility) is LIBOR+2.50% (subject to a 0% floor), with subordinated tranches of two credit facilities incurring additional PIK interest of 4.00%, compounded quarterly, payable in respect of $282 million principal related to the RBS Facility and HSH Facility, which tranches have maturity dates of June 30, 2024.

The Company was required to pay a cash amendment fee of $69.2 million in the aggregate, out of which $23.9 million was paid in cash before December 31, 2018 and the remaining portion will be paid in instalments. The unpaid amendment fee of $30.5 million was accrued under "Other current liabilities" and of $14.8 million under "Other long-term liabilities" in the consolidated balance sheet as of December 31, 2018. Of the cash amendment fee, $17.2 million was deferred and will be amortized over the life of the respective credit facilities with the effective interest method and $52.0 million was expensed to the consolidated statement of operations.

The Company was also required to issue 14.7 million shares of common stock as part of the amendments fees on the Closing Date, or $25.0 million fair value in the aggregate. Of this amount, recognition of $18.1 million was deferred and will be amortized over the life of the respective credit facilities with the effective interest method and $6.9 million was expensed in the accompanying consolidated statements of operations. The fair value of the shares issued at the Closing Date are based on a Level 1 measurement of the share's price, which was $1.70 as of August 10, 2018.

The Company incurred $51.3 million and $14.3 million of professional fees related to the refinancing discussions with its lenders reported under "Other income/(expenses), net" in the accompanying consolidated statements of operations for the year ended December 31, 2018 and 2017, respectively. Additionally, the Company deferred $11.7 million of professional fees related to the Citibank facilities and will be amortized over the life of the respective credit facilities.

**DANAOS CORPORATION**

**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS (Continued)**

**10. Long-Term Debt, net (Continued)**

***Covenants, Events of Defaults, Collaterals and Guarantees***

The New Credit Facilities contain financial covenants requiring the Company to maintain:

(i) minimum collateral to loan value coverage on a charter-free basis increasing from 57.0% as of December 31, 2018 to 100% as of September 30, 2023 and thereafter,

(ii) minimum collateral to loan value coverage on a charter-attached basis increasing from 69.5% as of December 31, 2018 to 100% as of September 30, 2023 and thereafter,

(iii) minimum liquidity of $30 million throughout the term of the new credit facilities,

(iv) maximum consolidated net leverage ratio, declining from 7.50x as of December 31, 2018 to 5.50x as of September 30, 2023 and thereafter,

(v) minimum interest coverage ratio of 2.50x throughout the term of the new credit facilities and

(vi) minimum consolidated market value adjusted net worth increasing from negative $510 million as of December 31, 2018 to $60 million as of September 30, 2023 and thereafter.

The New Credit Facilities contain certain restrictive covenants and customary events of default, including those relating to cross-acceleration and cross-defaults to other indebtedness, non-compliance, or repudiation of security documents, material adverse changes to the Company's business, the Company's common stock ceasing to be listed on the NYSE (or another recognized stock exchange), foreclosure on a vessel in the Company's fleet, a change in control of the Manager, a breach of the management agreement by the Manager and a material breach of a charter by a charterer or cancellation of a charter (unless replaced with a similar charter acceptable to the lenders) for the vessels securing the respective new credit facilities.

In connection with the refinancing, the Company has also undertaken to seek to refinance two of our 13,100 TEU vessels, the *Hyundai Honour* and the *Hyundai Respect*. The net proceeds are to be applied pro rata to repay the respective new credit facilities secured by mortgages on such vessels.

***Exit Fee***

As of December 31, 2018, the Company has an accrued Exit Fee of $21.6 million relating to its debt facilities and is reported under "Long-term debt, net" in the consolidated Balance Sheet. The payment of the exit fees accrued under the long-term debt prior to the debt refinancing shall be postponed on the earlier of maturity, acceleration or prepayment or repayment in full of the amended facilities or the relevant facility refinancing. The exit fees will accrete in the consolidated statement of operations of the Company over the life of the respective facilities covered by the Refinancing (which does not include the Sinosure-CEXIM-Citibank-ABN Amro credit facility) up to the agreed full exit fees payable amounting to $24.0 million.

***Sinosure-CEXIM-Citibank-ABN Amro credit facility and KEXIM-ABN Amro credit facility***

On the Closing Date the Company amended and restated the Sinosure-CEXIM-Citibank-ABN Amro credit facility, dated as of February 21, 2011, primarily to align its financial covenants with those contained in the new credit facilities and provide second lien collateral to lenders under certain of the New Credit Facilities.

**DANAOS CORPORATION**

**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS (Continued)**

**10. Long-Term Debt, net (Continued)**

On June 27, 2018, the Company gave notice to the lenders under the KEXIM-ABN Amro credit facility and fully repaid the $17.5 million outstanding under this facility on July 20, 2018.

***Principal Payments***

The Sinosure Cexim Citibank ABN Amro credit facility provides for semi-annual amortization payments. The New Credit Facilities provide for quarterly fixed and variable amortization payments, together representing approximately 85% of actual free cash flows from the relevant vessels securing such credit facilities, subject to certain adjustments. The new credit facilities have maturity dates of December 31, 2023 (or in some cases as indicated below, June 30, 2024). After giving effect to the debt refinancing consummated on August 10, 2018, scheduled debt maturities of total long-term debt subsequent to December 31, 2018 are as follows (in thousands):

| Payments due by period ended | Fixed principal repayments | Final payments* | Total principal payments |
|---|---|---|---|
| December 31, 2019 | $ 113,777 | | $ 113,777 |
| December 31, 2020 | 119,674 | | 119,674 |
| December 31, 2021 | 119,603 | | 119,603 |
| December 31, 2022 | 89,773 | | 89,773 |
| December 31, 2023 | 77,194 | $ 864,118 | 941,312 |
| Thereafter | | 286,499 | 286,499 |
| **Total long-term debt** | **$ 520,021** | **$ 1,150,617** | **$ 1,670,638** |

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* The final payments include the unamortized remaining principal debt balances under the new credit facilities, as such amount will be determinable following the fixed amortization. As mentioned above, the Company is also subject to variable principal amortization based on actual free cash flows, which are included under "Final payments" in this table.

***Accounting for the Restructuring Agreement***

The Company performed an accounting analysis on a lender by lender basis to determine which accounting guidance applied to each of the amendments to its Existing Credit Facilities. The following guidance was used to perform the analysis:

(i) As set forth in ASC 470-60, "Accounting by Debtors and Creditors for Troubled Debt Restructurings" troubled debt restructuring ("TDR") accounting is required when the debtor is experiencing financial difficulty and the creditor has granted a concession. A concession is granted when the effective borrowing rate on the restructured debt is less than the effective borrowing rate on the original debt. The application of TDR accounting requires a comparison of the recorded value of each debt instrument prior to restructuring to the sum of the undiscounted future cash flows to be received by a creditor under the newly restructured debt instrument. Interest expense in future periods is determined by the effective interest rate required to discount the newly restructured future cash flows to equal the recorded value of the debt instrument without regard to how the parties allocated these cash flows to principal and interest in the restructured agreement. In cases in which the recorded value of the debt instrument exceeds the sum of undiscounted future cash flows to be received under the

**DANAOS CORPORATION**

**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS (Continued)**

**10. Long-Term Debt, net (Continued)**

restructured debt instrument, the recorded value is reduced to the sum of undiscounted future cash flows, and a gain is recorded. In this instance, no future interest expense will be recorded on the affected facilities, as the adjusted recorded value and the undiscounted future cash flows are equal and the effective interest rate is zero.

(ii) For lenders on which the Company has concluded that the above changes to the terms of long-term debt do not constitute a troubled debt restructuring as no concession has been granted, the Company applied the guidance in ASC 470-50, Modifications and Extinguishments. The accounting treatment is determined by whether (1) the lender (creditor) remains the same and (2) terms of the new debt and original debt are substantially different. The new debt and the old debt are considered "substantially different" pursuant to ASC 470-50 when the present value of the cash flows under the terms of the new debt instrument is at least 10% different from the present value of the remaining cash flows under the terms of the original instrument. If the original and new debt instruments are substantially different, the original debt is derecognized and the new debt should be initially recorded at fair value, with the difference recognized as an extinguishment gain or loss.

Based on the analysis, we concluded for the lenders that participated in both the Existing Credit Facilities and the New Credit Facilities, the following accounting:

***Troubled Debt Restructuring***

Prior to the finalization of the Refinancing, the Company concluded that it was experiencing financial difficulty and that certain of the lenders granted a concession (as part of the Refinancing). The Company was experiencing financial difficulty primarily as a result of the projected cash flows not being sufficient to service the balloon payment due as of December 31, 2018 without restructuring and the Company was not able to obtain funding from sources other than existing creditors at an effective interest rate equal to the current market interest rate for similar debt. As a result, the following accounting has been applied at the Closing Date:

(i) As of the Closing Date, the outstanding balance of HSH Facility was $639.2 million. In exchange for reduction of principal of $251.0 million, the lenders received a total of 49.4 million shares of common stock with a fair value of $83.9 million, resulting in a net concession of $167.1 million. Accumulated accrued interest of $129.3 million was recognized using the Libor rate of 2.34% as of August 10, 2018. The TDR accounting guidance requires the Company to record the value of the new debt to its restructured undiscounted cash flows over the life of the loan, including cash flows associated with the remaining scheduled interest and principal payments. In cases in which the recorded value of the debt instrument exceeds the sum of undiscounted future cash flows to be received under the restructured debt instrument, the recorded value is reduced to the sum of undiscounted future cash flows, and a gain is recorded. For the HSH Facility, the total undiscounted future cash flows total $518.6 million, which results in a gain of $36.6 million. The amendment fees to be paid to HSH Facility lenders of $9.5 million were recorded in the consolidated statement of operations and reduced the net gain on debt extinguishment.

(ii) As of the Closing Date, the outstanding balance of RBS Facility was $660.9 million. In exchange for reduction of principal of $179.2 million, the lender received a total of 35.2 million shares of common stock with a fair value of $59.9 million, resulting in a net

**DANAOS CORPORATION**

**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS (Continued)**

**10. Long-Term Debt, net (Continued)**

concession of $119.3 million and accumulated accrued interest of $119.3 million as of August 10, 2018. The TDR accounting guidance requires the Company to record the value of the new debt to its restructured undiscounted cash flows over the life of the loan, including cash flows associated with the remaining scheduled interest and principal payments not to exceed the carrying amount of the original debt. For the RBS Facility, the undiscounted cash flows exceed the recorded value of the modified debt, and as such, the modified and new debt will be accreted up to its maturity value using the effective interest rate inherent in the restructured cash flows. The amendment fees to be paid to RBS of $9.3 million were deferred and recognized through the consolidated statement of operations using the effective interest method.

Following the issuance of the shares of common stock, HSH and RBS are considered related parties. The fair value of the shares issued at the Closing Date are based on a Level 1 measurement of the share's price, which was $1.70 as of August 10, 2018.

***Modification and Extinguishment Accounting***

Based on the accounting analysis performed, the Company concluded that:

(i) As of the Closing Date, the outstanding balance for the Credit Suisse Facility, the Credit Suisse and Sentina portions of the New Club Facility and the Eurobank portion of the Citibank Eurobank Facility was $173.5 million, $125.6 million and $7.2 million, respectively. The present value of the cash flows under the Credit Suisse facilities and Sentina portion of the New Club Facility and Eurobank portion of the Citibank Eurobank Facility, as amended by the debt refinancing, were not substantially different from the present value of the remaining cash flows under the terms of the original instruments prior to the debt refinancing, and, as such, were accounted for the debt refinancing as a modification. Accordingly, no gain or loss was recorded and a new effective interest rate was established based on the carrying value of the long-term loan prior to the debt refinancing becoming effective and the revised cash flows pursuant to the debt refinancing, including the fair value of the shares issued to the lender as part of the amendment fees. Total amendment fees paid in cash and shares to the Credit Suisse Facility, New Club Facility and Eurobank portion of the Citibank Eurobank Facility were $15.1 million, $10.9 million and $0.1 million, respectively, and are deferred over the life of the facilities and recognized through the new effective interest method.

(ii) The present value of the cash flows for all of the Existing Citibank facilities amounting to $152.9 million plus the Citibank New Money amounting to $325.9 million, was substantially different from the present value of the remaining cash flows under the terms of the original instrument prior to the debt refinancing, and, as such, accounted for the debt refinancing as an extinguishment. Accordingly, we derecognized the carrying value of the prior Citibank debt facilities and recorded the refinanced debt at fair value totaling $448.2 million. Total new fees of $49.5 million were recorded directly in the consolidated statement of operations under the gain on debt extinguishment. The fair value of the new Citibank facilities was determined by the Company through an independent valuation using an issue date, risk adjusted market interest rate of 7.15% per annum, similar to the market yield for unsecured high yield bonds to the shipping companies, and considered to be a Level 2 input in the ASC 820 fair value hierarchy.

**DANAOS CORPORATION**

**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS (Continued)**

**10. Long-Term Debt, net (Continued)**

The outstanding principal and related exit fee payable for the Deutsche Bank Facility, the EnTrustPermal portion of the Club Facility and the ABN Amro Bank of America Merrill Lynch Burlington Loan Management National Bank of Greece Facility ("Other facilities") totaling $450.8 million were extinguished with the proceeds from the Citibank New Money amounting to $325.9 million and with corporate cash amounting to $12.0 million, resulting in a net gain on debt extinguishment of $89.3 million.

**11. Related Party Transactions**

***Management Services:*** Pursuant to a ship management agreement between each of the vessel owning companies and Danaos Shipping Company Limited (the "Manager"), the Manager acts as the fleet's technical manager responsible for (i) recruiting qualified officers and crews, (ii) managing day to day vessel operations and relationships with charterers, (iii) purchasing of stores, supplies and new equipment for the vessels, (iv) performing general vessel maintenance, reconditioning and repair, including commissioning and supervision of shipyards and subcontractors of drydock facilities required for such work, (v) ensuring regulatory and classification society compliance, (vi) performing operational budgeting and evaluation, (vii) arranging financing for vessels, (viii) providing accounting, treasury and finance services and (ix) providing information technology software and hardware in the support of the Company's processes. The Company's controlling shareholder also controls the Manager.

On August 10, 2018, the term of the Company's management agreement with the Manager was extended until December 31, 2024. The Manager agreed to apply all or some of the amount of DIL's unfulfilled obligations, if any, under the Backstop Agreement as a credit towards any fees payable by the Company to the Manager. Pursuant to the management agreement, the management fees are as follows for the years presented in the Consolidated Statements of Operations: i) a daily management fee of $850, ii) a daily vessel management fee of $425 for vessels on bareboat charter and iii) a daily vessel management fee of $850 for vessels on time charter. Additionally, the fee of 1.25% on gross freight, charter hire, ballast bonus and demurrage with respect to each vessel in the fleet and the fee of 0.5% based on the contract price of any vessel bought and sold by the Manager on the Company's behalf are due to the Manager.

Management fees in 2018 amounted to approximately $16.8 million (2017: $16.9 million, 2016: $17.1 million), which are presented under "General and administrative expenses" on the Consolidated Statements of Operations. Commissions to the Manager in 2018 amounted to approximately $5.4 million (2017: $5.3 million, 2016: $6.3 million), which are presented under "Voyage expenses" in the Consolidated Statements of Operations.

The Company pays advances on account of the vessels' operating expenses. These prepaid amounts are presented in the consolidated balance sheet under "Due from related parties" totaling $18.0 million and $34.0 million as of December 31, 2018 and 2017, respectively.

The Company employs its executive officers. The executive officers received an aggregate of €2.7 million ($3.2 million), €1.5 million ($1.8 million) and €1.5 million ($1.7 million) in compensation for the years ended December 31, 2018, 2017 and 2016, respectively. An amount of $0.6 million was due to executive officers and is presented under "Accounts payable" in the Consolidated Balance Sheet as of December 31, 2018.

**DANAOS CORPORATION**

**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS (Continued)**

**11. Related Party Transactions (Continued)**

Dr. John Coustas, the Chief Executive Officer of the Company, is a member of the Board of Directors of The Swedish Club, the primary provider of insurance for the Company, including a substantial portion of its hull & machinery, war risk and protection and indemnity insurance. During the years ended December 31, 2018, 2017 and 2016 the Company paid premiums to The Swedish Club of $3.9 million, $4.6 million and $5.6 million, respectively, which are presented under Vessel operating expenses in the Consolidated Statements of Operations. As of December 31, 2018 and 2017, the Company did not have any outstanding balance to The Swedish Club.

**12. Taxes**

Under the laws of the countries of the Company's ship owning subsidiaries' incorporation and/or vessels' registration, the Company's ship operating subsidiaries are not subject to tax on international shipping income, however, they are subject to registration and tonnage taxes, which have been included in Vessel Operating Expenses in the accompanying Consolidated Statements of Operations.

Pursuant to the U.S. Internal Revenue Code (the "Code"), U.S.-source income from the international operation of ships is generally exempt from U.S. tax if the company operating the ships meets certain requirements. Among other things, in order to qualify for this exemption, the company operating the ships must be incorporated in a country which grants an equivalent exemption from income taxes to U.S. corporations.

All of the Company's ship-operating subsidiaries satisfy these initial criteria. In addition, these companies must be more than 50% owned by individuals who are residents, as defined, in the countries of incorporation or another foreign country that grants an equivalent exemption to U.S. corporations. These companies satisfied the more than 50% beneficial ownership requirement for 2018. In addition, should the beneficial ownership requirement not be met, the management of the Company believes that by virtue of a special rule applicable to situations where the ship operating companies are beneficially owned by a publicly traded company like the Company, the more than 50% beneficial ownership requirement can also be satisfied based on the trading volume, the Company's shareholder composition and the anticipated widely-held ownership of the Company's shares, but no assurance can be given that this will be the case or remain so in the future, since continued compliance with this rule is subject to factors outside of the Company's control.

**13. Financial Instruments**

The principal financial assets of the Company consist of cash and cash equivalents, trade receivables and other assets. The principal financial liabilities of the Company consist of long-term bank loans. The following is a summary of the Company's risk management strategies and the effect of these strategies on the Company's consolidated financial statements.

***Interest Rate Risk:*** Interest rate risk arises on bank borrowings. The Company monitors the interest rate on borrowings closely to ensure that the borrowings are maintained at favorable rates. The interest rates relating to the long-term loans are disclosed in Note 10, "Long-term Debt, net".

***Concentration of Credit Risk:*** Financial instruments that are potentially subject the Company to significant concentrations of credit risk consist principally of cash and trade accounts receivable. The Company places its temporary cash investments, consisting mostly of deposits, with established financial institutions. The Company performs periodic evaluations of the relative credit standing of those

**DANAOS CORPORATION**

**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS (Continued)**

**13. Financial Instruments (Continued)**

financial institutions that are considered in the Company's investment strategy. The Company is exposed to credit risk in the event of non-performance by counterparties to derivative instruments, however, the Company limits this exposure by diversifying among counterparties with high credit ratings. The Company depends upon a limited number of customers for a large part of its revenues. Refer to Note 14, "Operating Revenue", for further details on revenue from significant clients. Credit risk with respect to trade accounts receivable is generally managed by the selection of customers among the major liner companies in the world and their dispersion across many geographic areas.

***Fair Value:*** The carrying amounts reflected in the accompanying consolidated balance sheets of financial assets and liabilities (excluding long-term bank loans and certain other non-current assets) approximate their respective fair values due to the short maturity of these instruments. The fair values of long-term floating rate bank loans approximate the recorded values, generally due to their variable interest rates. The fair value of available for sale securities is estimated based on either observable market based inputs or unobservable inputs that are corroborated by market data. The Company is exposed to changes in fair value of available for sale securities as there is no hedging strategy.

***Interest Rate Swaps:*** The Company currently has no outstanding interest rate swaps agreements. However, in the past years, the Company entered into interest rate swap agreements with its lenders in order to manage its floating rate exposure. Certain variable-rate interests on specific borrowings were associated with vessels under construction and were capitalized as a cost of the specific vessels. In accordance with the accounting guidance on derivatives and hedging, the amounts related to realized gains or losses on cash flow hedges that have been entered into and qualified for hedge accounting, in order to hedge the variability of that interest, were recognized in accumulated other comprehensive loss and are reclassified into earnings over the depreciable life of the constructed asset, since that depreciable life coincides with the amortization period for the capitalized interest cost on the debt. An amount of $3.7 million, $3.7 million and $4.0 million was reclassified into earnings for the years ended December 31, 2018, 2017 and 2016, respectively, representing amortization over the depreciable life of the vessels. Additionally, the Company recognized accelerated amortization of these deferred realized losses of $1.4 million, nil and $7.7 million in connection with the impairment losses recognized on the respective vessels for the years ended December 31, 2018, 2017 and 2016. An amount of $3.6 million is expected to be reclassified into earnings within the next 12 months.

***Fair Value of Financial Instruments***

The estimated fair values of the Company's financial instruments are as follows:

| | As of December 31, 2018 | | As of December 31, 2017 | |
|---|---|---|---|---|
| | Book Value | Fair Value | Book Value | Fair Value |
| | (in thousands of $) | | | |
| Cash and cash equivalents | $ 77,275 | $ 77,275 | $ 66,895 | $ 66,895 |
| Restricted cash | | | $ 2,812 | $ 2,812 |
| Due from related parties | $ 17,970 | $ 17,970 | $ 34,007 | $ 34,007 |
| ZIM notes | $ 21,044 | $ 21,044 | $ 21,093 | $ 21,093 |
| Equity investment in ZIM | | | | |
| HMM notes | $ 7,847 | $ 7,847 | $ 13,509 | $ 13,509 |
| Long-term debt, including current portion | $ 1,666,156 | $ 1,666,156 | $ 2,340,778 | $ 2,325,209 |

**DANAOS CORPORATION**

**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS (Continued)**

**13. Financial Instruments (Continued)**

The estimated fair value of the financial instruments that are measured at fair value on a recurring basis, categorized based upon the fair value hierarchy, are as follows as of December 31, 2018 (in thousands):

| | Fair Value Measurements as of December 31, 2018 | | | |
|---|---|---|---|---|
| | Total | (Level I) | (Level II) | (Level III) |
| | (in thousands of $) | | | |
| ZIM notes(1) | $ 21,044 | $ | $ 21,044 | $ |
| HMM notes(1) | $ 7,847 | $ | $ 7,847 | $ |

The estimated fair value of the financial instruments that are not measured at fair value on a recurring basis, categorized based upon the fair value hierarchy, are as follows as of December 31, 2018 (in thousands):

| | Fair Value Measurements as of December 31, 2018 | | | |
|---|---|---|---|---|
| | Total | (Level I) | (Level II) | (Level III) |
| | (in thousands of $) | | | |
| Long-term debt, including current portion(2) | $ 1,666,156 | $ | $ 1,666,156 | $ |

The estimated fair value of the financial instruments that are measured at fair value on a recurring basis, categorized based upon the fair value hierarchy, are as follows as of December 31, 2017:

| | Fair Value Measurements as of December 31, 2017 | | | |
|---|---|---|---|---|
| | Total | (Level I) | (Level II) | (Level III) |
| | (in thousands of $) | | | |
| ZIM notes(1) | $ 21,093 | $ | $ 21,093 | $ |
| HMM notes(1) | $ 13,509 | $ | $ 13,509 | $ |

The estimated fair value of the financial instruments that are not measured at fair value on a recurring basis, categorized based upon the fair value hierarchy, are as follows as of December 31, 2017:

| | Fair Value Measurements as of December 31, 2017 | | | |
|---|---|---|---|---|
| | Total | (Level I) | (Level II) | (Level III) |
| | (in thousands of $) | | | |
| Long-term debt, including current portion(2) | $ 2,325,209 | $ | $ 2,325,209 | $ |

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(1) The fair value is estimated based on either observable market based inputs or unobservable inputs that are corroborated by market data, including currently available information on the Company's counterparty, other contracts with similar terms, remaining maturities and interest rates.

(2) Long-term debt, including current portion is presented gross of deferred finance costs of $44.3 million and $11.2 million as of December 31, 2018 and December 31, 2017,

**DANAOS CORPORATION**

**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS (Continued)**

**13. Financial Instruments (Continued)**

respectively. The fair value of the Company's debt is estimated based on currently available debt with similar contract terms, interest rate and remaining maturities, as well as taking into account its increased credit risk and does not include amounts related to the accumulated accrued interest.

The Company's assets measured at fair value on a non-recurring basis were:

| | Fair Value Measurements as of December 31, 2018 | | | |
|---|---|---|---|---|
| | Total | (Level I) | (Level II) | (Level III) |
| | (in millions of $) | | | |
| Fixed Assets, net | $ 126.7 | $ | $ 126.7 | $ |

The Company recorded an impairment loss of $210.7 million on ten of its vessels as of December 31, 2018, thus reducing the vessels' carrying value at December 31, 2018 from $337.4 million to $126.7 million. Fair value of each vessel was determined by management with the assistance from valuations obtained by third party independent shipbrokers.

**14. Operating Revenue**

Operating revenue from significant customers (constituting more than 10% of total revenue) for the years ended December 31, were as follows:

| Charterer | 2018 | 2017 | 2016 |
|---|---|---|---|
| CMA CGM | 35% | 34% | 29% |
| HMM Korea | 24% | 31% | 32% |
| YML | 16% | 14% | 12% |
| Hanjin | 0% | 0% | 10% |

**15. Operating Revenue by Geographic Location**

Operating revenue by geographic location of the customers for the years ended December 31, was as follows (in thousands):

| Continent | 2018 | 2017 | 2016 |
|---|---|---|---|
| Australia Asia | $ 255,476 | $ 284,302 | $ 344,400 |
| Europe | 196,880 | 165,639 | 153,932 |
| America | 6,376 | 1,790 | |
| **Total Revenue** | **$ 458,732** | **$ 451,731** | **$ 498,332** |

**16. Commitments and Contingencies**

On September 1, 2016, Hanjin Shipping, a charterer of eight of the Company's vessels, referred to the Seoul Central District Court, which issued an order to commence the rehabilitation proceedings of Hanjin Shipping. Hanjin Shipping has cancelled all eight charter party agreements with the Company. On February 17, 2017, the Seoul Central District Court (Bankruptcy Division), declared the bankruptcy of Hanjin Shipping, converting the rehabilitation proceeding to a bankruptcy proceeding. The Seoul

**DANAOS CORPORATION**

**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS (Continued)**

**16. Commitments and Contingencies (Continued)**

Central District Court (Bankruptcy Division) appointed a bankruptcy trustee to dispose of Hanjin Shipping's remaining assets and distribute the proceeds from the sale of such assets to Hanjin Shipping's creditors according to their priorities. The Company ceased recognizing revenue from Hanjin Shipping effective from July 1, 2016 onwards and recognized a bad debt expense amounting to $15.8 million in its Consolidated Statements of Operations for the year ended December 31, 2016. The Company has a total unsecured claim submitted to the Seoul Central District Court for unpaid charter hire, charges, expenses and loss of profit against Hanjin Shipping totaling $597.9 million, which is not recognized in the accompanying Consolidated Balance Sheet as of December 31, 2018 and 2017.

There are no other material legal proceedings to which the Company is a party or to which any of its properties are the subject, or other contingencies that the Company is aware of, other than routine litigation incidental to the Company's business. Furthermore, the Company does not have any commitments outstanding.

See the Note 7 "Other Non-current Assets" for capital commitments related to the installation of scrubbers on certain of the Company's vessels.

**17. Stock Based Compensation**

As of April 18, 2008, the Board of Directors and the Compensation Committee approved incentive compensation of the Manager's employees with its shares from time to time, after specific for each such time, decision by the compensation committee and the Board of Directors in order to provide a means of compensation in the form of free shares to certain employees of the Manager of the Company's common stock. The plan was effective as of December 31, 2008. Pursuant to the terms of the plan, employees of the Manager may receive (from time to time) shares of the Company's common stock as additional compensation for their services offered during the preceding period. The stock will have no vesting period and the employee will own the stock immediately after grant. The total amount of stock to be granted to employees of the Manager will be at the Company's Board of Directors' discretion only and there will be no contractual obligation for any stock to be granted as part of the employees' compensation package in future periods.

On September 14, 2018, the Company granted 4,182,832 shares of restricted stock to executive officers of the Company, 50% of which are scheduled to vest on December 31, 2019 and 50% of which are scheduled to vest on December 31, 2021, subject to the executive's continued employment with the Company as of such dates or earlier death or disability, under its 2006 Equity Compensation Plan, as amended. During 2017, no shares of common stock were granted and as of December 14, 2017, the Company cancelled the grant of 25,000 shares to employees from previous year. In settlement of the shares granted in 2014 and 2015, 17,608 shares were issued and distributed to the employees of the Manager in 2016.

The Company has also established the Directors Share Payment Plan under its 2006 equity compensation plan. The purpose of the plan is to provide a means of payment of all or a portion of compensation payable to directors of the Company in the form of Company's Common Stock. The plan was effective as of April 18, 2008. Each member of the Board of Directors of the Company may participate in the plan. Pursuant to the terms of the plan, Directors may elect to receive in Common Stock all or a portion of their compensation. Following December 31 of each year, the Company delivers to each Director the number of shares represented by the rights credited to their Share

**DANAOS CORPORATION**

**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS (Continued)**

**17. Stock Based Compensation (Continued)**

Payment Account during the preceding calendar year. During 2018, 2017 and 2016, none of the directors elected to receive in Company shares his compensation.

**18. Stockholders' Equity**

Our largest stockholder DIL contributed $10 million to the Company in connection with the consummation of the Refinancing on August 10, 2018. DIL did not receive any shares of common stock or other interests in the Company as a result of this contribution.

Additionally, on August 10, 2018, in connection with the Refinancing, the Company issued 99,342,271 new shares of common stock to certain of the Company's lenders, which represented 47.5% of the outstanding common stock immediately after this issuance.

On September 14, 2018, the Company granted 4,182,832 shares of restricted stock to executive officers of the Company, 50% of which are scheduled to vest on December 31, 2019 and 50% of which are scheduled to vest on December 31, 2021, subject to the executive's continued employment with the Company as of such dates or earlier death or disability, under its 2006 Equity Compensation Plan, as amended. These shares of restricted stock are issued and outstanding as of December 31, 2018.

As of December 31, 2018 and December 31, 2017, the shares issued and outstanding were 213,324,455 and 109,799,352, respectively. Under the Articles of Incorporation as amended on September 18, 2009, the Company's authorized capital stock consists of 750,000,000 shares of common stock with a par value of $0.01 and 100,000,000 shares of preferred stock with a par value of $0.01.

During 2017, no shares of common stock were issued. During 2016, the Company issued 17,608 shares of common stock, all of which were newly issued shares, to the employees of the Manager in partial settlement of 2015 and 2014 grants. Refer to Note 17, "Stock Based Compensation".

During 2018, 2017 and 2016, the Company did not declare any dividends. The Company is not permitted to pay cash dividends under the terms of the Refinancing until (1) the Company receives in excess of $50 million in net cash proceeds from offerings of Common Stock and (2) the payment in full of the first installment of amortization payable following the consummation of the debt refinancing under each new credit facility and provided that an event of default has not occurred and the Company is not, and after giving effect to the payment of the dividend, in breach of any covenant.

In 2011, the Company issued an aggregate of 15,000,000 warrants to its lenders under the 2011 bank agreement with its lenders and the January 2011 credit facilities to purchase, solely on a cashless exercise basis, an aggregate of 15,000,000 shares of its common stock, which warrants have an exercise price of $7.00 per share. All of these warrants expired on January 31, 2019.

**DANAOS CORPORATION**

**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS (Continued)**

**19. Earnings/(Loss) per Share**

The following table sets forth the computation of basic and diluted earnings/(loss) per share for the years ended December 31 (in thousands):

| | 2018 | 2017 | 2016 |
|---|---|---|---|
| *Numerator:* | | | |
| Net income/(loss) | $ (32,936) | $ 83,905 | $ (366,195) |
| *Denominator* (number of shares in thousands): | | | |
| Basic and diluted weighted average common shares outstanding | 148,719.7 | 109,824.3 | 109,801.6 |

The warrants issued and outstanding amounting to 15,000,000 were excluded from the diluted earnings/(loss) per share for the years ended December 31, 2018, 2017 and 2016, because they were antidilutive. The unvested restricted shares were also excluded from the diluted earnings/(loss) per share for the year ended December 31, 2018, because they were antidilutive.

Basic and diluted earnings per share amount related to the gain on debt extinguishment of $116.4 million recorded on the Refinancing (see Note 10) are $0.78.